

# **COVERT TOWNSHIP**

## **SPECIAL BOARD MEETING**

Thursday, August 7, 2025 at 6:00 PM

Covert Township Hall

73943 Lake St, Covert, MI 49043

# COVERT TOWNSHIP SPECIAL BOARD MEETING

Thursday, July 31, 2025 at 5:00 PM  
Covert Township Hall, 73943 Lake St, Covert, MI 49043

AS A COURTESY TO OTHERS PLEASE SILENCE ALL CELL PHONES.  
THERE WILL BE TWO PERIODS FOR PUBLIC COMMENT – ONCE AT THE  
BEGINNING AND AGAIN AT THE END OF THE MEETING.  
PLEASE REFRAIN FROM QUESTIONS AND COMMENTS UNTIL THOSE  
DESIGNATED TIMES.

## AGENDA

### 1. Call to Order/Pledge of Allegiance

### 2. Roll Call

### 3. Approval of Agenda

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_ to  
approve/deny/table the agenda as presented.

ROLL CALL VOTE: Rose: \_\_\_\_\_, Rendell: \_\_\_\_\_, Pritchard: \_\_\_\_\_, Taylor: \_\_\_\_\_,  
Cook: \_\_\_\_\_

### 4. Public Comment – *please keep comments to three (3) minutes.*

### 5. Closed Session – M-140 Auto

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_ to  
approve/deny/table entering into Closed Session to consult with the township attorney  
regarding trial or settlement strategy in connection with the pending litigation in Circuit  
Court between M-140 Auto and Covert Township, per MCL Section 15.268, 8 (1) e.

ROLL CALL VOTE: Rose: \_\_\_\_\_, Rendell: \_\_\_\_\_, Pritchard: \_\_\_\_\_, Taylor: \_\_\_\_\_,  
Cook: \_\_\_\_\_

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_ to  
approve/deny/table authorizing Supervisor Cook to sign the Consent Judgement with M-  
140 Auto Parts, LLC to submit to Van Buren County Circuit Court, as presented.

ROLL CALL VOTE: Rose: \_\_\_\_\_, Rendell: \_\_\_\_\_, Pritchard: \_\_\_\_\_, Taylor: \_\_\_\_\_,  
Cook: \_\_\_\_\_

**6. New Business**

**a. Records Clerk and Police and Fire/EMS Administrative Assistant and FOIA Coordinator**

*The intention of creating the Fire/EMS Admin Assistant position was to not only provide more skilled support to the Fire/EMS and Police Department and FOIA services, but to also replace the Records Clerk position. This was not explicit in the board's motion when the position was approved. To ensure there is no confusion, the board should consider making a formal motion to eliminate the Records Clerk position. A candidate has been selected for the new role and background checks are being conducted.*

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_ to approve/deny/table eliminating the Records Clerk position due to the creation of the Fire/EMS Administrative Assistant and FOIA Coordinator position.

ROLL CALL VOTE: Rose: \_\_\_\_\_, Rendell: \_\_\_\_\_, Pritchard: \_\_\_\_\_, Taylor: \_\_\_\_\_,  
Cook: \_\_\_\_\_

**b. General Liability Insurance Renewal (8/1/25 - 8/1/26)**

*The annual premium through BHS Insurance has increased from \$125,280 to \$162,349 due to a number of factors. A full explanation has been provided by our insurance provider. Factors include inflation, an increase in losses due to natural disasters, new equipment, existing equipment/assets that were identified and not covered, mandatory increases in deductibles, among others.*

Motion by \_\_\_\_\_, seconded by \_\_\_\_\_ to approve/deny/table authorizing Supervisor Cook to execute the BHS Insurance Renewal for one year, effective 8/1/2025, as presented.

ROLL CALL VOTE: Rose: \_\_\_\_\_, Rendell: \_\_\_\_\_, Pritchard: \_\_\_\_\_, Taylor: \_\_\_\_\_,  
Cook: \_\_\_\_\_

**7. Public Comment – please keep comments to three (3) minutes.**

**8. Any Other Business**

**9. Adjourn**

Motion by \_\_\_\_\_, to adjourn at \_\_\_\_\_ PM.

**Next Regular Township Board Meeting is scheduled for Tuesday, August 12, 2025 at 6:00 PM at the Covert Township Hall, 73943 Lake Street.**

**CLOSED SESSION**

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF VAN BUREN

M-140 AUTO PARTS, LLC,

Plaintiff,

Case No.: (closed) 2023-073469-CZ

Hon. Susan Metzger

v

COVERT TOWNSHIP,

Defendant,

and

COVERT TOWNSHIP,

Case No. 2024-073574-CZ

Plaintiff,

v

M-140 AUTO PARTS, LLC, and  
ADAM TENCATE,

Defendants.

\_\_\_\_\_ /

<p>Christopher J. Acklin (P75453) ACKLIN LAW OFFICE Attorneys for M-140 Auto Parts, LLC/Adam Tencate PO Box 18 Otsego, MI 49078 (269) 680-3662 <a href="mailto:chris@acklinlawoffice.com">chris@acklinlawoffice.com</a></p>	<p>Craig R. Noland (P30717) Bogomir Rajsic, III (P79191) Tracey R. DeVries (P84286) McGRAW MORRIS P.C. Attorneys for Covert Township 44 Cesar E. Chavez Avenue, SW, Suite 200 Grand Rapids, MI 49503 (616) 288-3700/Fax (248) 502-4001 <a href="mailto:cnoland@mcgrawmorris.com">cnoland@mcgrawmorris.com</a> <a href="mailto:brajsic@mcgrawmorris.com">brajsic@mcgrawmorris.com</a> <a href="mailto:tdevries@mcgrawmorris.com">tdevries@mcgrawmorris.com</a></p>
	<p>Theodore Seth Koches (P71761) BAUCKHAM, THALL, SEEBER, KAUFMAN &amp; KOCHEs Co-Counsel for Covert Township 470 W. Centre Avenue, Suite A Portage, MI 49024 (269) 382-4500 ext. 16 <a href="mailto:koches@michigantownshiplaw.com">koches@michigantownshiplaw.com</a></p>

**ORDER REGARDING MOTIONS FOR SUMMARY DISPOSITION  
INCLUDING ENFORCEABLE DECLARATORY JUDGMENT**

Plaintiff, M-140 Auto Parts, LLC filed a Complaint against Covert Township asserting five Counts:

- Count I - Regulatory Taking
- Count II - Violation of Zoning Enabling Act and Township Ordinances
- Count III - Malicious Prosecution
- Count IV - Abuse of Process
- Count V - Specific Performance

In a separate action, Plaintiff, Covert Township, filed a Complaint against Defendants M-140 Auto Parts, LLC and Adam Tencate. The Township's Complaint asserted the following Counts:

- Count 1 - Violation of Township Anti-Blight Ordinance
- Count 2 - Violation of Covert Township Zoning Ordinance
- Count 3 - Violation of State Construction Code

The Township filed a motion for summary disposition in support of its Complaint pursuant to MCR 2.116(C)(10). The Township filed a separate motion for summary disposition of the Complaint filed on behalf of M-140 Auto Parts, LLC. The Township's motion was brought pursuant to MCR 2.116(C)(7) (governmental immunity) (statute of limitations) (8) and (10).

The case centers on a Conditional Rezoning Agreement which both parties assert is valid. The Township undertook enforcement of the Conditional Rezoning Agreement and M-140 Auto Parts, LLC seeks specific performance of the Conditional Rezoning Agreement.

There are disputed facts concerning whether Mr. Tencate received notice of violation and opportunity to cure and notice of default with no appeal to the Township Zoning Board of Appeals. There are disputed questions concerning whether the Conditional Rezoning Agreement was

revoked and whether the property is subject to requirements of the Agricultural Zoning District. The Court determines that it is not necessary at this time to make any such findings or resolve such issues.

**Decision on the Township's Complaint**

As to Count 1 (Violation of Township Anti-Blight Ordinance), the Court grants the Township's Motion and requires that Mr. Tencate and M-140 Auto Parts, LLC comply with the ordinance.

As to Count 2 (Violation of Covert Township Zoning Ordinance), the Court defers making a decision to the extent that Mr. Tencate and M-140 Auto Parts, LLC comply with the terms of the Conditional Rezoning Agreement. In the event of non-compliance, the Court will enforce its declaratory judgment as further set forth in this Order.

As to Count 3 (Violation of State Construction Code), the Court grants the Township's motion and requires that all of the requisite permits be obtained.

**Decision on Township's Motion to Dismiss the Complaint  
Filed on Behalf of M-140 Auto Parts, LLC**

As to Count I (Regulatory Taking), the parties agree that the enforcement of the Conditional Rezoning Agreement under the terms set forth in this Order does not constitute a regulatory taking.

As to Count II (Violation of Zoning Enabling Act and Township Ordinances), the Court grants the Township's motion.

As to Count III (Malicious Prosecution) and Count IV (Abuse of Process) the Court grants the Township's motion for the reasons stated in the Township's brief.

As to Count V (Specific Performance), the Court has determined that the Conditional Rezoning Agreement is valid and that the Agreement shall be enforced under the terms set forth

in this Order.

**Enforceable Declaratory Judgment**

The Court hereby makes the following determinations:

- The Conditional Rezoning Agreement entered between the parties complies with the Michigan Zoning Enabling Act and is enforceable by the Court;
- “Junk Yard including Recycling Center” as defined by the Covert Township Zoning Ordinance is a lawful non-conforming use on the subject property. The use extinguishes when the non-conforming use ends pursuant to the provisions of the Covert Township Zoning Ordinance that regulates non-conforming uses.
- Should Covert Township, or Adam Tencate and/or M-140 Auto Parts, LLC violate any provision of this Conditional Rezoning Agreement, this Court shall order reasonable attorney fees to the non-violating party for reimbursement of the costs of enforcing the same against the violator.
- Under the terms of the Agreement (§4):
  - A. The Applicant shall maintain and improve the current fence and visual planting site-line barrier along the property boundaries to meet the requirements of Section 13.02, paragraph 10 of the Covert Township Zoning Ordinance, Ordinance No. 66, as amended, including the replacement of the fence along the West property boundary, north of the existing driveway. The required fence and planting improvements shall be completed within 12 months of the date of approval of this agreement by the Covert Township Board.
  - B. Vehicle parking and other material storage on the property external to the ‘fenced-n’ area shall be limited to hours of operation and no ‘overnight’ parking or storage of any materials, except for a vehicle display area in an area at the north boundary of the property described on the attached Exhibit “B” which is incorporated herein by reference, provided that no vehicle shall be parked within this area for more than 14 consecutive days. The addition of a scale shall be allowed provided it is located within the ‘fenced-in’ area.
  - C. The Applicant shall side or paint all building so as to have a uniform

color on the sides of all buildings within 12 months of the date of approval of this agreement by the Covert Township Board.

D. On-site activities will occur only during the facility's hours of operation, and that said hours of operation shall not extend into the evening.

- The hours of operation of M-140 Auto Parts, are 7:00 a.m. – 9:00 p.m., every day.  
All on-site activities will occur only during the facility's hours of operation, and that said hours of operation.
- Tencate shall construct an eight (8) foot tall fence by no later than sixty (60) days from the date this Final Order is signed and shall be painted and maintained in uniform in color.
- All vehicles used in the course of M-140 Auto Parts business operations must be stored on the subject property and shall be kept within the fenced area as depicted on the site plan and shall not be visible from the street. No vehicles may be stored on contiguous parcels.
- All vehicle parking and other material storage on the subject property external to the fenced in area as depicted on the site plan shall be limited to hours of operation [7:00 a.m. – 9:00 p.m., every day] and there shall be no overnight parking or storage of any materials.
- Mr. Tencate shall have sixty (60) days to comply with the terms of the Conditional Rezoning Agreement, except as otherwise provided in this order;
- Tencate shall submit a site plan of the subject property to the Township by not later than sixty (60) days from the date this Final Order is signed, depicting operations of M-140 Auto Parts, employee parking, all existing structures, fencing, and must operate in compliance with site plan standards contained with the Township Zoning

Ordinance.

- The site plan is the final site plan for the operations of M-140 Auto Parts and any successors or assigns and shall not be expanded in any capacity as the use of the property is a nonconforming use.
- Tencate shall complete construction of the scale house as depicted in the site plan.
- Tencate shall apply for all required zoning and building permits for structures that were built on the subject property within sixty (60) days from the date this Final Order is signed. The Township shall not unreasonably withhold issuance of any permit request.
- Tencate shall arrange for a site inspection of the electric scale, as required by the appropriate overseeing agency, by no later than seventy-five (75) days from the date this Final Order is signed. The location of the electric scale shall be depicted on the site plan and shall be located inside the fenced in area.
- Under the terms of the Agreement (¶7), Mr. Tencate shall comply with all provisions of the Covert Township Zoning Ordinance and all other applicable non-zoning regulatory ordinances of the Township, including Township Ordinance No. 40;
- Tencate and/or M-140 Auto Parts, LLC shall comply with all LARA licensing requirements.
- Upon motion by any Party, this Court may order a non-complying Party to show-cause why he/it should not be held in contempt of Court if any provision of this Order or the Conditional Rezoning Agreement is violated, at which hearing this Court may suspend all operations or actions regarding the subject property until

compliance with the provisions contained herein are satisfied, and may consider other equitable remedies as determined by the Court;

- Upon a finding of non-compliance with the Conditional Rezoning Agreement, the Court will issue a further Order declaring that the subject property is subject to the current AG Agricultural Zoning Requirements.
- This Court retains jurisdiction for the purposes of enforcing the provisions if this Final Judgment and Order.
- That Adam Tencate and/or M-140 Auto Parts may sell the subject matter property pursuant to the terms of the Conditional Rezoning Agreement, and that Covert Township will not unreasonably withhold approval of such a sale.

**FINAL ORDER**

This is a Final Order that resolves all pending claims and closes the case. However, the Court retains jurisdiction to enforce the Order.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2025

\_\_\_\_\_  
Hon. Susan Metzger, Circuit Judge

**Consent to Entry of Order:**

Dated: \_\_\_\_\_  
T. Seth Koches (P71761)  
Attorney for Plaintiff Covert Township

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_  
Daywi Cook, Supervisor  
Covert Township

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_  
Craig R. Noland (P30717)  
Attorney for Defendant Covert Township

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_  
Christopher J. Acklin (P75453)  
Attorney for Plaintiff/Defendant Adam  
Tencate & M-140 Auto Parts

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_  
Plaintiff/Defendant Adam  
Tencate & M-140 Auto Parts

Dated: \_\_\_\_\_

# **NEW BUSINESS**

**Re: Confirmation of Records Clerk Position Elimination**

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**From** Helen Mills <hmills@fsbirlaw.com>

**Date** Mon 7/28/2025 1:38 PM

**To** Laura Fogarty <officemanager@coverttwp.com>

**Cc** Jay Allen <PoliceChief@coverttwp.com>; Daywi Cook  
<Supervisor@coverttwp.com>

Yes, that is my recommendation so that you have a clean record. You can also inform the Board of the Chief Allen's hiring decision if the offer is accepted.



**Helen Lizzie Mills**

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3209 • Cell: 517.974.2309

Office: 517.381.0100 • Fax: 517.381.3180

fsbirlaw.com • [hmills@fsbirlaw.com](mailto:hmills@fsbirlaw.com)

4151 Okemos Road, Okemos, MI 48864 USA

▼ U.S. News & World Report Ranked Best Law Firm

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**From:** Laura Fogarty <officemanager@coverttwp.com>

**Sent:** Monday, July 28, 2025 11:14 AM

**To:** Helen Mills <hmills@fsbirlaw.com>

**Cc:** Jay Allen <PoliceChief@coverttwp.com>; Daywi Cook

<Supervisor@coverttwp.com>

**Subject:** Confirmation of Records Clerk Position Elimination

Dear Lizzie,

This email is to confirm our conversation on Thursday regarding the Records Clerk position. As discussed, the Covert Township Board should formally eliminate the Records Clerk position by motion at the next meeting, July 31, 2025 if possible.

Additionally, I confirmed with Chief Allen today and the full-time position of Police and Fire/EMS Administrative Assistant and FOIA Coordinator has been officially offered to Christine Armor.

Please let me know if you need anything further from our end ahead of the meeting.

Also, please let me know the balance due from Officer Lattrell Jackson as soon as possible

**Laura Fogarty**

Office Manager

Covert Township

Office: 269-764-5138

Cell: 269-906-0703

Website: [coverttwp.com](http://coverttwp.com)

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**From:** Laura Fogarty

**Sent:** Wednesday, July 23, 2025 9:16 AM

**To:** Helen Mills <[hmills@fsbriaw.com](mailto:hmills@fsbriaw.com)>

**Cc:** Jay Allen <[PoliceChief@coverttwp.com](mailto:PoliceChief@coverttwp.com)>; Daywi Cook  
<[Supervisor@coverttwp.com](mailto:Supervisor@coverttwp.com)>

**Subject:** RE: Request for Review – Notice Letter to Records Clerk

**Importance:** High

Hi Lizzie,

No, the position has not yet been filled. We are conducting a second interview today with a potential candidate.

Regarding the motion made by Trustee Pritchard and seconded by Trustee Rose to hire a full-time Police and Fire/EMS Administrative Assistant & FOIA Coordinator, it did not include the language previously discussed to eliminate the part-time Records Clerk position.

Would the Board need to pass a separate motion to officially eliminate the Records Clerk position prior to terminating the employee?

Best regards,

**Laura Fogarty**

Office Manager

Covert Township

Office: 269-764-5138

Cell: 269-906-0703

Website: [coverttwp.com](http://coverttwp.com)

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**From:** Helen Mills <[hmills@fsbrlaw.com](mailto:hmills@fsbrlaw.com)>

**Sent:** Tuesday, July 22, 2025 6:18 PM

**To:** Laura Fogarty <[officemanager@coverttwp.com](mailto:officemanager@coverttwp.com)>

**Cc:** Jay Allen <[PoliceChief@coverttwp.com](mailto:PoliceChief@coverttwp.com)>

**Subject:** Re: Request for Review – Notice Letter to Records Clerk

*Hello!*

*Thank you for the opportunity to review the letter. I take it the full-time position was filled with an individual who is tackling what you need effectively and there's been no notable improvement regarding the records clerk's performance? And has there been any formal action by the Board to conclude the records clerk's position?*