

  
Village of Roscommon

**SPECIAL MEETING AGENDA**  
February 6, 2013

1. Call to Order, Roll Call of Council, Pledge of Allegiance and Invocation
2. Brief Public Comment (Two minutes per speaker)
3. Sheriff's Report, Zoning Administrator's Report, DPW Director's Report
4. Accept Department Reports
5. Approval of the Bills to be Paid
6. Approve Chamber of Commerce Agreement
7. Zoning Board of Appeals Appointment
8. Review Library Special Use Permit
9. Set Public Hearing for Library Special Use Permit
10. Block 3 Sewer
11. OGA Purchase Agreement
12. Set Public Hearing For OGA Purchase Agreement
13. Cancel February 11,2013 Regular Meeting
14. Items for the Next Agenda
15. Adjournment

## Extra Village January 2013

Hours	20
Criminal Complaints	9
Non Criminal Complaints	14
Traffic Stops	35
Verbal Warnings	20
Citations	17
OWI Arrests	1
Other Arrests	5
Accidents	12
Assist EMS	0

### Other Assignments

Village Meeting  
colonial Apts

### Type of Complaints Handled

Assault  
Larceny x3  
Threats  
Non Sufficient Funds  
Domestic  
Retail Fraud  
Argument

### Arrests

Driving While License Revoked  
Domestic  
Retail Fraud  
Warrants x3  
Open Intox x3  
Operating While Intoxicated  
Parole Violation x3

Village Patrol		Jan-13		
Mileage	=	454		
Hours	=	110		
Stops	=	9		
VW	=	7		
Citations	=	5		
Criminal	=	4		
Non Criminal	=	4		
Accidents	=	0		
Arrests	=	5		
Contacts	=	69		
PC General	=	35		

**Arrests**

Warrant Arrests x4

Driving While License Revoked

## VILLAGE OF ROSCOMMON COUNCIL REPORT

February 5, 2013

VILLAGE MANAGER – ALLEN LOWE

We have been working some minor freeze-ups, we changed the lights on top of the water tower. We have been plowing as needed, changed the cutting blades on the plow trucks. Garland has been removed and stored for the year.

We helped with the sewer project at Matt's Lake St. grill. We have jetted some areas as needed, there are some areas that check every week or so.

The new meter has been installed at Lear.

Last weekend we had a motor catch fire at the Main Lift station on Bennet St., it has been removed and sent in for evaluation, not sure it can be repaired.

We have begun sending a wastewater sample to SOS Laboratories in Traverse City every Wednesday, this is the split sample that the DEQ wanted us to do.

Thank You

Dave

EXP CHECK RUN DATES 02/07/2013 - 02/07/2013

BOTH JOURNALIZED AND UNJOURNALIZED

BOTH OPEN AND PAID

Inv Ref#	Vendor	Inv Date	Due Date	Inv Amt	Amt Due	Status	Jrnlized
1081	CENTRAL ELEVATOR	02/01/2013	03/01/2013	163.00	163.00	0	N
1082	RAY'S PARTS CENTER	02/01/2013	03/01/2013	66.70	66.70	0	N
1083	VILLAGE HARDWARE	02/01/2013	03/01/2013	250.17	250.17	0	N
1084	ARROW UNIFORM	02/01/2013	03/01/2013	65.00	65.00	0	N
1085	IMPACT OFFICE PRODUCTS	02/01/2013	03/01/2013	82.07	82.07	0	N
1086	VERIZON WIRELESS	02/01/2013	02/18/2013	120.57	120.57	0	N
1087	GERARD F. BRABANT, P.C.	02/01/2013	02/18/2013	2,597.29	2,597.29	0	N
1088	Gosling Czubak	01/29/2013	02/18/2013	300.00	300.00	0	N
1089	ROSCOMMON COUNTY ROAD	01/29/2013	02/18/2013	400.00	400.00	0	N
1090	VILLAGE OF ROSCOMMON	01/29/2013	02/18/2013	88.37	88.37	0	N
1091	WASTE MANAGEMENT	02/01/2013	02/20/2013	119.82	119.82	0	N
1092	DTE ENERGY	02/01/2013	02/21/2013	87.98	87.98	0	N
1093	FICK & SONS, INC.	02/01/2013	02/21/2013	551.78	551.78	0	N
1094	CONSUMERS ENERGY	02/01/2013	02/21/2013	4,855.73	4,855.73	0	N
1095	ALLEN LOWE	02/01/2013	02/21/2013	305.00	305.00	0	N
1096	ROSCOMMON COUNTY SHERIFF'S	02/01/2013	02/21/2013	1,666.29	1,666.29	0	N
1097	HIGGINS LAKE-ROSCOMMON	02/01/2013	02/21/2013	30.00	30.00	0	N
1098	ROSCOMMON COUNTY	02/01/2013	02/21/2013	10.00	10.00	0	N
1099	XPRESS COPY CENTER	02/01/2013	02/21/2013	50.00	50.00	0	N
# of Invoices:	19	# Due:	19	Totals:	11,809.77	11,809.77	
# of Credit Memos:	0	# Due:	0	Totals:	0.00	0.00	
Net of Invoices and Credit Memos:				11,809.77	11,809.77		

**Village of Roscommon & Higgins-Lake Roscommon Chamber of Commerce**  
**Membership Agreement**

1. The Village of Roscommon will pay the \$30 non-profit membership fee in exchange for the following services:

- Promotion of Village events through newsletters, website, flyers, and the electronic message board at the Community Events Facade.
- Cooperation & Volunteers from the Chamber on Village of Roscommon sponsored events
- Promotion of Village Businesses who are members of the Higgins Lake-Roscommon Chamber of Commerce.
- Cooperation with the Village on promoting Economic Development in the community

2. The Village of Roscommon will be recognized as an official member of the Higgins Lake-Roscommon Chamber of Commerce.

3. Membership will begin February 1, 2013 and last through January 31, 2014. Both parties must agree to renew the membership contract and price before February 1, 2014.

4. Payment will be issued from the Village of Roscommon to the Higgins Lake-Roscommon Chamber of Commerce before February 28, 2013.

\_\_\_\_\_  
Allen Lowe, Village Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Connie Allen, Chamber Coordinator

\_\_\_\_\_  
Date

\_\_\_\_\_  
Erine Adams, Village President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kurtis Norton, Chamber President

\_\_\_\_\_  
Date

## BASIS FOR DETERMINATION

Before making a recommendation on a special use permit application, the Village Council shall establish that the following general standards, as well as the specific standard outlined in each applicable section of this ordinance shall be satisfied.

- a. General Standards - The Village Council shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use on its proposed location will:
  - i. Be harmonious with and in accordance with the general principles and objectives of the Master Plan of the Village of Roscommon.
  - ii. Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
  - iii. Not be hazardous or disturbing to existing uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
  - iv. Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.
  - v. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, vibrations or odors.
  - vi. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in the ordinance for the land use or activity under consideration; and be necessary to insure compliance with these standards.
  - vii. Be related to the valid exercise of police power and purposes that are affected by the proposed use or activity.
- b. Conditions and Safeguards - The Village Council may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights and for insuring that the intent and objectives of this ordinance will be observed. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Village Council and the landowner. The Zoning Administrator shall maintain a record of changes granted in conditions. The breach of any condition, safeguard, or requirement shall, as determined by the Village Council following a public hearing, invalidate the permit granted.

## AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE (the "Agreement") is made and entered into as of the Effective Date (as defined in Section 15 below), by and between **VILLAGE OF ROSCOMMON ACTING THROUGH AND WITH THE APPROVAL OF THE VILLAGE OF ROSCOMMON COUNCIL** (herein collectively called "Seller") and **OGA ACQUISITIONS, LLC**, its successors or assigns (herein called "Buyer").

1. Agreement for Sale. For good and valuable consideration given by Buyer, the receipt and sufficiency of which are hereby acknowledged, Seller hereby agrees to sell to Buyer and Buyer agrees to purchase a tract of land consisting of a 2 acre parcel as shown the drawing attached hereto as Exhibit A attached hereto and incorporated herein by this reference, located south of South Line Road and east of Michigan Highway 18 in Roscommon, Michigan, together with all improvements located thereon, all easements and appurtenances thereto and all of Seller's title and interest in and to adjacent rights of way (collectively, the "Property").

2. Earnest Money. Within three (3) business days after the Effective Date, Buyer shall pay to First American Title Insurance Company (National Commercial Services) in Nashville, Tennessee (the "Escrow Agent") the sum of Two and No/100 Dollars (\$2.00) (such amount is referred to herein collectively as the "Earnest Money"). The Earnest Money shall be held in a non-interest bearing money market account at a financial institution in which deposits are insured by the FDIC. At Closing, the Earnest Money shall be paid to Seller and credited against the purchase price for the Property.

3. Price. The purchase price for the Property shall be Two and No/100 Dollars (\$2.00), payable in cash at Closing, less the Earnest Money and all adjustments provided herein.

4. Title/Survey. Buyer may order a title commitment from First American Title Company (the "Title Commitment"), a boundary survey of the Property (the "Survey") and a phase one environmental report (the "Environmental Report") for the Property. The legal description(s) for the Property shown on the Survey shall be used in the closing documents and shall be substituted as Schedule A of the Title Commitment. The Property shall be conveyed to Buyer free and clear of all liens and encumbrances, except as approved by Buyer upon review of the Title Commitment and the Survey. Seller shall use commercially reasonable efforts to satisfy Buyer's objections to the Title Commitment and the Survey prior to or at Closing, and Seller shall in any event cause to be released any monetary liens that encumber the Property.

5. Representations of Seller. Seller represents and warrants to Buyer that on the date of this Agreement and as of the Closing Date (i) there are and will be no leases encumbering the Property; (ii) there are no tenants, occupants, or parties in possession of any portion of the Property; (iii) there is no pending condemnation or similar proceeding affecting the Property or any part thereof, and Seller has received no notice nor does Seller have any knowledge that any such proceeding is pending or contemplated; (iv) there is no litigation or proceeding pending, or to the best of Seller's knowledge, threatened, against or relating to Seller or any part of the Property (including, but not limited to, condemnation or eminent domain



proceedings, zoning changes, plans to modify an adjacent road, reroute traffic or close a curb cut, or proposed additional assessments); (v) to the best of Seller's knowledge, no portion of the Property has ever been used for or in connection with the disposal, storage or use of fuel or petroleum products, hazardous or toxic substances, or hazardous wastes or materials of any kind in violation of applicable law; (vi) Seller has marketable, fee simple title to the Property with the full power and authority to enter into this Agreement and consummate the sale of the Property without joinder or approval by any other person or entity; (vii) the Property can be used as a renal clinic, renal home training facility, medical office, aphaeresis operation, pharmaceutical sales business and associated uses on the Property; (viii) to Seller's knowledge, there are no cemeteries, burial grounds, matters of archeological significance, protected flora or fauna, special flood hazard areas (as defined by FEMA), flood prone areas, sinkholes, or wetlands on the Property; (ix) no portion of the Property has been used as a junkyard or dump, no fill material (soil, gravel or other) has been placed on Property, and no debris (organic or inorganic) has been buried on the Property; (x) as of the Closing, the Property will constitute a discrete tract of land which has been lawfully and properly subdivided from all other land; and (xi) there are no material inaccuracies or omissions in the information regarding the Property that Seller has or will be furnished to Buyer. The representations and warranties set forth in this section shall survive the Closing and the delivery of any deed conveying the Property to Buyer.

6. Inspection Period.

(a) As used herein, the term "Inspection Period" shall mean the period from the date of this Agreement until 11:59 p.m. C.S.T. on the date that is one hundred twenty (120) days after the Effective Date of this Agreement. During the Inspection Period and until Closing, Buyer shall have the right to go upon the Property through Buyer's personnel, agents, engineers and contractors, as needed or desired to inspect, examine, survey or otherwise do whatever Buyer deems necessary by way of inspection, engineering and planning for the investment in or development of the Property, including conducting geotechnical and environment examinations such as the Environmental Report (collectively, the "Property Condition Reports") to determine whether any adverse conditions or concerns exist with respect to the Property.

(b) Not later five (5) business days after the Effective Date, Seller shall deliver to Buyer copies of any surveys, title policies, environmental reports, geotechnical reports and any other relevant development related agreements known to Seller.

7. Termination Right. In the event that Buyer elects not to proceed with the purchase of the Property for any reason or no reason, Buyer may terminate this Agreement by delivering written notice of termination to Seller prior to expiration of the Inspection Period. Upon such termination, all Earnest Money shall be refunded to Buyer and the parties shall be released from all liability hereunder. Buyer's failure to terminate this Agreement prior to the expiration of the Inspection Period shall constitute an election by Buyer to proceed with the Closing, subject to satisfaction of all other conditions to Closing. If Buyer does not timely terminate this Agreement, the Earnest Money shall be non-refundable except upon Seller's default or failure of any condition to closing set forth in Section 9 below.

8. Closing.

(a) This transaction shall be closed upon a date to be fixed by Buyer (the "Closing Date"), but not later than the date that is fifteen (15) days after the expiration of the Inspection Period (the "Outside Closing Date"). Closing shall be conducted by the Escrow Agent via escrow with the parties delivering all required documents to the Escrow Agent with escrow instructions. Personal attendance shall not be required. All papers legally required to carry out the terms of this Agreement shall be executed and delivered (the "Closing"). Taxes shall be prorated and adjusted upon final determination. The conveyance of the Property shall be by Warranty Deed, subject only to those matters set forth in the Title Commitment as accepted by Buyer in writing. Seller shall execute and/or deliver an owner's affidavit and all other documents required by the title company to issue its title policy in the form required by this Agreement.

(b) Buyer agrees to commence development of the Property not later than the date that is twenty (24) months after Closing (the "Reversion Date"). If development of the Property has not commenced prior to the Reversion Date, title to the Property shall automatically revert to the Seller free and clear of any claim by the Buyer or parties claiming through the Buyer. For the purposes of this Agreement, commencement of development will be deemed to have occurred upon commencement of site work on the Property and Buyer's obtaining a building permit for construction of improvements. Upon request by Buyer after commencement of development occurs, Seller shall execute and deliver a recordable instrument confirming of record that commencement of development timely occurred and that the foregoing reversion is no longer in effect. After commencement of construction, Buyer shall proceed with diligence to complete construction within a reasonable period of time, taking into account delays that are beyond Buyer's control.

9. Conditions to Closing. As a condition to Buyer's obligation to close, (i) all of Seller's representations and warranties shall be true and correct as of the Closing Date, (ii) Seller shall have performed all of its obligations under this Agreement, (iii) no condemnation or eminent domain affecting the Property shall have occurred or be threatened, (iv) there shall not have occurred any event which adversely affects the investment value or development potential of the Property, (v) Seller shall have satisfied Buyer's objections and requirements, if any, related to the Title Commitment and the Survey (provided that such objections are delivered in writing to Seller during the Inspection Period), and (vi) the title company shall be irrevocably and unconditionally prepared to issue its final title policy to Buyer pursuant to the Title Commitment, subject only to exceptions approved by Buyer in writing and free from the standard exceptions, with such endorsements as Buyer shall require. If such conditions are not satisfied on or before the Outside Closing Date, Buyer may terminate this Agreement and receive a refund of any Earnest Money without limitation of any other remedy if the failure of condition was due to a default by Seller under this Agreement.

10. Closing Costs. Buyer shall pay for the cost of deed preparation, reasonable fees for attorney review of documents, the title commitment and title policy, any land division fee, publication of notices of any required public hearings, any transfer, documentary or recording taxes, the Property Condition Reports, the Survey (if any), deed recording costs, and all other expenses associated with its due diligence and escrow fees.

11. Commissions. Buyer shall not be responsible for payment of any commissions in connection with this transaction.

12. Remedies. In the event of a breach of this Agreement by Buyer which breach remains uncured by the date that is the earlier of (i) five (5) days after the Outside Closing Date, or (ii) ten (10) days after written notice of such breach by Seller to Buyer, Seller shall receive the Earnest Money as full liquidated damages and shall not be entitled to seek the specific performance of this Agreement or to pursue damages at law or any other legal or equitable remedy or relief, all of which remedies are hereby waived by Seller. In the event of a breach of this Agreement by Seller, which breach remains uncured by the date that is the earlier of (i) five (5) days after the Outside Closing Date, or (ii) ten (10) days after written notice of such breach by Buyer to Seller, Buyer shall have the right, to either (a) terminate this Agreement, receive a refund of the Earnest Money and recover actual damages incurred in connection with this Agreement, including costs of collection as set forth below, or (b) pursue an action for specific performance, and in connection with such action, Buyer shall have the right to obtain injunctive relief to the extent reasonably necessary to preserve the benefit of Buyer's bargain under this Agreement. The prevailing party in any action commenced due to the breach of this Agreement shall be entitled to recover its actual and reasonable costs, expenses and attorney's fees incurred in the enforcement of this Agreement.

13. Notices. Any notices required or permitted herein shall be deemed effective upon deposit in the United States mail, postage prepaid, registered or certified mail, return-receipt requested, deposit with an overnight courier service such as Federal Express or Airborne Express, confirmation by the sender's machine of an electronic facsimile transmission, by hand delivery, addressed as follows:

As to Seller:

Village of Roscommon  
214 South Main Street  
Roscommon, Michigan 48653  
Attn: Allen Lowe  
Facsimile: \_\_\_\_\_

As to Buyer:

OGA Acquisitions, LLC.  
2932 Foster Creighton Drive  
Nashville, Tennessee 37214  
Attn: Bond E. Oman  
Facsimile: (615) 467-0479

With a copy to:

John R. Haynes, Esq.  
Bradley Arant Boult Cummings, LLP  
1600 Division Street, Suite 700  
Nashville, TN 37203  
Facsimile: (615) 252-6343

or to such other address as may be furnished in writing by either party to the other.

14. Miscellaneous. This Agreement constitutes the final, complete and entire agreement between the parties and no modification hereof shall be binding unless signed by each party to this Agreement. The provisions of this Agreement shall survive the Closing. Time is of the essence in the performance of this Agreement. When a date specified herein falls upon a Saturday or Sunday, or on a national holiday, the following Monday or the next business day following such holiday shall be used for the purposes of this Agreement. The representations, promises, and inducements included in this Agreement shall be binding upon and inure to each of the parties hereto, their respective heirs, legal representatives, successors and assigns, it being expressly agreed and understood that Buyer may assign its interest in this Agreement. This Agreement has been negotiated at arm's length and each party has had sufficient opportunity to obtain advice of counsel. Accordingly, no rule of construction shall be applied so as to construe this Agreement against Buyer solely because Buyer's counsel prepared this Agreement.

15. Offer Limitation. The execution and delivery of this Agreement by one party shall constitute an offer to purchase or sell the Property, as applicable. If not earlier revoked by the party submitting the same (the "Offeror"), this offer shall automatically expire unless the party to whom the offer was made (the "Offeree") accepts such offer without modification by signing this Agreement and returning an executed original of this Agreement to the Offeror at the Offeror's notice address before 6:00 p.m. Central Standard Time on the date that is five (5) business days after the date set forth below the Offeror's signature. As used herein, the term "Effective Date" shall mean the date on which the Offeree provides to the Offeror a copy of this Agreement signed by Offeree, without modification. If an Offeree makes any modifications to this offer, the "Effective Date" shall mean the date that is the later of (i) the date on which the Offeror signed this Agreement (after accepting modifications, if any, proposed by the Offeree), or (ii) the date on which Offeree signed this Agreement (after accepting any counterproposal by the Offeror), as evidenced by the latest dates below each of their signatures.

16. Electronic Acceptance - Counterparts. This Agreement or any amendments hereto may be executed simultaneously in two or more identical counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Counterparts hereof and amendments hereto may be executed and delivered via facsimile or email and shall be effective upon delivery by such methods.

17. 1031 Exchange Cooperation. Buyer and Seller shall each have the right to assign its rights under this Agreement to a “qualified intermediary” or to an exchange accommodation title holder, in order to effect an exchange of the Property for like-kind property under Section 1031 of the Internal Revenue Code of 1986, as amended; provided, that (i) the completion of such exchange shall not cause any unreasonable delay in the Closing Date, (ii) the party which does not initiate the exchange shall not incur any additional costs in connection with such exchange, and (iii) neither Seller nor Buyer shall be required to take title to any replacement property involved in such exchange. No assignment shall release Buyer or Seller from their obligations under this Agreement. Each party shall execute an acknowledgement of its receipt of any notice of such assignment promptly after receipt of any request therefor.

18. Escrow Provisions. The escrow provisions attached hereto (the “Escrow Provisions”) are incorporated herein by this reference. The Escrow Agent’s execution of the Escrow Provisions shall not be a condition precedent to the occurrence of the Effective Date.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by such party on the dates set forth below their signatures.

SELLER:

VILLAGE OF ROSCOMMON

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

BUYER:

OGA ACQUISITIONS, LLC

By: \_\_\_\_\_

Bond E. Oman, President

Date: \_\_\_\_\_

ESCROW AGENT JOINDER

The undersigned acknowledges receipt of the Earnest Money as set forth above, and agrees to hold and disburse the same in accordance with the terms of the foregoing Agreement. Prior to expiration of the Inspection Period, the Earnest Money shall be held under the sole direction and order of the Buyer and shall be refunded and disbursed to Buyer immediately upon demand in the event Buyer terminates this Agreement, notwithstanding any objection by Seller. No notice or consent from Seller shall be required for the release of the Earnest Money to Buyer by Escrow Agent. Escrow Agent's signature shall not be required as a condition to the occurrence of the Effective Date. Upon its execution hereof, Escrow Agent accepts its designation as Escrow Agent hereunder and agrees to hold and disburse the Earnest Money. Escrow Agent shall not be liable for any acts taken in good faith, shall only be liable for its willful default or gross negligence, and may, in its sole discretion, rely upon the oral or written notices, communications, orders or instructions given by Buyer or Seller. Subject to the second and third sentences of this paragraph, in the event of a dispute between Buyer or Seller under this Agreement, sufficient in the discretion of Escrow Agent to justify its doing so, Escrow Agent shall be entitled to tender into the registry or custody of any court of competent jurisdiction all money or property in its hands under the terms of this Agreement, together with such legal proceedings as it deems appropriate, and thereupon to be discharged from all further duties under this Agreement. Any such legal action may be brought in any such court, as Escrow Agent shall determine to have jurisdiction thereof. Seller and Buyer hereby agree to indemnify and hold harmless Escrow Agent against any and all losses, claims, damages, liabilities and expenses, including, without limitation, reasonable costs of investigation and counsel fees and disbursements which may be imposed upon Escrow agent incurred by it in connection with its acceptance of this appointment as Escrow Agent hereunder or the performance of its duties hereunder, including, without limitation, any litigation arising from this Agreement or involving the subject matter hereof; provided however, that if Escrow Agent shall be found in willful default or gross negligence under this Agreement, then, in such event, Escrow Agent shall bear all such losses, claims, damages, and expenses; and provided further that neither Seller nor Buyer shall have any liability to Escrow Agent, under this indemnity provision, for any cost of litigation, attorney fees, arising or causing solely by the conduct of the other party which results in a dispute solely between the other party and Escrow Agent.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2013.

ESCROW AGENT:

FIRST AMERICAN TITLE INSURANCE  
COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_