

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF MAY 5, 2003**

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

Clerk Mueller 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:

Treasurer Garfield asked to have the sewer hydraulic model added to the *New Business* section of the agenda. Trustee Brancheau asked to have the purchase of a new Fire Department vehicle added to the *Unfinished Business* section of the agenda.

Motion to approve the 5/5/03 Fenton Township Board Meeting agenda as amended.

Motion by: McKenna

Seconded: Mueller

Ayes: All

Nays: None

Motion carried. The agenda is approved.

MEETING MINUTES:

The minutes of the 4/10/03 special meeting, 4/14/03 workshop meeting and 4/14/03 regular meeting stand approved as presented.

EXPENDITURES:

Treasurer Garfield questioned the invoice for outside storage. Supervisor Gabrielson and Trustee McKenna explained that the various materials needed for the ongoing sewer project (manhole sections, sewer pipe, gravel, etc.) need to be stored on appropriately zoned property. The area between the Township's parking lot and Fire Station #1 was used temporarily, however this property is zoned residential and storage of materials violates our Zoning Ordinance. The open area behind Perani's Hockey World Warehouse was the least expensive of the storage options available. Treasurer Garfield also expressed concern regarding the \$800 cost to send an employee to GIS training. Supervisor Gabrielson explained that this 2-day introductory class is needed for the front desk staff to be able to provide GIS information and assist the public when the public information kiosks become operational. Trustee McKenna stated that the proposed expenditure is within the approved budget and he sees no problem with the Supervisor and/or Office Manager making decisions regarding training and education.

Motion to approve expenditures as presented, with Treasurer Garfield's objection to the \$800.00 invoice for ESRI noted.

Motion by: Mueller

Seconded: McKenna

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

Nays: None

Motion carried.

PUBLIC HEARINGS:

None

REPORTS:

Proposed Ambulance Service

Treasurer Garfield and Trustees Mathis and Brancheau reported that the Public Safety Committee had reviewed an outline for a proposed ambulance service. The proposal was developed jointly by the fire chiefs of Fenton, Linden and Fenton Township. Qualifications will be solicited from interested private ambulance companies and a recommendation will be brought back to the three municipalities for approval.

Emergency Medical Response Update

Trustee Mathis, referring to an emergency medical response reported at the 3/17/03 meeting, asked if the Township had received medical clearance for the Mid-Michigan Manufacturing & Maintenance personnel to return to work. Supervisor Gabrielson clarified that since Mid-Michigan is a contractor and not Township employees, the Township has no responsibility to follow up on this type of incident. He will, however, request a doctor's note from Mr. Rowley.

Miscellaneous Issues

Trustee Krug reported that the recent weather has increased the mud problem near the Lake Fenton High School construction site on Lahring and Jennings Roads. He also noted that a portion of the fence along the north end of Lake Fenton has been knocked down and should be repaired as soon as possible. Supervisor Gabrielson will follow up on both issues.

LJS Partnership vs. Fenton Township Lawsuit

Attorney Cooley reported that a July 15, 2003 trial date has been set for the LJS vs. Fenton Township lawsuit. He also reported that the plaintiff's attorney has filed a request to appeal Judge Hayman's decision to set aside the consent judgement. The board briefly discussed the possibility of retaining a third attorney for this case. Attorney Cooley advised the board that this and other issues related to the lawsuit should be discussed in an executive session in the near future. Clerk Mueller and Trustee McKenna both stated that if the Township Board does consider the hiring of an additional attorney, at least three attorneys or law firms should be reviewed before making a decision.

COMMUNICATIONS:

None

UNFINISHED BUSINESS-ADOPTION OF ORDINANCES:

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

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Supervisor Gabrielson reviewed the proposed rezoning ordinance. There was no further discussion.

Motion to adopt Ordinance No. 605, an amendment to Zoning Ordinance No. 594 to rezone parcel 06-04-200-009 from AG to R-2, as presented.

Motion by: Mueller

Seconded: Garfield

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

Nays: None

Motion carried. Ordinance declared adopted.

UNFINISHED BUSINESS-OTHER:

Purchase of Fire Department Vehicle

Trustee Brancheau reported that the car currently driven by the Fire Chief has over 200,000 miles on it and is in need of replacement. Because of an ordering mistake, the local Chevrolet dealer has a fully equipped Chevrolet Tahoe available for approximately \$28,119, well below the cost we would normally have to pay. This vehicle would be capable of hauling the new haz-mat trailer and will have room for first responder equipment. Trustee Brancheau recommends purchasing the vehicle now, and also suggested that the board may want to look at selling it within one year because the resale value may still exceed the purchase price. Trustee Mathis stated that she is opposed to the purchase because it is not included in the current budget. She suggested that the decision be postponed until other vehicle prices can be obtained and reviewed. It was noted that this issue has been pending for approximately six months.

Motion to approve the purchase of a Chevrolet Tahoe for the Fenton Township Fire Department at an approximately cost of \$28,119.

Motion by: Brancheau

Seconded: Garfield

Ayes: Gabrielson, Mueller, Brancheau, Krug, McKenna

Nays: Garfield, Mathis

Motion carried.

NEW BUSINESS:

Application for Use of Public Ways – 360networks, Inc.

Office Manager Broecker reviewed an application from 360networks, Inc. for telecommunication facilities that already exist in Fenton Township. This application complies with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, (Act No. 48 of Public Acts of 2002). Under this statute, telecommunication service providers are required to obtain a permit from the Township for the use of public rights-of-way and pay all required fees to the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority. Because the application is for existing facilities, the approval process is more of a formality in this situation.

Motion to approve the Application for Access To and Ongoing Use of Public Ways by Telecommunication Providers for 360networks, Inc., as presented.

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

Proposed ACH Policy

Office Manager Broecker reviewed a proposed policy regarding electronic payments. A recently enacted Michigan law requires that such a policy be adopted for any governmental unit that pays invoices through the Automated Clearing House (ACH) or electronic payment system. The policy has been drafted to reflect the fact that Fenton Township only processes Federal payroll tax deposits and inter-bank transfers electronically, and does not pay invoices by electronic payments. If at some future date the Township wishes to pursue electronic payment of invoices and/or payroll direct deposit, the policy will need to be amended. Clerk Mueller presented the following resolution:

RESOLUTION NO. 2003-06

WHEREAS, electronic payment of public funds are required for some federally mandated transactions of public funds, and electronic payments have become a commonly accepted practice by banks and other financial institutions, and

WHEREAS, Public Act 738 of 2002, effective December 30, 2002, authorizes townships to make electronic transactions involving public funds by electronic payment, debit, or credit transfer processed through an automated clearing house, and

WHEREAS, PA 738 authorizes a Township Treasurer to enter into an ACH arrangement for a national and governmental organization that has authority to process electronic payments (ACH), including, but not limited to, the National Automated Clearing House Association and the Federal Reserve System, and

WHEREAS, the Charter Township of Fenton Board of Trustees deems that it is in the best interest of the Township to make certain Township financial transactions by electronic payments as described in PA 738;

NOW, THEREFORE BE IT RESOLVED, that the Charter Township of Fenton Board of Trustees authorizes the Township to utilize electronic transactions in compliance with the written procedures and internal controls developed and adopted as the Township's ACH Policy and presented to the Township Board on May 5, 2003.

Motion to adopt Resolution No. 2003-06 as presented.

Motion by: McKenna
Seconded: Mueller
Ayes: Gabrielson, Mueller, Garfield, Brancheau, Krug, Mathis, McKenna
Nays: None

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Motion carried. Resolution declared adopted.

Proposed Technical Service Support Agreement – BCL Computing Solutions, Inc.

Supervisor Gabrielson reviewed a proposed Technical Service Support Agreement between Fenton Township and BCL Computing Solutions, Inc. BCL has been the Township's IT consultant since 1994 and has asked that this business relationship be formalized by the execution of this agreement. Some of the key points in the proposed agreement are:

- The Township will commit to 200 man-hours of service per year. Our average for the past three years has been over 220 per year.
- The term of the agreement is 12 calendar months, commencing 5/1/03. The agreement is automatically renewed each year unless either party notifies the other party at least 30 days before the expiration date of intent to terminate or revise.
- The billing rate for service is \$85.00 per hour. Several other area communities were contacted and the rates they currently pay for comparable services range from \$75.00 per hour + travel to \$105.00 per hour. Additionally, if the agreement is approved, telephone support will be provided at no charge and emergency response service calls will be billed at the standard \$85.00 per hour, (as opposed to \$127.50).

Trustee McKenna pointed out two areas where the phrase "Exhibit A" should be replaced with "4(a)". Those corrections will be made prior to the final execution of the agreement.

Motion to approve the Technical Service Support Agreement between Fenton Township and BCL Computing Solutions, Inc., as corrected.

Motion by: McKenna

Seconded: Krug

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

Nays: None

Motion carried.

Proposed Change to Township Insurance Policy

Supervisor Gabrielson reviewed a letter from the Michigan Township Participating Plan that offers a proposal that would allow the Township to keep its existing insurance coverage. They are asking the Township to agree to lower the policy's "zoning/taking" coverage from \$1,000,000.00 to the standard \$100,000.00, effective June 1, 2003. If the board approves this policy change:

1. The insurance company will continue to defend the Township in the LJS Partnership lawsuit.
2. The Township's coverage limit for this existing lawsuit will remain at \$1,000,000.00.
3. The insurance company will not take action to revoke our insurance policy.

A motion was made by Trustee Mathis and seconded by Treasurer Garfield to reject the insurance company's proposal.

Discussion:

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Trustee Krug stated that he favored taking legal action against our insurance company and all of its officers and directors for breach of contract. He also stated that the Township should notify all other townships in Michigan of the threats made by our insurance company. Clerk Mueller cautioned against any hasty actions that could put the Township in jeopardy. The board discussed possible options and decided not to take action at this time. The previous motion and second were withdrawn. Trustee McKenna suggested that the board consider consulting an attorney with expertise in the insurance industry to advise the board. In the interest of time, Attorney Cooley suggested that the Township Board authorize the Supervisor and Clerk to retain an appropriate attorney for advisory purposes

Motion to authorize the Township Supervisor and Township Clerk to retain an insurance attorney for advisory purposes.

Motion by: Krug

Seconded: McKenna

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

Nays: None

Motion carried.

Sewer Hydraulic Model/Hydrology Study

Treasurer Garfield expressed concern regarding the cost of the sewer hydraulic model project. The current cost already exceeds the estimated cost of \$65,000.00. Supervisor Gabrielson clarified that the initial estimate was \$120,000-130,000. An RFP was developed and two proposals were received: Delta Land Surveying & Engineering, Inc. (\$88,375.00) and Lawrence Engineering, P.C. (\$121,688.00). When Genesee County WWS offered to provide a large portion of the data we needed for the model, the cost estimate was revised to \$65,000.00 and no contract was awarded. Lawrence Engineering was assigned the task of developing the rest of the data since much of it could be derived from the Sewer Inventory Project. Approximately 4-6 weeks into the hydraulic model project, we were notified by WWS that their data was not usable. They determined that the flow meters used to collect the data were not functioning properly and therefore the data was not accurate. Because all new data had to be collected, it is now anticipated that the total cost of the project will be in the \$110,000-115,000 range, still less than our initial estimate. Since this item was added to the agenda at the meeting and no information was prepared, it was decided to review the issue at the upcoming workshop meeting.

Scheduling of Workshop Meeting

After a brief discussion the board agreed to schedule a workshop meeting for Wednesday May 14, 2003 at 7:30 p.m.

PUBLIC COMMENT - AGENDA OR NON-AGENDA ITEMS:

David Franz, 3435 Breezepointe

Regarding the proposed ambulance service, Mr. Franz asked how the decision would be made as to which ambulance company would be utilized. Supervisor Gabrielson responded that the three fire chiefs that developed the proposal would make a joint

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recommendation regarding the selection of an ambulance company. All three municipalities would have to approve the plan or it will not be implemented.

Tony Brown, 12159 Jennings Road

Mr. Brown asked if the Township Board's position on the Ragnone appeal create a conflict of interest. Attorney Cooley confirmed that there is indeed a potential for a conflict, but the board must review all legal implications and discuss alternative in a closed session.

Faye Miller, 12151 Jennings Road

Ms. Miller asked how soon the appeal might be heard. Attorney Cooley clarified that the plaintiff must first get permission to file the appeal. That alone will likely take a few weeks. If permission is granted, the lawsuit may be put on hold until the appeal is decided. Ms. Miller also inquired as to the name of our insurance company – is it Midwest Claims or Michigan Township Participating Plan? Office Manager Broecker clarified that the name of the insurance plan is Michigan Township Participating Plan. Midwest Claims is the administrator of the plan.

Bill Ochodnicki, 14107 Landings Way

Regarding the proposed development on Torrey Beach Drive, Mr. Ochodnicki expressed concern regarding the impact on the streets and wetlands. He also asked if the Township has any input on the DEQ permit for which the developer has applied. Supervisor Gabrielson responded that the DEQ typically sends out a public notice regarding the wetland application. The Township will request a public hearing when the notice is received.

Tom Richard, 12425 Jennings Road

Mr. Richard questioned the \$800 training class that was discussed earlier in the meeting. Supervisor Gabrielson stated that this class is provided by the software company and was recommended by our GIS consultant.

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

Carl Gabrielson, Supervisor

Charles Mueller, Clerk

Minutes Posted 5/6/03