

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF APRIL 14, 2003**

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

Clerk Mueller called the meeting to order at 7:30 p.m.

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

Absent: Gabrielson (arrived 7:35 p.m.), Krug (arrived 8:20 p.m.)

PLEDGE OF ALLEGIANCE:

Clerk Mueller led the pledge of allegiance to the flag.

APPOINTMENT OF CHAIRMAN PRO-TEM:

Motion to appoint Clerk Mueller as Chairman Pro-Tem, until the arrival of the Township Supervisor.

Motion by: Mathis

Seconded: Brancheau

Ayes: All Present

Nays: None

Absent: Gabrielson, Krug

Motion carried.

APPROVAL OF AGENDA:

Chairman Mueller asked to have the furniture donation item removed from the agenda. Motion to approve the 4/14/03 Fenton Township Board Meeting agenda as amended.

Motion by: McKenna

Seconded: Brancheau

Ayes: All Present

Nays: None

Absent: Gabrielson, Krug

Motion carried. The agenda is approved.

MEETING MINUTES:

Trustee Mathis asked if addresses for those individuals who speak at board meetings are typically listed in the meeting minutes. Office Manager Broecker confirmed that the addresses of those who address the board have been included as a part of the meeting minutes for many years. The minutes of the 3/31/03 regular meeting stand approved as presented.

EXPENDITURES:

Trustee Mathis questioned the invoice from Douglass Safety Systems for the scene accountability system. Office Manager Broecker clarified that the Township must still pay the full amount of the invoice, although the Fenton Area Service Club has donated all but \$1,000.00 of the total cost.

Motion to approve expenditures as presented.

Motion by: McKenna

Seconded: Brancheau

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Ayes: Mueller, Garfield, Brancheau, Mathis, McKenna
Nays: None
Absent: Gabrielson, Krug
Motion carried.

Supervisor Gabrielson arrived at 7:35 p.m.

PUBLIC HEARINGS:

Request for Industrial Development District-Webasto Product North America, Inc.

Supervisor Gabrielson reviewed a request from Webasto Product North America, Inc. to establish their property on North Road as an Industrial Development District. This step is necessary for Webasto to apply for an Industrial Facilities Exemption Certificate. Gary Pierce, Vice President of Webasto, stated that his company would consolidate their two existing facilities into this location. There was no public comment. Clerk Mueller presented the following resolution:

RESOLUTION NO. 2003-05

WHEREAS, pursuant to Act No. 198 of the Public Acts of 1974, as amended, this Township Board has the authority to establish "Industrial Development Districts" within the Charter Township of Fenton; and

WHEREAS, Webasto Product North America, Inc. has petitioned this Township Board to establish an Industrial Development District on his property located in the Charter Township of Fenton hereinafter described; and

WHEREAS, construction, acquisitions, alterations, or installation of a proposed facility has not commenced at the time of filing the request to establish this district; and

WHEREAS, written notice has been given by mail to all owners of real property located within the district, and to the public by newspaper advertisement in the Tri-County Times, of the hearing on the establishment of the proposed district; and

WHEREAS, on April 14, 2003 a public hearing was held at which all of the owners of real property within the proposed Industrial Development District and all residents and taxpayers of the Charter Township of Fenton were afforded an opportunity to be heard thereon; and

WHEREAS, the Township Board deems it to be in the public interest of the Charter Township of Fenton to establish the Industrial Development District as proposed;

NOW, THEREFORE, BE IT RESOLVED by the Township Board of the Charter Township of Fenton that the following described parcel of land situated in the Charter Township of Fenton, Genesee County, State of Michigan, to wit:

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A PARCEL OF LAND BEG 333.29 FT S OF NW COR OF SEC TH CONT S 333.29 FT TH N 89 DEG 51 MIN 08 SEC E 522.43 FT TH N 1 DEG 51 MIN 38 SEC E 335.58 FT TH S 89 DEG 37 MIN 42 SEC W 533.34 FT TO PL OF BEG; SEC 26 T5N R6E, 4.05 ACRES.

and

ALL THAT PART OF N 1/2 OF S 1/2 OF NW 1/4 OF NW 1/4 LYING W OF A LINE WHICH IS 85 FT W OF AND PARALLEL TO SURVEY LINE OF US-23; SEC 26 T5N R6E.

be and hereby is established as an Industrial Development District pursuant to the provision of Act No. 198 of the Public Acts of 1974 to be known as Fenton Township Industrial Development District No. 14.

Motion to adopt Resolution No. 2003-05 as presented:

Motion by: Mueller

Seconded: McKenna

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

Nays: None

Absent: Krug

Motion carried. Resolution declared adopted.

REPORTS:

Supervisor Gabrielson briefly reviewed the quarterly report from the Ordinance Enforcement Officer.

COMMUNICATIONS:

Required Signs for Beach Areas

Supervisor Gabrielson reviewed a letter from the Genesee County Health Department regarding a new state law. The law requires that a sign be posted at the entrance of any bathing beach area indicating that the County Health Department regularly tests the water for bacteria, and provides names and telephone numbers for residents to call if they have questions regarding the testing.

UNFINISHED BUSINESS-ADOPTION OF ORDINANCES:

Rezoning #R03-002, Steve Steffey, parcel 06-04-200-009; AG to R-2/1st Reading

Supervisor Gabrielson reviewed the proposed rezoning ordinance. Mr. Steffey explained that he would like to rezone the property from AG to R-2, which is consistent with the Township's Future Land Use Plan. Trustee McKenna stated that the Planning Commission had recommended approval of the rezoning, also noting that this property was used to mine peat and topsoil for many years.

Public Comment:

Dale Dixon, 4200 Thompson Road

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Mr. Dixon stated that the access road to the subject property was not well maintained when it was a dirt mine. Will this be corrected as the property is developed? Supervisor Gabrielson stated that the Township's Ordinance Enforcement Officer would monitor conditions during construction.

John Lommel, 4009 Minnetonka Drive

Mr. Lommel stated that he believes Thompson Road and Jennings Road are already in poor condition. What will the Township do to improve these roads? Supervisor Gabrielson responded that Thompson Road (a County primary road) is already on the schedule for resurfacing. Supervisor Gabrielson has already discussed Jennings Road with the Genesee County Road Commission. A plan for improvement will be developed within the next few years.

There was no further discussion. The second reading of the proposed rezoning will be conducted at the 5/5/03 meeting.

UNFINISHED BUSINESS-OTHER:

None

NEW BUSINESS:

Law Day Proclamation

Clerk Mueller read a letter from the Genesee County Bar Association asking local municipalities to adopt a proclamation designating May 1, 2003 as "Law Day". Attorney Cooley supported the proclamation, stating that it was very worthwhile. Clerk Mueller presented the following:

LAW DAY PROCLAMATION 2003

WHEREAS, Law Day is a celebration of America and the rule of the law, and

WHEREAS, an essential component to the American ideal of the rule of law is a fair and impartial judiciary, and

WHEREAS, a fair and impartial judiciary protects American's rights and liberties under the state and federal constitutions, and

WHEREAS, a fair and impartial judiciary requires an independent judiciary able to fulfill its constitutional obligations as the third branch of government in the American system of checks and balances, and

WHEREAS, there have been examples of an escalating partisan and special interest battle over American courts, and

WHEREAS, the escalating partisan and special interest battle over American courts are antithetical to the judiciary's role in the American experiment in self-government;

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NOW, therefore, as we celebrate Law Day 2003, we restate our commitment to judicial independence as an essential component of the rule of the law and our dedication to ensuring fair and impartial judicial decision making under federal and state constitutions as essential to American democracy, liberty and freedom.

Law Day 2003 provides an opportunity to re-examine how we as a nation want our judiciary to function. At a time when partisans and special interests try to shape a judiciary that is responsive to political considerations above all else, we have the responsibility to reaffirm our commitment to a truly independent third branch.

Our renewed commitment to judicial independence can be expressed through many actions, big and small, taken in our local communities and at the national level, such as:

- *Defending the state and federal judges from unfair or unwarranted criticism, whether it be motivated by partisanship, special interests, or simply a misunderstanding of the role of the judiciary in our system of government;*
- *Demanding adequate funding for court systems so that judges have the resources to administer justice without undue delay or burden;*
- *Promoting new approaches to improving judicial elections, such as public financing of campaigns and voter guides, that produce a better educated electorate while reducing the influence of private contributions to judges; and*
- *Continue to work toward merit-based systems of appointing and retaining judges that provide an appropriate balance of judicial independence and accountability to the public.*

As New Jersey Chief Justice Arthur T. Vanderbilt said in the last century, “Judicial reform is no sport for the short-winded.” Indeed, the theme of Law Day 2003 serves to remind us that the American experiment in self-government requires constant vigilance of purpose, especially when it comes to ensuring the continuing luster of the crown jewel of our Republic, our uniquely American independent judiciary.

NOW THEREFORE, BE IT RESOLVED, that the Township Board of the Charter Township of Fenton does hereby proclaim Thursday May 1, 2003 as Law Day. We urge the citizens, schools, businesses and media of the Fenton community and all of Genesee County to use this occasion to dedicate ourselves to preserve and strengthen the rule of the law and the independence of our courts.

Motion to adopt the Law Day Proclamation as presented.

Motion by: Mueller

Seconded: McKenna

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

Nays: None

Absent: Krug

Motion carried. Proclamation declared adopted.

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Preliminary Plat Final Approval – Pinnacle Shores No. 3

Tom Atwell, developer of the Pinnacle Shores subdivision, asked the board to grant final approval for the preliminary plat of Pinnacle Shores No. 3, the third phase of his development, which began in 1995. Trustee Brancheau asked if Bennett Lake Road could be used for construction traffic to avoid congestion on Owen Road. Mr. Atwell confirmed that the primary construction entrance to the development would be from Bennett Lake Road. He added that he would do everything possible to keep the roads cleaned up during construction. There was no further discussion.

Motion to grant final approval to the preliminary plat of Pinnacle Shores No. 3, as presented.

Motion by: Mueller

Seconded: Garfield

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

Nays: None

Absent: Krug

Motion carried.

Revised Interlocal Agreement – Loose Senior Citizen Center

Supervisor Gabrielson reviewed the revised interlocal agreement for the Loose Senior Citizen Center. The revised agreement adds the Southern Lakes Regional Metropolitan Parks & Recreation Commission as a member municipality. Trustee Mathis stated that residents had asked here if there were plans to move the senior center out of the City of Linden. It was her understanding that the provisions of the Loose family will required that the senior center stay in Linden. Supervisor Gabrielson clarified that the language in the will was open to some interpretation related to whether the center had to stay in the City of Linden or simply in the “Linden area”. Regardless of any interpretation of the Loose will, there are no plans to move the Loose Senior Citizen Center. The finance committee is working on a long-term capital improvement plan, which includes looking at the potential for constructing a new center at some future date. There are no plans, however, to pursue that direction in the short term.

Motion to approve the revised Loose Senior Citizen Center Interlocal Agreement as presented.

Motion by: Mueller

Seconded: McKenna

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

Nays: None

Absent: Krug

Motion carried.

Supervisor Gabrielson recessed the meeting at 8:00 p.m. The meeting was reconvened at 8:15 p.m. Trustee Krug arrived at 8:20 p.m.

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Pending Litigation – LJS Partnership vs. Fenton Township

Supervisor Gabrielson reported that the Township Board had met in closed session earlier Monday to discuss the pending legal action. The board has decided not to reinstate the consent judgement. The board has also stated that they will not object to the FTRA's motion to intervene as a third party defendant in the case. Because this puts the lawsuit back to trial, the board is not in a position to answer specific questions about the case. The timing of the trial is not known yet so a "wait & see" approach is probably best at this time.

Public Comment:

Tony Brown, 12159 Jennings Road

Mr. Brown thanked the board for their decision. He also agreed with the "wait & see" approach to the legal process.

Sonia Brown, 12159 Jennings Road

Ms. Brown also thanked the board for their decision but added that it shouldn't have taken the referendum and the other efforts of the FTRA to convince them to come to this decision. She also urged the residents to continue attendance at Township Board meetings.

Patrick Carmody, 16245 Silver Shore Drive

Mr. Carmody asked if the Township has considered underwriting the cost of the attorney hired by the FTRA. Attorney Cooley stated that this would not be possible. First, Judge Hayman has not yet ruled on allowing the FTRA in as a third party defendant. Whether he does or not, that attorney represents the FTRA, creating a conflict of interest that would prohibit the Township from paying his fees.

Dan Rust, 13318 Pomona Drive

Mr. Rust asked the board to consider taking formal action regarding their decisions. Although the board made it clear that formal action was not necessary, the board members also stated that they had no problem voting on the issue. The following motions were made:

Motion to not reinstate the consent judgement in the LJS Partnership vs. Fenton Township lawsuit.

Motion by: Mueller

Seconded: Mathis

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

Nays: None

Motion carried.

Motion to withdraw the Township's objection to the motion of the Fenton Township Residents Association to intervene as a third party defendant in the LJS Partnership vs. Fenton Township lawsuit.

Motion by: Mueller

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Seconded: Mathis

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

Nays: None

Motion carried.

Jan Rust, 13318 Pomona Drive

Ms. Rust thanked the board for their actions.

Kathy Smith, 14202 Darts Drive

Ms. Smith asked if Mr. Ragnone was now required to re-file his zoning request. Supervisor Gabrielson clarified that original lawsuit would be reinstated. Mr. Ragnone did not have to go through the rezoning process again.

Doug Lyons, 12125 Jennings Road

Mr. Lyons stated that Mr. Ragnone has already begun working on the property, violating wetlands and removing trees from the property, including the buffer zone. Supervisor Gabrielson stated that the wetlands concern would be investigated. As for the tree removal, Mr. Ragnone is not bound by the provisions of the consent judgement because it no longer exists. He has the right to remove any and all trees on the property.

Lorraine Zimmer, 6391 Acorn Way

Ms. Zimmer stated that she is not comfortable with the Township continuing to use attorneys who have stated that the Township's chances of winning the lawsuit aren't good. She suggested that Mr. Myers, the attorney hired by the FTRA, represent the Township. Trustee McKenna responded that the FTRA has filed a cross-claim in their motion against Fenton Township. Having Mr. Myers represent the Township is clearly a conflict of interest. Tony Brown suggested that the motion could be amended to remove the cross-claim against the Township. Clerk Mueller stated that, regardless of the status of the FTRA motion against the Township, Mr. Myers cannot represent both the Township and the FTRA.

Donna Horner, 11424 Audubon Drive

Ms. Horner asked if there was any other property in Fenton Township zoned for mobile home residential. Supervisor Gabrielson confirmed that 75 acres near Lake Copneconic, currently owned by the YMCA, is zoned RMH. Ms. Horner also asked if the Township's insurance coverage is now voided. Attorney Cooley clarified that the insurance company will have to take legal action against the Township in order to terminate insurance coverage.

Proposed Expansion of Sanitary Sewer Treatment Plant Capacity

Based on the cash flow information presented and discussed at the recent workshop meeting, Supervisor Gabrielson recommended that the board authorize the purchase of 3,000 units of sanitary sewer capacity in the Genesee County District 3 Wastewater Treatment Plant.

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Motion to authorize the purchase of 3,000 units of capacity in the Genesee County Sewage Disposal District No.3 Treatment Plant, at a cost of \$1,500 per unit.

Motion by: McKenna

Seconded: Brancheau

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

Nays: None

Motion carried.

PUBLIC COMMENT - AGENDA OR NON-AGENDA ITEMS:

Bill Ochodnick, 14107 Landings Way

Mr. Ochodnick reported that a construction site on Emerald Pointe did not have proper erosion control devices in place. Supervisor Gabrielson stated that it would be investigated ASAP.

Paul Price, 12459 Jennings Road

Mr. Price stated that the construction of Lake Fenton High School has resulted in large amounts of clay on the shoulder of Jennings Road. Supervisor Gabrielson stated that he would follow up on that issue with the construction company.

Lorraine Zimmer, 6391 Acorn Way

Ms. Zimmer asked if there is a timetable for the expansion of the plant and asked about the odor control measures discussed previously. Supervisor Gabrielson stated that the additional capacity would be added when Livingston County is added to the treatment plant. With regard to the odor control issues, Drain Commissioner Jeff Wright has promised to implement corrective measures as soon as possible. The residents need to give him time to do so.

Tony Brown, 12159 Jennings Road

Mr. Brown asked if the 3,000 units approved tonight are already spoken for. Supervisor Gabrielson clarified that, prior to the addition of these 3,000 units, the number of potential connections (approved site plans, Thompson Road corridor, existing zoning and existing homes not yet on sewer), exceeded the number of units the Township owned. While it will likely take 4-5 years to completely use up the 2,700+/- units currently available, these additional units will be needed in the not too distant future and we don't want to get in a position again of running in negative numbers.

Jean Johnson, 12101 Jennings Road

Ms. Johnson asked about the potential improvement to Jennings Road. Can the shoulders be paved for bicycle traffic? Supervisor Gabrielson stated that the Genesee County Road Commission policy is not to pave shoulders. Clerk Mueller added that the road may ultimately be wider than it is today, which may allow easier bike or pedestrian traffic without a paved shoulder.

Lisa Martorana, 4180 Four Lakes Avenue

Ms. Martorana asked if the addition of 3,000 sewer units negatively impacts our defense of the mobile home lawsuit. She also feels it may encourage development. Supervisor

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Gabrielson responded that it would have no impact on the existing lawsuit. The installation of sewers helps the environment because it eliminates dependency on septic systems. He also clarified that property can be developed with our without sewer and the availability of sewer units does not significantly impact development demand.

Tom Richard, 12425 Jennings Road

Mr. Richard echoed Mr. Price's concerns regarding the clay on Jennings Road.

Maxine Lenk, 6243 Smith Road

Ms. Lenk asked the board to consider updating the Township's groundwater study, citing the recent concerns with arsenic levels. Supervisor Gabrielson responded that Trustee McKenna is already investigating the possibility of an updated study. Ms. Lenk also stated that the drainage on Hogan and Sharp roads is very poor, as is the over condition of the unpaved roads.

Dan Rust, 13318 Pomona Drive

Mr. Rust asked about the beach testing and signs that was mentioned earlier in the meeting. Office Manager Broecker explained that a new law requires signs to be placed at the entrance to any bathing beach that indicates that the water is regularly tested for bacteria and who to contact for information. Mr. Rust also stated that a resident in the Alpine Shore subdivision is operating a car cleaning operation out of his garage. Supervisor Gabrielson stated that the issue will be investigated.

John Maser, 12126 Jennings Road

Mr. Maser also agreed with Mr. Price's concerns regarding the condition of Jennings Road.

ADJOURN: Meeting adjourned at 9:35 p.m.

Carl Gabrielson, Supervisor

Charles Mueller, Clerk

Minutes Posted 4/16/03