

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF NOVEMBER 17, 2003**

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

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

Present: Mathis, Krug, Garfield, Carmody, Gatesman, McDermott, Stiverson,
Office Manager Broecker and Attorney Cooley

Absent: None

PLEDGE OF ALLEGIANCE:

Supervisor Mathis led the pledge of allegiance to the flag.

APPROVAL OF AGENDA:

Treasurer Garfield asked to have an Executive Session added to the end of the agenda for the purpose of discussing pending litigation. Motion to approve the 11/17/03 Fenton Township Board Meeting agenda as amended.

Motion by: Carmody

Seconded: Garfield

Ayes: All

Nays: None

Motion carried. The agenda is approved.

MEETING MINUTES:

The minutes of the 11/3/03 special meeting, the 11/3/03 regular meeting and the 11/4/03 special meeting stand approved as presented.

EXPENDITURES:

Trustee Carmody noted that more than half of the \$351,000 being approved at this meeting is directly related to the sanitary sewer system. Motion to approve expenditures as presented.

Motion by: Garfield

Seconded: Stiverson

Ayes: Mathis, Krug, Garfield, Carmody, Gatesman, McDermott, Stiverson

Nays: None

Motion carried.

PUBLIC HEARINGS:

Fenton Orchards II Streetlighting Special Assessment District/1st Hearing

Supervisor Mathis reviewed the proposed special assessment for streetlighting in Phase II of the Fenton Orchards development. There was no public comment. Clerk Krug presented the following resolution:

RESOLUTION NO. 2003-30

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

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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 17th day of November 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 Fenton Orchards 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 Fenton Orchards condominium development as prepared and presented, and the estimated costs thereof of \$1,320.00 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 Fenton Orchards II Street Lighting Special Assessment District, within which the costs of such improvements shall be assessed, the following described area within said township:

***Units 43-67 of the Fenton Orchards Home Site Condominium development
And
Units 53-66 of the Fenton Orchards Attached Unit 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, she has, according to her best judgement, conformed in all respects to the directions contained in this Resolution and the applicable state statutes.

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Motion to adopt Resolution No. 2003-30 as presented.

Motion by: Krug

Seconded: Stiverson

Ayes: Mathis, Krug, Garfield, Carmody, Gatesman, McDermott, Stiverson

Nays: None

Motion carried. Resolution declared adopted.

Supervisor Mathis reported that, in anticipation of the adoption of the previous resolution, a special assessment roll had been prepared, certified and filed with the office of the Township Clerk. Clerk Krug presented the following resolution:

RESOLUTION NO. 2003-31

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 \$1,320.15 per year, covering all parcels of land within the Fenton Orchards II Street Lighting Special Assessment District, and has affixed thereto her 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 December 1, 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 property within the Fenton Orchards 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. 2003-31 as presented.

Motion by: Krug

Seconded: Garfield

Ayes: Mathis, Krug, Garfield, Carmody, Gatesman, McDermott, Stiverson

Nays: None

Motion carried. Resolution declared adopted.

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REPORTS:

Genesee County Road Commission Updates

Treasurer Garfield reported that the Genesee County Road Commission had received the Township's request for a traffic study on Thompson Road. The study will likely be conducted in the spring of 2004.

Treasurer Garfield also reported that the Genesee County Road Commission had revoked the driveway permit for the owner of the In-Between Campground at the end of Ponemah Drive. The owner has 30 days to remove the gates and culvert.

Sanitary Sewer System

Trustee Carmody reported that he and Trustee Gatesman had attended an orientation session on the Township's sewer system and ongoing upgrade project. While he was impressed with the amount of information available, he hopes that the communication of this information can be improved and that all board members will become more familiar with this issue. Trustee McDermott suggested that all board members read the sanitary sewer impact study that was completed last year.

COMMUNICATIONS:

Boundary Commission Meeting – Annexation Issue

Supervisor Mathis announced that the next meeting of the State Boundary Commission regarding the proposed annexation of property from the Township into the City of Fenton is Tuesday 11/18/03 at 1:30 p.m. in Okemos.

UNFINISHED BUSINESS-ADOPTION OF ORDINANCES:

**Rezoning #R03-004, Multi Building Company, Inc., 06-31-200-001 & 06-30-400-036;
AG & R-4 to PUD/2nd Reading**

Supervisor Mathis reviewed the proposed rezoning ordinance that was introduced at the 8/18/03 meeting. Gary Menzel, representing the applicant, gave a brief review of the proposed project, which includes 294 single family units, 7,200 square foot lots, a community well system, 82.5 acres of undeveloped open space and improved storm water facilities. Mr. Menzel also displayed a parallel plan using R-4 and R-3 zoning that included 295 units but no open space. Supervisor Mathis expressed concern regarding the small lot size and on-street parking. She also asked Office Manager Broecker if the parallel plan complied with the ordinance. Office Manager Broecker stated that R-3 and R-4 zoning allowed a maximum density of 1.00 and 1.25 units per acre respectively, if there is no open space. With no open space, the maximum number of units permitted would be between 180 and 200. Trustee McDermott pointed out that R-3 and R-4 zoning with open space would allow 250-270 units.

Supervisor Mathis asked if any consideration had been given to 100' x 120' lots (12,000 square feet). Mr. Menzel responded that many layouts had been considered and the proposed plan was the best one. Increased lot size would mean less open space and fewer trees saved.

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Supervisor Mathis asked Attorney Cooley if approving this rezoning would set a legal precedent for future rezoning applications. Attorney Cooley responded that it would not. Each rezoning application, particularly a PUD plan, is unique and would be judged on its own merit. Trustee Carmody stated that an approval may not create a legal precedent, but it would create a perceived precedent. He cited similar developments on Owen Road as an example. He is also concerned about the size of the lots and the impact on the Linden School District.

Trustee Carmody asked if the ground water on the site has been researched for quantity and quality. Mr. Menzel responded that the water issue is being investigated but that indications are that the water supply will be adequate.

Trustee McDermott stated that he favors the open space concept and reminded the board that the Planning Commission recommended approval of the rezoning. He also asked about the storm water management on the proposed plan. Mr. Menzel stated that the storm water system will be designed to greatly reduce the current runoff problem experienced immediately north of the existing farm. He added that less open space would mean more impervious surfaces, which would impact the storm water management.

Trustee Stiverson asked about the target market for this type of development. Mr. Menzel responded that it is anticipated that families with children would be the primary buyers, with some "empty nesters".

Motion to adopt Ordinance No. 612, an amendment to the Fenton Township Zoning Ordinance to rezone parcels 06-31-200-001 & 06-30-400-036 from AG & R-4 to PUD, as presented.

Motion by: McDermott

Seconded: Stiverson

Ayes: Krug, Garfield, Gatesman, McDermott, Stiverson

Nays: Mathis, Carmody

Motion carried. Ordinance declared adopted.

Rezoning #R02-005, Richard Thenhaus, 06-21-400-009; R-3 to OS/2nd Reading

Supervisor Mathis presented the proposed rezoning ordinance that was introduced at the 9/15/03 meeting. There was no further discussion.

Motion to deny an amendment to the Fenton Township Zoning Ordinance to rezone parcel 06-21-400-009 from R-3 to OS.

Motion by: Krug

Seconded: McDermott

Ayes: Mathis, Krug, Garfield, Carmody, Gatesman, McDermott, Stiverson

Nays: None

Motion carried. The rezoning is denied.

Vehicle Code Ordinance/1st Reading

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Attorney Cooley reviewed a proposed ordinance that adopts the newly revised Uniform Traffic Code as the Township's Vehicle Code. The Township's previous ordinance adopted the Michigan Vehicle Code because the Uniform Traffic Code had not been updated for several years. Now that the Uniform Traffic Code has been updated, he recommends its adoption. There was no public comment.

The second reading of the proposed ordinance will be conducted at the 12/1/03 meeting.

UNFINISHED BUSINESS-OTHER:

Genesee County WWS – Sewer Unit Lease Agreement

Trustee McDermott reviewed the proposed agreement with Genesee County to temporarily lease sanitary sewer units to the County to allow Livingston County users to connect prior to the expansion of the treatment plant. For any units so leased, the Township will receive credit toward future bond interest payments at a rate of \$13.10 per unit per month. Both the City of Fenton and the City of Linden have approved similar agreements. If we "opt in" the Township will share in any lease revenues. Trustee McDermott also clarified that the treatment plant and the sewer interceptors are owned by Genesee County. We simply lease capacity from the County. Because both cities have approved this agreement, our decision will simply determine if we receive any benefit from the lease arrangement. Supervisor Mathis added that the Drain Commissioner has indicated that the units will be leased "as needed". Clerk Krug noted that the letter from Genesee County WWS states that the unit lease "may not be necessary". If it is not necessary, why adopt the agreement? Trustee Carmody acknowledged that the decision of this board will not affect the ultimate connection of Livingston County residents into our system. The agreement should be approved so the Township can share in the financial benefits of the lease arrangement.

Motion to approve the Sanitary Sewer Unit Lease Agreement with Genesee County as presented.

Motion by: Stiverson

Seconded: Garfield

Ayes: Mathis, Garfield, Carmody, Gatesman, McDermott, Stiverson

Nays: Krug

Motion carried.

NEW BUSINESS:

Proposed Sewer System Ordinance

Trustee McDermott introduced a proposed Sanitary Sewer System Ordinance. The current ordinance was first adopted in 1972 and is in need of a complete overhaul. The proposed ordinance was drafted by Rowe Incorporated after an extensive review of the old ordinance and a series of reviews with Township staff and officials. Township employee Penny Sharich and Lawrence Engineering also provided significant contributions to the final draft. Board members may direct questions or suggested revisions to Trustee McDermott or Penny Sharich.

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The first reading of the proposed ordinance will be conducted at the 12/1/03 meeting.

METRO Act Telecommunications Permit – Verizon North Systems

Office Manager Broecker briefly reviewed the application for a Telecommunications Permit from Verizon North Systems. This permit application is for existing facilities and is being submitted in compliance with the Michigan Metropolitan Extension Telecommunications Right-of-Way Oversight Act (METRO Act). Attorney Cooley has reviewed the documents and has recommended approval.

Motion to approve a Right-of-Way Telecommunications Permit to Verizon North Systems, as presented.

Motion by: Stiverson

Seconded: Gatesman

Ayes: Mathis, Krug, Garfield, Carmody, Gatesman, McDermott, Stiverson

Nays: None

Motion carried.

METRO Act Telecommunications Permit – SBC

Office Manager Broecker briefly reviewed the application for a Telecommunications Permit from SBC. This permit application, which is virtually identical to the previous permit approved for Verizon, is for existing facilities and is being submitted in compliance with the Michigan Metropolitan Extension Telecommunications Right-of-Way Oversight Act (METRO Act). Attorney Cooley has also reviewed the documents for this permit and has recommended approval.

Motion to approve a Right-of-Way Telecommunications Permit to SBC, as presented.

Motion by: Stiverson

Seconded: Krug

Ayes: Mathis, Krug, Garfield, Carmody, Gatesman, McDermott, Stiverson

Nays: None

Motion carried.

Resolution No. 2003-32, Sewer Debt Obligations-2004

Office Manager Broecker reported that Genesee County Water & Waste Services has requested a resolution stating the source of funds for payment of sewer bond debt in 2004. Clerk Krug presented the following resolution:

RESOLUTION NO. 2003-32

WHEREAS, the Charter Township of Fenton has a need to pay to the County of Genesee the sum of \$1,568,453.18 to meet the bond principal and interest requirements on all bond obligations for sewer facilities in 2004; and

WHEREAS, there are several means by which the funds can be secured to meet these payments; and

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WHEREAS, all various means of securing these funds have been reviewed and considered;

NOW THEREFORE BE IT RESOLVED, by the Charter Township of Fenton, that the monies to meet the principal and interest requirements on all bond obligations for sewer facilities in 2004 will be secured from the following funds.

<i>Funds Already Available</i>	\$ _____
<i>Tap-In Fees to be Collected</i>	\$ <u>685,000.00</u>
<i>Funds from Monthly Rates for Services</i>	\$ <u>578,253.18</u>
<i>General Fund</i>	\$ _____
<i>Ad-Valorem Levy</i>	\$ <u>305,200.00</u>
<i>Other</i>	\$ _____
<i>Grand Total:</i>	\$ <u>1,568,453.18</u>

BE IT FURTHER RESOLVED, that the Township Clerk is hereby directed to forward one (1) copy of this Resolution to the County Agency, and retain one (1) copy for the Fenton Township records.

Motion to adopt Resolution No. 2003-32 as presented.

Motion by: Krug

Seconded: Garfield

Ayes: Mathis, Krug, Garfield, Carmody, Gatesman, McDermott, Stiverson

Nays: None

Motion carried. Resolution declared adopted.

2004 Meeting Schedule

Office Manager Broecker reviewed the proposed meeting schedule for 2004. The only significant change is the elimination of regularly scheduled workshop meetings. Workshops will be scheduled and conducted on an “as-needed” basis.

Motion to adopt the 2004 Fenton Township Meeting Schedule as presented.

Motion by: Stiverson

Seconded: Garfield

Ayes: Mathis, Krug, Garfield, Carmody, Gatesman, McDermott, Stiverson

Nays: None

Motion carried.

Township Board Committee Appointments

Supervisor Mathis reviewed the various appointments and committee assignments for the Township Board.

Motion to appoint Calvin C. Gatesman as the Township Board representative on the Fenton Township Planning Commission.

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Motion by: Mathis
Seconded: Stiverson
Ayes: Mathis, Garfield, Carmody, Gatesman, McDermott, Stiverson
Nays: Krug
Motion carried.

Motion to appoint William H. Stiverson, III as the Township Board representative on the Fenton Township Zoning Board of Appeals.

Motion by: Mathis
Seconded: Krug
Ayes: Mathis, Krug, Garfield, Carmody, Gatesman, McDermott, Stiverson
Nays: None
Motion carried.

Motion to approve internal and external committee appointments as presented.

Motion by: Stiverson
Seconded: Garfield
Ayes: Mathis, Garfield, Carmody, Gatesman, McDermott, Stiverson
Nays: Krug
Motion carried.

PUBLIC COMMENT - AGENDA OR NON-AGENDA ITEMS:

Janet Lorch, 13465 Fenton Road

Ms. Lorch asked the board to proactively oppose the project to widen Fenton Road. She asked if the board would request an amendment to the project to only widen to three lanes instead of five. Clerk Krug noted that an amendment would not be appropriate until after the completion of the environmental study. A public hearing will be held at Fenton Township prior to any final approvals and the Genesee County Road Commission has agreed to consider the 3-lane concept while conducting the environmental study. The board shares Ms. Lorch's concerns, however the appropriate time to pursue these concerns will be during and after the environmental study (Spring 2004).

Dave Franz, 3435 Breezepointe

Mr. Franz criticized Mr. Menzel's presentation of the proposed rezoning on Linden Road. He feels that he "took over" the meeting and should not have been allowed to do so. Mr. Franz believes the board made a mistake in approving the rezoning without the benefit of a traffic study. He is also concerned about the impact on Linden Schools.

Lorraine Zimmer, 6391 Acorn Way

Ms. Zimmer also disagreed with the rezoning decision, citing concerns with the impact on the Linden School district. She also voiced concerns regarding actions taken and comments made by the Genesee County Drain Commissioner.

Ron Kenney, 6111 Lakeview Park Drive

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Mr. Kenney thanked the board for their decision on the rezoning issue. He supports the open space concept and believes the proposed project represents a good use of the property.

Daniel Zawlocki, 4520 Eleanor Drive

Mr. Zawlocki expressed concern regarding the impact of this evening's rezoning on the traffic counts for Owen Road.

Bill Ochodnicki, 14107 Landings Way

Mr. Ochodnicki asked if the Township had received any response to the request for public hearing on the proposed Ponemah Woods project.

Lee Martorana, 4180 Four Lakes Avenue

Ms. Martorana asked if the board had considered impact fees for new developments. Trustee McDermott responded that current Michigan law does not allow impact fees.

David Hawcroft, 3302 Ponemah Drive

With respect to the rezoning approved tonight, Mr. Hawcroft expressed concern regarding the small lots and the resulting need for on-street parking. He believes this represents a serious safety concern, especially for children.

EXECUTIVE SESSION:

Supervisor Mathis stated that the board would be convening an executive session to discuss pending litigation regarding the Coachlight Pines sewer easement.

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

Motion by: Stiverson

Seconded: Garfield

Ayes: All

Nays: None

Motion carried. The regular meeting was recessed at 10:00 p.m.

RECONVENE:

The regular meeting was reconvened at 10:30 p.m.

Coachlight Pines Sewer Easement

Attorney Cooley reported that the board needs to make a formal offer for the needed sewer easement on the Coachlight Pines property. This offer is required before initiating legal action to acquire the easement by condemnation.

Motion to offer the sum of \$300 to the Coachlight Pines Association in exchange for the granting of a sanitary sewer easement, with the condition that the offer be accepted within seven days. If the offer is not accepted within seven days, legal action to acquire the easement by condemnation will commence.

Motion by: Krug

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Seconded: Stiverson

Ayes: Mathis, Krug, Garfield, Carmody, Gatesman, McDermott, Stiverson

Nays: None

Motion carried.

ADJOURN: Meeting adjourned at 10:35 p.m.

Bonnie Mathis, Supervisor

Robert Krug, Clerk

Minutes Posted 11/19/03