

**MINUTES**  
**LAKE CHARTER TOWNSHIP**  
**SPECIAL BOARD MEETING**  
**October 6, 2022**  
**3:00 p.m.**

**CALL TO ORDER/PLEDGE OF ALLEGIANCE**

Supervisor Carson called the meeting to order at 3:00 p.m., and opened the meeting with the Pledge of Allegiance

**ROLL CALL**

Clerk Payne called the roll. Board members present were Zach Carson, Supervisor; Gloria Payne, Clerk; Robert Clark, Treasurer; Trustees; Nancy Mensinger and John Wilk. Mike Essig, Trustee was absent.

**VISITORS PRESENT**

Jeff Burkhard Lake Charter Township Water Plant Superintendent  
Toban Riley, Lake Charter Township Assistant Water Plant Superintendent.  
Amanda Drew, Trustee Appointee

**AGENDA ITEMS**

*Approval of Expert Appraiser - Federal Appraisal*

Supervisor Carson turned the floor over to Treasurer Clark who explained to board members that Lake Charter Township attorney Mike Homier of Foster Swift, who is representing Lake Charter Township in this tax appeal, researched two appraisers who handle assessing nuclear power plants. His recommendation, in the form of a memorandum, to the Lake Charter Township Board was to engage with Federal Appraisal. Moving forward with this plan takes us to Phase II of this Tax Tribunal process.

It is also important to mention that the cost of this appraisal will be shared with the entities that are working with us to gain a favorable outcome. The appraisal will take approximately 45 to 90 days to complete. (Memorandum Attached).

It was moved by Payne seconded by Carson to approve Federal Appraisal to conduct an independent appraisal of the Cook Nuclear Power Plant to move forward to Phase II of this tax appeal. Five ayes, motion carried.

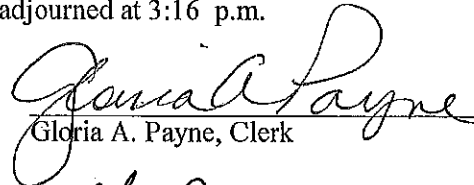
**PUBLIC COMMENT**

None.

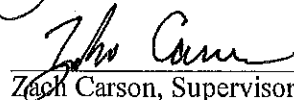
**ADJOURNMENT**

With no further objection and no further business it was moved by Carson seconded by Payne to adjourn the special meeting. Five ayes. Motion carried. Meeting adjourned at 3:16 p.m.

Dated: October 7, 2022

  
Gloria A. Payne, Clerk

Dated: 10/7/22

  
Zach Carson, Supervisor

# MEMO

**FOSTER SWIFT**  
FOSTER SWIFT COLLINS & SMITH PC | ATTORNEYS

**TO:** Lake Charter Township  
**FROM:** Michael D. Homier  
Thomas K. Dillon  
Foster Swift Collins & Smith, PC  
**DATE:** September 30, 2022  
**RE:** Expert Engagements for Indiana Michigan Power Plant Appeal

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We have sought and received proposed appraisal engagement agreements for appraisal and valuation services for the above tax appeal. For the reasons stated below, we recommend that the Township Board authorize us to sign the proposed agreement with Federal Appraisal.

## Litigation Overview

The tax appeal involving the Donald Cook Nuclear Plant in Lake Charter Township, owned by Indiana Michigan, began in May, 2022. Our answer has been filed and we currently await a scheduling order from the Tribunal. We anticipate that the scheduling order will be issued in the coming weeks. Once issued, the scheduling order will set the dates for the completion and submission of appraisals.

The litigation process for power plants requires much more than a typical valuation case. The amount of information is significant. Most of the information will be confidential and must be disclosed under various security protocols. Typically, written discovery is necessary before a site inspection of the plant. Further, all written discovery is generally completed before depositions are conducted. A single round of written discovery takes approximately two months to complete.

Discovery and the preparation of appraisals are necessary. Power plant valuations are notoriously complex and a competent appraisal expert is necessary not only to prepare the appraisal, but also to assist in discovery.

## Federal Appraisal

We have worked with Federal Appraisal on multiple power plants throughout Michigan. Outside of Michigan, Federal Appraisal has performed hundreds of power plant appraisals across the United States, including nuclear power plants. Their rates are very reasonable, and their work is efficient. For this engagement, Federal has offered the following:

The professional fees are based on the estimated time required to complete the service and on the level of expertise required. The fees and expenses are described as follows.

**Phase I: Consulting Services to Assist with Due Diligence, Planning, and Settlement Negotiations**

<p><b>Consulting Services to Assist with Settlement Negotiations</b> Federal will provide consulting services to assist with settlement negotiations, as discussed in Section 1 of this proposal. This fee excludes reimbursable expenses.</p>	<p>At hourly rates, based on Appraisal and Consulting Services rates listed below.</p>
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**Phase II: Appraisal Report**

<p><b>Appraisal Report</b> Federal will prepare one full narrative Appraisal Report with value conclusions as of 12-31-21, as discussed in Sections 1 through 7 of this proposal. This fee excludes reimbursable expenses.</p>	<p>\$45,000, less hourly fees for work from Phase I applicable to completion of the Appraisal Report.</p>
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**Hourly Rates Schedule for Phases I, II, and III**

<b>Appraisal, Review, Testimony, Depositions, and Other Consulting and Appraisal Services</b>		
<p><b>Testimony and Depositions</b> An hourly rate based on the number of hours testifying or being deposed, plus reimbursable expenses.</p>	<p>Partner / Director</p>	<p>\$ 390.00</p>
<p><b>Appraisal and Consulting Services</b> An hourly rate based on the number of hours providing other valuation consulting services, such as appraisal review services, litigation support, forensic consulting, meetings, research and analysis, trial preparation, plus reimbursable expenses.</p>	<p>Partner / Director Manager Consultant Administrative Support</p>	<p>\$ 285.00 \$ 235.00 \$ 180.00 \$ 70.00</p>

Federal will require an upfront payment of \$20,000. The retainer is necessary in part because some initial work will require the investments in independent forecasts of electric prices and natural gas costs (i.e. S&P Global). The costs for these products are reimbursable but Federal will need payments up front to cover the initial costs.

Federal shall bill monthly for the balance based on the professional time and reimbursable expenses accumulated to date. Should Testimony and Deposition or Other Consulting Services be needed, Federal will submit monthly invoices for professional fees and reimbursable expenses incurred to date.

The Fees proposed do not include reimbursable expenses, which the Client agrees to pay. Reimbursable expenses shall include, but shall not be limited to, all travel, research data, express mail, data collection charges, and report processing expenses incurred by Federal. Travel expenses shall include any expenses associated with travel to/from the Subject or meetings needed for the services provided. Federal will obtain the approval of the Client prior to planning reimbursable travel. The Client recognizes and accepts that the scope of the Appraisal may change based on the Client's decision to authorize or not authorize reimbursable travel. Federal will notify the Client immediately should the Appraisal necessitate travel, without which could result in a substantial change to the scope and Fee of the Appraisal.

All quoted hourly and daily professional fees apply to the 2022 calendar year. These rates are subject to an annual escalation rate of 5.0 percent beginning January 1, 2023.

In addition to a more favorable rate structure than other quotes we obtained, we are familiar with Federal's professional methods, their ability to prepare for testimony, and we have used them both as principal witnesses and review appraisers in rebuttal. Further, we have worked with them in discovery and preparation of other witnesses for testimony. The primary appraisers would be Mark Pomykacz and Chris Olmsted, who are both familiar to us.

**Recommendation**

The nature of power plant tax appeals requires the engagement of, at a minimum, an expert appraiser. Based on Federal Appraisal's work product, efficiencies, ability to prepare appraisals for litigation at the Michigan Tax Tribunal, ability to testify as an expert witness, and the reasonableness of its cost, we recommend that the Township authorize us to engage Federal Appraisal as the Township's expert appraiser in this matter.

Please let us know if you have any questions.

MDH:TKD

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