

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES  
MINUTES FOR REGULAR MEETING OF AUGUST 18, 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 one item had been removed from the agenda that was distributed with the meeting packets. Motion to approve the 8/18/03 Fenton Township Board Meeting revised agenda as presented.

Motion by: Krug

Seconded: Garfield

Ayes: All

Nays: None

Motion carried. The agenda is approved.

**MEETING MINUTES:**

Trustee Krug asked that several revisions be made to the 8/4/03 meeting minutes relative to Ms. Martorana's statements during the public comment portion of the meeting. The minutes of the 8/4/03 regular meeting stand approved as corrected and the minutes of the 8/6/03 special meeting stand approved as presented.

**EXPENDITURES:**

Motion to approve expenditures as presented.

Motion by: Krug

Seconded: McKenna

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

Nays: None

Motion carried.

**PUBLIC HEARINGS:**

**Loon Lake Improvement Special Assessment District/2<sup>nd</sup> Hearing**

Supervisor Gabrielson reviewed the proposed 5-year renewal of a weed control special assessment district for Loon Lake. At the first hearing a question was raised regarding two properties located on the east side of Jennings Road. Further research has indicated that both properties extend beyond the roadway and do indeed have frontage on Loon Lake. Because these two property owners were not included in the mailing for this hearing, the second hearing should be rescheduled.

Motion to postpone the hearing on the Loon Lake Improvement Special Assessment Roll to the 9/2/03 meeting.

Motion by: Mueller

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

**Hidden Ridge II Street Lighting Special Assessment District/1<sup>st</sup> Hearing**

Supervisor Gabrielson reviewed a proposed street lighting special assessment for the second phase of the Hidden Ridge condominium development. There was no public comment. Clerk Mueller presented the following resolution:

**RESOLUTION NO. 2003-19**

*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 street lighting 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*

*WHEREAS, in accordance with the aforesaid notices, a hearing was scheduled this 18<sup>th</sup> 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 Hidden Ridge II Street Lighting 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 maintenance of street lights in Phase II of the Hidden Ridge condominium development as prepared and presented, and the estimated costs thereof of \$1,100.00 per year, 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 Hidden Ridge II Street Lighting Special Assessment District, within which the costs of such improvements shall be assessed, the following described area within said township:*

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*Units 43-80 of the Hidden Ridge Condominium development*

*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. 2003-19 as presented.

Motion by: Mueller

Seconded: Krug

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

Nays: None

Motion carried. Resolution declared adopted.

Supervisor Gabrielson stated that, in anticipation of the adoption of the previous resolution, a special assessment roll has been prepared, certified and submitted to the Township Clerk. Clerk Mueller presented the following resolution:

**RESOLUTION NO. 2003-20**

*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 \$1,102.00 per year, covering all parcels of land within the Hidden Ridge II Street Lighting 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 September 2, 2003 at the 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*

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*property within the Hidden Ridge II Street Lighting 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. 2003-20 as presented.

Motion by: Mueller

Seconded: Krug

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

Nays: None

Motion carried. Resolution declared adopted.

**REPORTS:**

**North Road Sewer Issues**

In response to questions raised at a prior meeting, Supervisor Gabrielson reviewed information relating to invoices from 2001 regarding the sewer connections on North Road. Trustee Mathis stated that she had spoken to Rob Burden regarding this issue and she is concerned that Genesee County did not approve the temporary connection of the auto dealership. She also questioned the ownership of sewer pump stations and asked to see documentation. Supervisor Gabrielson responded that the information would be compiled for her review.

**Proposed Ponemah Woods Development**

Trustee McKenna reported that the site plan for the Ponemah Woods apartment development was presented at the recent Planning Commission meeting. The developer had not made any of the site plan changes requested by the Planning Commission and the plan was denied.

**COMMUNICATIONS:**

None

**UNFINISHED BUSINESS-ADOPTION OF ORDINANCES:**

**Proposed Amendment to Vehicle Code Ordinance/2<sup>nd</sup> Reading**

Supervisor Gabrielson reported that Sheriff Pickell and Judge McCabe had provided letters regarding this proposed amendatory ordinance. Trustee Mathis suggested postponing the ordinance until more information could be obtained from other Genesee County communities. Office Manager Broecker reported that he had received detailed e-mail responses from Green Oak Township and the City of Northville outlining the pros and cons of prosecuting all vehicle code offenses. Vienna and Flushing Townships were also contacted. While neither township specifically tracked revenues and expenditures for traffic fines, the Vienna Township Clerk felt that the fees received definitely outweighed the prosecution costs, and The Flushing Township Police Chief stated that he believed the fees and costs were about even. Treasurer Garfield questioned why we would change the ordinance if the financial impact is unknown. Attorney Cooley reminded the board that Sheriff Pickell and Judge McCabe asked the board to consider this change to streamline the processing of tickets because Fenton Township is the only community that does not prosecute alcohol-related traffic offenses. Their request had nothing to do with

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costs or fees. If the Township Board adopts the amendment, it could always be reversed at a future date by amending the ordinance again.

Public Comment:

Dan Rust, 13318 Pomona Drive

Mr. Rust expressed concern that Sheriff Pickell and Judge McCabe asked the board to consider this amendment. What are their motives? It is his understanding that the Sheriff Department is trying to reduce overtime, which includes court time required when prosecuting traffic offenses. He also questioned the board's ability to reverse this change at a later date.

Motion to adopt Ordinance No. 608, an amendment to Vehicle Code Ordinance No. 575, as presented.

Motion by: McKenna

Seconded: Krug

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

Nays: Mathis

Motion carried. Ordinance declared adopted.

**Rezoning #R03-004, Multi Building Company, Inc., 06-31-200-001 & 06-30-400-036;  
AG & R-4 to PUD/1<sup>st</sup> Reading**

Supervisor Gabrielson reviewed the proposed rezoning ordinance. Steve Deak, representing the applicant, gave an overview of the PUD conceptual plan, including:

- 294 total residential units
- 51% undeveloped open space
- Preservation of woodland areas
- Significant buffer areas
- Storm water detention system
- Walking trail system

Trustee McKenna reported that the Planning Commission had recommended approval of the revised rezoning ordinance and the conditions set forth therein. In the opinion of the Planning Commission, the conceptual plan represented a better use of the property as opposed to an alternate site plan under a combined R-4 and R-3 zoning. Treasurer Garfield stated that she was concerned with the proposed density and asked why the recommendation from the Planning Commission was changed from 280 to 294 units. Trustee McKenna responded that the 280 unit figure was a number that the Planning Commission arrived at after lengthy discussion at the first public hearing. The developer subsequently requested the change to 294 for strictly for economic reasons. The developer had originally applied for 312 units, which had already been reduced from approximately 350 units since their initial meetings with the Township. The Planning Commission felt that 294 was acceptable, especially in light of the developer's willingness to include open space, buffers, etc.

Public Comment:

Ron Kenney, 6111 Lakeview Park Drive

Mr. Kenney lives immediately north of the subject property and is in favor of the conceptual plan. His reasons for supporting the proposed rezoning included the use of

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open space and the Township's control over the project through the use of a PUD zoning. He also noted that the developer had reduced the total number of units since the initial application.

The following individuals expressed concerns and/or stated opposition to the proposed rezoning ordinance:

Bruce Leitkam, 15450 Linden Road  
John Kaye, 11318 Linden Road  
Lorraine Zimmer, 6391 Acorn Way  
Dave Franz, 3435 Breezepointe  
Patrick Carmody, 16245 Silver Shore Drive  
Dan Rust, 13318 Pomona Drive  
Kurt Palo, 1438 Oak Leaf Trail  
Holly Wilson, 6409 Acorn Way  
Howard Fredenburg, 4162 Thompson Road  
Dave Hawcroft, 3302 Ponemah Drive  
Tom Richard, 12425 Jennings Road  
Jan Rust, 13318 Pomona Drive

Their concerns/objections included:

- Enforcement for maintaining opens space areas.
- The ability of a subdivision association to effectively enforce rules.
- Traffic concerns.
- Potential future uses of the open space areas.
- Impact on the Linden School District.
- The proposed use of a Type I well system and the impact on the aquifer and/or lake levels.
- The board should consider have the Genesee County Metropolitan Planning Commission review all site plans before action by the Township.
- The density of the conceptual plan is too high for the area.
- The potential granting of variances to circumvent the approved setback requirements.
- The impact of stricter EPA arsenic requirements on community wells

In reference to the discussion regarding the role of the subdivision association in the enforcement of rules, Mr. Deak clarified that the open space areas would be designated through a recordable document that grants enforcement authority to the Township. Subdivision covenants and restrictions will be enforced by the subdivision association. He also stated that the rezoning of the property is only the first step in the development process. Approvals from various state and county agencies can only be obtained after the rezoning has been approved.

There was board discussion regarding the maximum number of units to include in the PUD conditions. Trustee Brancheau supported leaving the number at 294 as recommended by the Planning Commission. He favors the open space conceptual plan and emphasized that the developer had reduced his density from approximately 350 units to 294. Referencing a show of hands from earlier in the meeting, Trustee Brancheau

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noted that only two residents in attendance lived within ¼ mile of the subject property. Trustees Krug and McKenna also supported leaving the density at 294 units. Trustee McKenna also noted that the Planning Commission recommendation was based on careful review and consideration. Clerk Mueller and Treasurer Garfield also supported leaving the density as recommended by the Planning Commission. The conceptual plan protects the residents with the open space and buffer areas.

The second reading of the proposed rezoning ordinance will be conducted at the 9/2/03 meeting.

**UNFINISHED BUSINESS-OTHER:**

**Proposed Ambulance Service Agreement**

Supervisor Gabrielson reviewed the final version of the proposed ambulance service agreement that was distributed at the 8/4/03 meeting. Both the City of Fenton and the City of Linden have approved the agreement and it has been reviewed by the Township Attorney. There was no further discussion.

Motion to approve the *Agreement for the Provision of ALS Ambulance Services* as presented.

Motion by: Mueller

Seconded: Brancheau

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

Nays: None

Motion carried.

**NEW BUSINESS:**

**Financing Agreement – Genesee County Water & Waste Services**

Supervisor Gabrielson reviewed an Act 342 Agreement between Fenton Township and the Genesee County Drain Commissioner. Office Manager Broecker explained that this agreement authorizes Genesee County to issue the bonds necessary to finance the sewer plant expansion approved by the Township Board, the Lahring/Jennings Road sewer construction project, the North Road sewer construction project, and several large sewer repair projects. The proposed agreement has been reviewed by the Township Attorney. There was brief discussion regarding the use of County bonds for financing as opposed to the State Revolving Fund (SRF). It was clarified that the SRF is only for repairs and upgrades. The plant expansion and construction projects must be bonded or paid from cash reserves. Only the most time-critical repairs and upgrades will be financed by the bond issue, due to the relatively lengthy application process for the SRF funding.

Motion to approve the *Genesee County Sewage Disposal System No. 3 – 2003 Fenton Township Projects Contract* as presented.

Motion by: McKenna

Seconded: Mueller

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

Nays: Mathis

Motion carried.

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**Resolution No. 2003-21, Property Taxes on Divided Parcels**

Office Manager Broecker reviewed a resolution from November 2000 that established a policy of not pro-rating property tax bills for new land divisions. Because the policy statement only referenced the December 1<sup>st</sup> property taxes, an amendment is necessary due to the implementation of summer property tax collections. Clerk Mueller presented the following resolution:

***RESOLUTION NO. 2003-21***

*WHEREAS, on November 6, 2000 the Fenton Township Board adopted Resolution No. 2000-40, establishing a policy statement that assigns the responsibility for payment of real estate property taxes for a given parcel, for the year in which that parcel is divided, to the owner of the original parcel, and*

*WHEREAS, said policy statement references real estate property taxes due and payable on December 1<sup>st</sup> of each year, and*

*WHEREAS, Public Act 243 of 2002 mandates the collection of summer property taxes throughout the State of Michigan, with a due and payable date of July 1<sup>st</sup> each year;*

*THEREFORE BE IT RESOLVED, that the Charter Township of Fenton hereby adopts the following revised policy statement:*

***The payment of property taxes, which are due and payable on July 1<sup>st</sup> and December 1<sup>st</sup> of any given year, for any parcel of real property that has been divided and sold during that same year, shall be the responsibility of the record owner of said property at the time the application to divide the property is submitted to the Charter Township of Fenton.***

*BE IT FINALLY RESOLVED, that this policy statement shall be included in all applications for land division, applications for condominium development and applications for platted subdivisions. As a part of the application process, the applicant shall sign a statement acknowledging this policy and accepting responsibility for payment of property taxes.*

Motion to adopt Resolution No. 2003-21 as presented.

Motion by: Mueller

Seconded: Garfield

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

Nays: None

Motion carried. Resolution declared adopted.

**PUBLIC COMMENT - AGENDA OR NON-AGENDA ITEMS:**

John Maser, 12126 Jennings Road



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Mr. Maser stated that he was offended by campaign literature distributed by the Citizens Against Recall group. Trustee Krug suggested that Mr. Maser contact the U.S. Postal Service if he is receiving offensive mail.

Dave Franz, 3435 Breezepointe

Mr. Franz questioned the issue raised at the 8/4/03 meeting regarding the sales tax included on a contractor's invoice. Supervisor Gabrielson replied that the issue was researched and the board held a special meeting on 8/6/03. The issues were clarified at that meeting and the invoice in question was approved for payment.

Dan Rust, 13318 Pomona Drive

Mr. Rust stated that Clerk Mueller's earlier comments regarding sales taxes were incorrect.

Bill Ochodnicky, 14107 Landings Way

Mr. Ochodnicky stated that the silt fences around the Krupp residence have still not be fixed. Supervisor Gabrielson will again contact Genesee County WWS to ensure that the soil erosion requirements are enforced. Mr. Ochodnicky also reported that several boats were still docked at a private residence near the T-Bonz restaurant. Supervisor Gabrielson will follow up.

Lee Martorana, 4180 Four Lakes Avenue

Ms. Martorana requested that the recording of the 8/4/03 meeting be reviewed before the minutes of that meeting are revised as requested by Trustee Krug.

Sonya Brown, 12159 Jennings Road

Ms. Brown clarified that, contrary to statements made by Trustee Krug, Ms. Martorana is in no way connected to Tony Brown or his employer.

**ADJOURN:** Meeting adjourned at 10:45 p.m.

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Joan Garfield, Treasurer/Chairperson Pro-Tem

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Thomas Broecker, Deputy Clerk

**Minutes Posted 8/19/03**