

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF DECEMBER 16, 2002**

**FENTON TOWNSHIP CIVIC COMMUNITY CENTER
12060 MANTAWAUKA DRIVE, FENTON, MICHIGAN**

Supervisor Gabrielson called the meeting to order at 7:30 p.m.

Present: Gabrielson, Mueller, Garfield, Brancheau, Krug, Mathis, McKenna,
Office Manager Broecker and Attorney Cooley

Absent: None

PLEDGE OF ALLEGIANCE:

Supervisor Gabrielson led the pledge of allegiance to the flag.

APPROVAL OF AGENDA:

Supervisor Gabrielson asked to have an Executive Session added to the agenda to discuss pending litigation, and to remove the proposed rezoning of parcel 06-21-400-009 and Resolution No. 2002-50 from the agenda.

Motion to approve the 12/16/02 Fenton Township Board Meeting agenda as amended.

Motion by: Krug

Seconded: Garfield

Ayes: All

Nays: None

Motion carried. The agenda is approved.

MEETING MINUTES:

The minutes of the 12/2/02 regular meeting stand approved as presented.

EXPENDITURES:

Motion to approve expenditures as presented.

Motion by: McKenna

Seconded: Brancheau

Ayes: Gabrielson, Mueller, Garfield, Brancheau, Krug, Mathis, McKenna

Nays: None

Motion carried.

PUBLIC HEARINGS:

None

REPORTS:

Proposed Sewer Plant Expansion

Trustee Mathis noted that a recent newspaper article indicated that Hartland Township is also interested in joining Sewer District 3, along with Tyrone Township. She expressed concern over these communities using the treatment plant in Fenton Township. She is concerned about the potential for increased odor problems and about disposal of the sludge from the plant. Supervisor Gabrielson stated that this issue could be addressed at a future meeting. Staff from Genesee County Water & Waste Services can clarify these issues.

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF DECEMBER 16, 2002**

COMMUNICATIONS:

Genesee County Sewage District 3 – 2003 Budget

Supervisor Gabrielson noted that Genesee County had approved the 2003 operating budget for the District 3 treatment plant. There will be no rate increases in 2003.

UNFINISHED BUSINESS-ADOPTION OF ORDINANCES:

Proposed Zoning Ordinance Amendment – Accessory Buildings/2nd Reading

Supervisor Gabrielson reviewed a proposed amendment to the Zoning Ordinance regarding allowable square footage for accessory buildings in residential districts. The proposed amendment increases the allowable accessory building area for parcels larger than 20,000 square feet and less than one acre. There was no further discussion.

Motion to adopt Ordinance No. 599, an amendment to Section 4.02 of Ordinance No. 594, as presented.

Motion by: McKenna

Seconded: Krug

Ayes: Gabrielson, Mueller, Garfield, Brancheau, Krug, Mathis, McKenna

Nays: None

Motion carried. Ordinance declared adopted.

Proposed Amendment to Land Division Ordinance/2nd Reading

Supervisor Gabrielson reviewed a proposed amendment to the Land Division Ordinance, which changes the allowable depth-to-width ratio for land divisions from 4:1 to 5:1 to comply with the Zoning Ordinance. There was no further discussion.

Motion to adopt Ordinance No. 600, an amendment to Ordinance No. 516, as presented.

Motion by: McKenna

Seconded: Mueller

Ayes: Gabrielson, Mueller, Garfield, Brancheau, Krug, Mathis, McKenna

Nays: None

Motion carried. Ordinance declared adopted.

Rezoning #R02-006, Bernard Dzido, Parcel 06-17-200-003; R-3 to AG/2nd Reading

Supervisor Gabrielson reviewed the proposed rezoning ordinance. The property owner had rezoned the property to R-3 but now wishes to rezone back to AG. The Planning Commission has recommended approval of the rezoning, subject to the granting of a road frontage variance by the ZBA. The ZBA has granted a road frontage variance. There was no further discussion.

Motion to adopt Ordinance No. 601, an amendment to the Zoning Ordinance to rezone parcel 06-17-200-003 from R-3 to AG, as requested.

Motion by: Krug

Seconded: Brancheau

Ayes: Gabrielson, Mueller, Garfield, Brancheau, Krug, Mathis, McKenna

Nays: None

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF DECEMBER 16, 2002**

Motion carried. Ordinance declared adopted.

UNFINISHED BUSINESS-OTHER:

NEW BUSINESS:

Appointments to the Fenton Township Board of Review

Supervisor Gabrielson noted that the terms of the current Board of Review will expire at the end of the year. He recommended the re-appointment of Jim Hall, Bev McKenna and Joe Jenio to the Board of Review. All three have done a fine job for the township.

Motion to re-appoint H. James Hall, Beverly J. McKenna and Joseph Jenio to the Fenton Township Board of Review for the term ending December 31, 2004.

Motion by: Gabrielson

Seconded: Mueller

Ayes: Gabrielson, Mueller, Garfield, Brancheau, Krug, Mathis, McKenna

Nays: None

Motion carried.

Resolution No. 2002-48, Computerized Tax Roll

Office Manager Broecker reviewed a request from the Genesee County Treasurer to adopt a resolution to comply with a new law regarding the use of computerized tax rolls. All resolutions and certifications will be submitted to Genesee County, who will file the appropriate documentation with the State Tax Commission. Clerk Mueller presented the following resolution:

RESOLUTION NO. 2002-48

WHEREAS, Act 112 of the Public Acts of 1990, approved by the Governor June 20, 1990 permits the assessing officers to prepare a tax roll for use as a collection and accounting tool by the assessor and treasurer that is prepared and maintained by a computer system and its software when the system and the procedures that are followed adhere to the requirements of Act 112 of 1990, and

WHEREAS, the data processing used by Genesee County and Genesee County Equalization and the Treasurer's Office has been demonstrated to be compatible with the Property Tax Administration Program used by the Charter Township of Fenton;

NOW, THEREFORE, BE IT RESOLVED, that the Charter Township of Fenton approves the request for authority to use a computerized data base as the tax roll and authorizes the Treasurer and Assessor to complete and sign the "Request for Approval of Computerized Tax Roll" form to be forwarded to the Michigan State Tax Commission and State Treasurer.

Motion to adopt Resolution No. 2002-48 as presented.

Motion by: Mueller

Seconded: Garfield

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF DECEMBER 16, 2002**

Ayes: Gabrielson, Mueller, Garfield, Brancheau, Krug, Mathis, McKenna

Nays: None

Motion carried. Resolution declared adopted.

Resolution No. 2002-49, Metropolitan Extension Telecommunications Rights-of-Way Oversight Act

Office Manager Broecker reviewed a proposed resolution required to comply with recent legislation regarding telecommunications systems in public rights-of-way. The resolution simply confirms that the Township will comply with the new laws. Fenton Township does not have any right-of-way agreements that do not comply with the law so no additional action is necessary. The language for the resolution was provided by the Michigan Townships Association and has been reviewed by Attorney Cooley. Trustee McKenna noted that the Fenton Area Cable Consortium has also reviewed this issue and agrees with this proposed action. Clerk Mueller presented the following resolution:

RESOLUTION NO. 2002-49

WHEREAS, the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Act No. 48 of Public Acts of 2002 ("Metro Act") provides regulations governing the issuance of permits by the Charter Township of Fenton ("Township") to telecommunication providers for their access to and ongoing use of the public rights-of-way within the Township, and

WHEREAS, telecommunication providers using or seeking to use the public rights-of-way within the Township for their telecommunication facilities are required by the Metro Act to obtain a permit from the Township and pay all required fees, and

WHEREAS, the Metro Act generally requires telecommunication providers to pay the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority ("Authority") an annual fee, and

WHEREAS, the annual fees collected by the Authority are to be distributed to cities, villages and townships with the Township receiving from the Authority its share as allocated under the Metro Act, and

WHEREAS, the Township must comply with the Metro Act in order to be eligible to receive its allocated share of the annual fees collected by the Authority.

NOW, THEREFORE, BE IT HEREBY RESOLVED:

- 1. Effective November 1, 2002, the Township will comply with the Metro Act.*
- 2. The Township Clerk is directed to send a copy of this Resolution to SBC Ameritech, Verizon, McLeod USA, Charter Communications and any other telecommunication providers using the public rights-of-way within the Township.*
- 3. All Resolutions or portions of Resolutions in conflict herewith are hereby repealed.*

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF DECEMBER 16, 2002**

Motion to adopt Resolution No. 2002-49 as presented.

Motion by: Mueller

Seconded: McKenna

Ayes: Gabrielson, Mueller, Garfield, Brancheau, Krug, Mathis, McKenna

Nays: None

Motion carried. Resolution declared adopted.

Proposal to Contract for “Handyman” Duties

Supervisor Gabrielson requested approval for the Township to retain a part-time “handyman” to deal with miscellaneous tasks at the township office and grounds. The individual would work approximately eight hours per week on an as-needed basis, would be paid \$9.00 per hour, and would have the status of a contracted employee (i.e. not paid through Payroll). It was noted that this work was performed in the past by a GM Jobs Bank employee. Because there isn’t enough work to warrant a full-time employee, the GM Jobs Bank is no longer an option.

Motion to approve the hiring of an 8-hour per week contracted employee to complete miscellaneous building & grounds tasks at a rate of \$9.00 per hour, as requested.

Motion by: Krug

Seconded: Mueller

Ayes: Gabrielson, Mueller, Garfield, Brancheau, Krug, Mathis, McKenna

Nays: None

Motion carried.

Proposed Amendments to 2002 Fenton Township Budget

Office Manager Broecker reviewed the proposed 4th quarter amendments to the 2002 Fenton Township budget. There are no large changes in the General Fund. It is anticipated that the fund balance will be in the \$650-700,000 range. Minor revisions were also made to the Solid Waste, Mosquito Control and Fire Funds. Expense categories in the Sewer fund were amended to reflect the large volume of work being done on the sanitary sewer system.

Motion to approve amendments to the 2002 Fenton Township budget as presented.

Motion by: McKenna

Seconded: Krug

Ayes: Gabrielson, Mueller, Garfield, Brancheau, Krug, Mathis, McKenna

Nays: None

Motion carried.

EXECUTIVE SESSION:

Motion to recess the regular meeting to convene an executive session for the purpose of discussing pending litigation.

Motion by: Mueller

Seconded: McKenna

Ayes: All

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF DECEMBER 16, 2002**

Nays: None
Motion carried. The regular meeting was recessed at 8:00 p.m.

RECONVENE:

The regular meeting was reconvened at 8:30 p.m.

NEW BUSINESS (continued):

Pending Litigation – LJS Partnership vs. Fenton Township

Supervisor Gabrielson introduced Attorney John Mulvihill, who is representing Fenton Township in this lawsuit, which was filed after the denial of a request to rezone property for a manufactured home community. Mr. Mulvihill reviewed an outline documenting the history of the lawsuit and the justification for entering into a consent judgement to settle the case. The consent judgement, if approved, would include the following requirements for the proposed development:

- A maximum of 398 units, half of which will be restricted to people age 55 and over.
- An average lot size of 5,500 square feet.
- The development will look more like a traditional subdivision, with homes facing the street rather than being lined up vertically.
- A 100 foot buffer will be maintained around the perimeter of the development, except for the side adjacent to US-23, which will be 50 feet.
- All homes will be double-wide construction with a minimum 4/12 pitched shingled roof, vinyl lap siding and solid skirting foundation.
- The development shall include stone masonry wall at the entrance, brick paver driveways, a gatehouse, community mailboxes, a clubhouse, play areas for children, retention ponds, tennis courts, a swimming pool and lighted walking paths.

These requirements would remain with the property even if it is subsequently sold.

If the Township decided to proceed with the lawsuit, there would be a significant risk of an adverse decision. This would not only take away from the Township all control over the development, it could also result in the award of monetary damages, which could exceed the Township's insurance coverage. Because of the risks associated with letting the court decide the case, Mr. Mulvihill is recommending that the Township Board approve the proposed consent judgement to settle the case.

Motion to approve the proposed Consent Judgement in the case of LJS Partnership vs. Fenton Township, as recommended by the Township Attorneys.

Motion by: McKenna

Seconded: Garfield

Ayes: Gabrielson, Mueller, Garfield, Brancheau, McKenna

Nays: Krug, Mathis

Motion carried.

PUBLIC COMMENT - AGENDA OR NON-AGENDA ITEMS:

The following individuals spoke with regard to the consent judgement:

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF DECEMBER 16, 2002**

Patrick Carmody, 16245 Silver Shore Drive
John Maser, 12126 Jennings Road
Terri Miller, 12355 Jennings Road
Tom Richard, 12425 Jennings Road
Judy Buytas, 11372 Jennings Road
Jean Johnson, 12101 Jennings Road
Gary Carlson, 14041 Squaw Lake Drive

Their concerns/objections included:

- Impact on roads.
- Impact on schools.
- Traffic/safety concerns.
- Impact on surrounding property values.
- Fenton Township already has four mobile home parks; we don't need another.
- Mobile homes are not taxed the same as traditional homes.
- The Township should continue to fight the lawsuit in court rather than settle the case.

ADJOURN: Meeting adjourned at 9:05 p.m.

Carl Gabrielson, Supervisor

Charles Mueller, Clerk

Minutes Posted 12/17/02