

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 4, 2003**

**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 noted that two items had been removed from the agenda distributed with the packets. Motion to approve the 8/4/03 Fenton Township Board Meeting revised agenda as presented.

Motion by: Krug

Seconded: Brancheau

Ayes: All

Nays: None

Motion carried. The agenda is approved.

MEETING MINUTES:

Trustee Mathis pointed out a typographical error in the section regarding the proposed Vehicle Code Ordinance amendment. Office Manager Broecker responded that the error had already been identified and corrected in the final version of the minutes. The minutes of the 7/21/03 regular meeting stand approved as corrected.

EXPENDITURES:

Trustee Mathis questioned the invoice from Bostwick Excavating. She is questioning the payment of sales tax on materials and the 15% upcharge on subcontractor services. The board agreed to hold out this invoice pending the scheduling of a meeting to clarify these issues. Motion to approve expenditures as presented, excluding the Bostwick Excavating invoice in the amount of \$92,986.07.

Motion by: McKenna

Seconded: Krug

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

Nays: None

Motion carried.

PUBLIC HEARINGS:

Loon Lake Improvement Special Assessment District/1st Hearing

Supervisor Gabrielson reviewed the proposed 5-year renewal of a weed control special assessment district for Loon Lake.

Public Comment:

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Don Bolen, 4127 Minnetonka Drive

Mr. Bolen thanked the board for considering their petition for special assessment. He reported that the MDEQ is considering significant fee increases for lake treatment permits. This may impact the total cost of the project. After discussion the board agreed that the assessment roll could be revised before it is confirmed at the second hearing.

Linda Klinkenberger, 3460 Loon Lake Court

Ms. Klinkenberger expressed concern that the notice mailed by the Township was the first she had heard about the special assessment. She also indicated concerns about the environmental impact of the lake treatments. Mr. Bolen clarified that he circulated most of the petitions but wasn't able to reach everyone. Supervisor Gabrielson responded that this hearing is the place for questions and concerns and that the proposed special assessment would be a continuation of an existing project.

Jimmie Frost, 3478 Loon Lake Court

Mr. Frost asked if the mobile home park or the convenience store are included in the assessment. Supervisor Gabrielson responded that both the mobile home park and the store are on the opposite side of Jennings Road and front Crane Lake not Loon Lake. Mr. Frost stated that the owner of the convenience store controls the access launch on Loon Lake. The ownership of the boat launch property will be researched before the final assessment roll is confirmed.

Derek Brookshire, Aquatic Nuisance Plant Control

Mr. Brookshire clarified that only exotic can be treated. The primary targets are Eurasian water milfoil and curly-leaf pondweed. These non-native plants choke out the native plants. He also reported that the DEQ is considering the requirement of additional information and studies as a condition of permit approval. If such changes are enacted, the permit costs will increase dramatically.

Clerk Mueller presented the following

RESOLUTION NO. 2003-15

WHEREAS, the Fenton Township Board has received petitions signed by more than 50% of the total land area of the proposed Special Assessment District described hereinafter, and accordingly, determined to proceed under the provisions of 1954 PA 188, as amended, to secure plans and estimates of cost together with a proposed Special Assessment District for assessing the costs of the proposed lake improvement project to schedule a public hearing upon the same for this date, and

WHEREAS, the plans, estimates of cost and proposed Special Assessment District were filed with the Township Clerk for public examination and notice of the hearing upon same was published and mailed in accordance with law and statute provided as shown by affidavits pertaining thereto on file with the Township Clerk, and

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WHEREAS, in accordance with the aforesaid notices, a hearing was scheduled this 4th day of August 2003 commencing at 7:30 p.m. and all persons given the opportunity to be heard in the matter, and

WHEREAS, as a result of the foregoing, the Township Board believes the project to be in the best interests of the Township and of the district proposed to be established therefor;

THEREFORE BE IT RESOLVED, that the Fenton Township Board does hereby determine that the petitions for the Loon Lake Improvement Special Assessment District were properly signed by the record owners of land whose land area constitutes more than 50% of the total land area upon the proposed improvement, and

BE IT FURTHER RESOLVED, that the Fenton Township Board does hereby approve the plans for the improvement of Loon Lake through the control and/or eradication of aquatic weeds as prepared and presented, and the estimated costs thereof of \$14,250.00 per year for five years, and

BE IT FURTHER RESOLVED, that the Fenton Township Board does hereby create, determine and define as a Special Assessment District to be known as the Loon Lake Improvement Special Assessment District, within which the costs of such improvements shall be assessed, the following described area within said township:

All properties with frontage on Loon Lake

BE IT FURTHER RESOLVED, that on the basis of the foregoing, the Fenton Township Board does hereby direct the Supervisor and assessing officer to make a special assessment roll in which shall be entered and described all the parcels of land to be assessed with the names of the respective owners thereof if known, and a total amount to be assessed against each parcel of land in the Special Assessment District. When the same has been completed, the Supervisor and assessing officer shall affix thereto his/her certificate stating that it was made pursuant to this Resolution and that in making such assessment roll, he has, according to his best judgement, conformed in all respects to the directions contained in this Resolution and the applicable state statutes.

Motion to adopt Resolution No. 2003-15 as presented.

Motion by: Mueller

Seconded: Garfield

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

Nays: None

Motion carried. Resolution declared adopted.

Supervisor Gabrielson reported that, in anticipation of the preceding resolution, an assessment roll has been prepared, certified and submitted to the Township Clerk. Clerk Mueller presented the following resolution:

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RESOLUTION NO. 2003-16

WHEREAS, the Supervisor and assessing officer of Fenton Township has, in accordance with the Resolution of the Fenton Township Board and the laws and statutes pertinent thereto, prepared a special assessment roll in the total amount of \$14,917.50 for 2003 and \$14,280.00 per year for the years 2004 through 2007 inclusive, covering all parcels of land within the Loon Lake Improvement Special Assessment District, and has affixed thereto his Certificate as required by said Resolution;

THEREFORE BE IT RESOLVED, that said special assessment roll shall be filed with the Township Clerk and shall be available for public examination during regular business hours of regular business days from the present date until the public hearing upon the same and shall further be examined at such public hearing, and

BE IT FURTHER RESOLVED, that the Fenton Township Board shall meet at 7:30 p.m. on August 18, 2003 at Fenton Township Civic Community Center located at 12060 Mantawauka Drive, within the Township, to review such special assessment roll and hear any objections thereto, and

BE IT FURTHER RESOLVED, that the Township Clerk shall cause notice of such hearing and the filing of such assessment roll to be published twice in a newspaper of local circulation prior to the date of the hearing, with the first publication being not less than ten (10) days prior to the hearing and shall further cause notice of such hearing to be mailed by First Class Mail to all owners of or persons having an ownership interest in property within the Loon Lake Improvement Special Assessment District as shown on the current assessment roll of the Township also at least ten (10) days prior to said hearing, all in accordance with the law and statute provided.

Motion to adopt Resolution No. 2003-16 as presented.

Motion by: Mueller

Seconded: McKenna

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

Nays: None

Motion carried. Resolution declared adopted.

REPORTS:

Ordinance Enforcement Quarterly Report

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

LJS Partnership vs. Fenton Township Lawsuit

Regarding a document discussed at the 7/21/03 meeting, Attorney Cooley clarified that the Michigan Township Participating Plan, the Township's insurance company, has filed a request to intervene in the ongoing mobile home lawsuit. Trustee Mathis asked if this represents a conflict of interest because Fenton Township is a member of the Michigan

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Townships Association. Attorney Cooley responded that the MTA and the MTPP are completely separate entities and that no conflict exists. Trustee Mathis asked if the Township Board should oppose the insurance company's request to intervene. Attorney Cooley stated that the filing of a brief opposing the intervention might not have any affect on the court's decision but the board is free to do so. Supervisor Gabrielson will contact Attorney Roger Myers to determine if any action is advisable.

Public Comment:

Dan Rust, 13318 Pomona Drive

Mr. Rust expressed concern that the Michigan Township Participating Plan would take a position that favors a developer over one of its clients.

Fenton Road Property

Trustee Mathis reported that property owned by her mother on Fenton Road was being used for access to sanitary sewer lines. An access road has been established so the work crews can reach the "cross-country" portion of the sewer line. This is a temporary arrangement and the area will be restored.

Fenton Township Website

Office Manager Broecker reported that the Township's website is now online. The web address is www.fentontownship.org. There are still portions of the site that have not been completed and the amount of information available will be expanded in the future.

COMMUNICATIONS:

None

UNFINISHED BUSINESS-ADOPTION OF ORDINANCES:

Proposed Amendment to Vehicle Code Ordinance/2nd Reading

Supervisor Gabrielson reported that, as requested at the 7/21/03 meeting, Sheriff Pickell had provided a letter recommending that the Township adopt this ordinance. The letter from Judge McCabe, however, has not yet been received. Trustee Mathis asked that the second reading of the ordinance be delayed until that letter is received. The board members agreed.

Fire Code Ordinance/2nd Reading

Supervisor Gabrielson reviewed the proposed ordinance to adopt the 2000 International Fire Code as the Township's fire code. The current Fire Code Ordinance adopted the 1996 BOCA Fire Code and needs to be updated. A question was raised regarding the code's prohibition of liquid petroleum gas storage and its impact on homes that use propane gas. Office Manager Broecker clarified that the code restricts bulk storage of liquid petroleum gas (i.e. a business or distribution center) but does not affect individual homes that use propane gas. There was no further discussion.

Motion to adopt Ordinance No. 607, which adopts the 2000 International Fire Code as the fire code for Fenton Township, as presented.

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

Motion carried. Ordinance declared adopted.

UNFINISHED BUSINESS-OTHER:

None

NEW BUSINESS:

Appeal of Michigan Boundary Commission Annexation Decision

Supervisor Gabrielson stated that, in light of the State Boundary Commission's initial ruling favor of annexing property owned by BKG Development to the City of Fenton, Township Attorney John Siler has requested that the Township Board formally authorize an appeal of an adverse decision.

Public Comment:

Patrick Carmody, 16245 Silver Shore Drive

Mr. Carmody stated that he had spoken to a member of the Fenton City Council, who indicated that they were not happy about the decision.

Motion to authorize the Township Attorney to appeal the adverse decision of the Michigan State Boundary Commission in the Fenton Township/City of Fenton annexation case, Docket #02-AP-6.

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

Motion carried.

Award of Contract – Fire Station #2 Landscaping

Supervisor Gabrielson reminded the board that the Township had previously committed to additional landscaping and screening at Fire Station #2 to provide adequate buffering for the adjacent subdivision. Rowe Incorporated developed a plan and solicited bids on behalf of the Township. The low bid was from Oldani Landscape in the amount of \$15,575.00. Treasurer Garfield stated that the amount of landscaping seems excessive. Supervisor Gabrielson pointed out that the plan complies with the landscaping requirements in the Township's Zoning Ordinance.

Motion to award the landscaping contract for Fire Station #2 to Oldani Landscape at a cost of \$15,575.00, as presented.

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

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Motion carried.

Clerk Mueller reported that the Township has received complaints about the noise in and around Fire Station #2 anytime the department is called out to respond to an emergency. He suggested looking into special traffic signals that would stop traffic on Owen Road when emergency vehicles are ready to depart, thus eliminating the need for sirens until they are well under way. This issue will be researched.

Proposed Ambulance Service Agreement

Treasurer Garfield briefly reviewed a proposed ambulance service agreement and asked the board to review it in detail before the next meeting.

Resolution No. 2003-17, Hidden Ridge II Street Lighting Special Assessment

Office Manager Broecker reported that the owners of the Hidden Ridge condominium development have petitioned for a street lighting special assessment district for the second phase of their project. A public hearing is necessary to start the special assessment proceedings. Clerk Mueller presented the following resolution:

RESOLUTION NO. 2003-17

WHEREAS, the Fenton Township Board has accepted a petition from the record owners of properties within Phase II of the Hidden Ridge condominium development to establish a special assessment district for street lighting within the development, and

WHEREAS, it has been determined that the petition has been signed by the record property owners representing over 50% of the land area in the proposed special assessment district, and

WHEREAS, plans and estimated costs for the foregoing street lighting have been placed on file in the office of the Township Clerk,

THEREFORE BE IT RESOLVED, that the Fenton Township Board does hereby tentatively declare its intent to have street lights installed in Phase II of the Hidden Ridge condominium development, and

BE IT FURTHER RESOLVED, that the Fenton Township Board does hereby tentatively establish the boundaries of the proposed special assessment district to include Units 43-80 of the Hidden Ridge condominium development, and

BE IT FURTHER RESOLVED, that the Fenton Township Board will hold a public hearing on the establishment of the proposed special assessment district at its regular meeting to be held on Monday August 18, 2003 at the Fenton Township Civic Community Center, beginning at 7:30 p.m.

Motion to adopt Resolution No. 2003-17 as presented.

Motion by: Mueller

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Seconded: Krug

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

Nays: None

Motion carried. Resolution declared adopted.

Proposed Agreement – Genesee County Water & Waste Services

Supervisor Gabrielson reviewed a proposed agreement to lease up to 1,050 sewer units back to Genesee County for up to 18 months. This would allow Livingston County to utilize some of the plant's capacity before the expansion project is completed. The Township would receive \$13.10 per unit per month for any units leased. This could total nearly \$250,000 in revenue for the Township. Fenton Township has sufficient capacity that would make it unlikely that these units would be needed during the next 18 months. A motion was made by Clerk Mueller and seconded by Trustee Brancheau to approve the agreement.

Public Comment:

Lorraine Zimmer, 6391 Acorn Way

Ms. Zimmer repeated her earlier concerns regarding the odor at the treatment plant. The board should not consider approving this agreement until the odor control issues have been corrected. Supervisor Gabrielson reminded all that Drain Commissioner Wright has committed to completion of the odor control improvements. The Township has no direct control over that issue.

Trustee Mathis agreed with Ms. Zimmer. The problem should be corrected first. Trustee Krug suggested postponing action until more information can be obtained from the Drain Commissioner's office. Trustee Brancheau agreed, stating that the proposed agreement may give the Township additional leverage. The motion and second were withdrawn. The issue will be placed on the agenda for the 8/18/03 meeting.

PUBLIC COMMENT - AGENDA OR NON-AGENDA ITEMS:

Dave Franz, 3435 Breezepointe

Mr. Franz commended the board for their decision on landscaping the fire station. He also questioned the boat access ramp on Loon Lake across the street from the convenience store and asked if no parking signs could be placed near the pump station on Jennings Road to limit non-riparian use of the lake. Supervisor Gabrielson will investigate. Mr. Franz also stated that the Ragnone property has a "for sale" sign on it.

Joseph Dolliver, 12377 Fairbanks Road

Mr. Dolliver asked if the Township could limit the hours of construction activity for the new Lake Fenton High School. Supervisor Gabrielson responded that the current laws do not give local governments any authority on school construction projects. Clerk Mueller suggested that Mr. Dolliver approach the Lake Fenton Board of Education with his concerns. Mr. Dolliver also expressed concern regarding the size of the retention pond at the school's site. Supervisor Gabrielson will contact the Lake Fenton School Superintendent to discuss the issue.

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Lee Martorana, 4180 Four Lakes Avenue

Ms. Martorana, citing expense reimbursement information obtained by an attorney under the Freedom of Information Act, claimed that the Township does not have adequate internal control procedures. As an accountant, she stated that she is appalled by this lack of internal control. She referenced a conference at Mackinac Island where she stated that Supervisor Gabrielson and Trustee Krug spent approximately \$4,000.00. She commented that this was "our own GISD". Trustee Krug attempted several times to correct Ms. Martorana's statements. Ms. Martorana repeated her charges several times. She also claimed that not all expense reimbursement forms were properly approved before being paid. Supervisor Gabrielson responded that he would have to review any specific expenses she was citing, however he was confident that proper procedures are in place and are being followed. He also stated that the recent audit completed by BKR Dupuis & Ryden indicated no deficiencies in internal controls. Ms. Martorana disagreed with that finding, stating that accounting firms sometimes get complacent when they have worked with a client for a number of years. Supervisor Gabrielson stated that it was apparent that this was an attempt to discredit the Township Board just before the recall election. Ms. Martorana responded that she was just a concerned citizen and had spent the past eight months reviewing the expense reimbursement information.

John Kaye, 11318 Jennings Road

Mr. Kaye inquired about the parking lot project that was approved at the last board meeting. Supervisor Gabrielson clarified that the board approved a proposal to complete the design of the project, including construction drawings.

David Hawcroft, 3302 Ponemah Drive

Mr. Hawcroft expressed concern that the City of Fenton is cutting weeds in the millpond, rather than treating them chemically. The harvested weeds flow downstream and he believes that is increasing the weed problem in Lake Ponemah. Clerk Mueller suggested that the City of Fenton be contacted to discuss the issue further.

Bill Ochodnicky, 14107 Landings Way

Mr. Ochodnicky stated that the silt fences around the Krupp residence have still not been fixed. Supervisor Gabrielson will contact Genesee County WWS to ensure that the soil erosion requirements are enforced. Mr. Ochodnicky reported that 7 boats were docked at a private residence near the T-Bonz restaurant. Supervisor Gabrielson will investigate. Mr. Ochodnicky also thanked Supervisor Gabrielson for his efforts in the creation of neighborhood watch program for Landings Way.

Patrick Carmody, 16245 Silver Shore Drive

Mr. Carmody agreed with Ms. Zimmer's statements that the Township should consider the needs of their own residents before those of Livingston County. He also expressed concern regarding apparent inconsistencies in the information provided by Genesee County. Mr. Carmody asked about the financial situation as it relates to the ongoing sewer project. Supervisor Gabrielson stated that costs are continuing to rise as more

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problem areas are identified. The Township is investigating financing alternatives for portions of the project.

Tony Brown, 12159 Jennings Road

Mr. Brown thanked Supervisor Gabrielson for his invitation to participate on the water study committee. He also stated that grants for the project may be available through the EPA.

Dan Rust, 13318 Pomona Drive

Mr. Rust inquired as to the procedure for repaving subdivision streets. Supervisor Gabrielson responded that the Genesee County Road Commission can provide the necessary petition forms to initiate a special assessment district.

Trustee Krug expressed concern regarding the potentially slanderous statements made by Ms. Martorana and requested a copy of the meeting tape. He plans to look into this issue further.

ADJOURN: Meeting adjourned at 10:20 p.m.

Carl Gabrielson, Supervisor

Charles Mueller, Clerk

Minutes Posted 8/6/03