

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 16, 2004**

**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, Carmody, McDermott, Stiverson, Office Manager Broecker
and Attorney Cooley.

Absent: Garfield, Gatesman (arrived at 9:00 p.m.)

PLEDGE OF ALLEGIANCE:

Supervisor Mathis led the pledge of allegiance to the flag.

APPROVAL OF AGENDA:

Supervisor Mathis asked to have discussion regarding activities at the north end of Lake Fenton added to the beginning of the agenda, and to move the issue of proposed revisions to the Disorderly Persons Ordinance to immediately follow the beach discussion. Motion to approve the 8/16/04 Fenton Township Board Meeting agenda as amended.

Motion by: Carmody

Seconded: Stiverson

Ayes: All Present

Nays: None

Absent: Garfield, Gatesman

Motion carried. The agenda is approved.

DISCUSSION:

North End of Lake Fenton (aka "Pig Beach") Activities

Supervisor Mathis opened the discussion by clarifying that the Disorderly Persons Ordinance was initially enacted based on the recommendation of the Genesee County Sheriff Department, and was in part due to certain activities occurring at the US-23 rest area. The ordinance was not designed to prevent boaters from enjoying the lake. Proposed revisions to the ordinance have been prepared in an attempt to clarify certain provisions and will be considered by the board this evening. She also stressed that the Disorderly Persons Ordinance, although adopted, has not yet gone into effect.

Attorney Cooley addressed the concerns regarding activities occurring at the north end of Lake Fenton. He has met with the attorney representing the concerns of the boaters and the attorney for the property owner to discuss the legal issues of this situation. The result of this discussion was a general consensus that the following would constitute trespassing on private property:

1. Beaching a watercraft on the private property.
2. Walking or stepping on the private property (i.e. out of the water).
3. Crossing the private property for the purpose of going to/from the lake.

Mr. Cooley also clarified that anchoring boats near, but not on, the private property would not be trespassing. Walking, swimming or wading in the water near, but not on, the private property would also not be considered trespassing.

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 16, 2004**

Attorney Cooley further noted that any activities that impeded the ability of other watercraft to navigate the lake would also be illegal. The concerns raised regarding offensive behavior could be prosecuted based on complaints filed by neighboring property owners or other aggrieved parties.

Supervisor Mathis stated that this meeting is the first step in an attempt to clearly identify the issues that need to be resolved and to determine general guidelines that can be followed. She has spent time reviewing activities at the site and agrees that the neighboring property owners have legitimate concerns. She personally was the target of obscene language from some of the boaters this past weekend.

Trustee Stiverson stated that he had received numerous comments and complaints in recent weeks. The people he has talked to believe that 80-90% of the boaters are well-behaved and do not cause problems. The other 10-20% create problems for everyone.

Trustee Carmody stated that this informal hearing is for fact-finding purposes. The result should be reasonable guidelines that all can follow.

The following individuals spoke on these issues:

Joe Medor, 14309 Swanee Beach
Mike Nygaard, 2227 North Long Lake Road
Steve Bayley, 14328 Westman Drive
Scott Mansel
Lawrence Johnson, 2206 Bowles Street
Justin Henry, Attorney representing boaters' concerns
Bill Ochodnicki, 14107 Landings Way
George Rizik, Attorney representing property owner
Jim Litton, 2247 North Long Lake Road
Doug Patton, 2259 North Long Lake Road
Tony Brown, 12159 Jennings Road
Caron Litton, 2247 North Long Lake Road
Sandy Fielder, 2254 North Long Lake Road
Janice Carol, 13433 Haddon Street
Larry Wilson, 12085 Torrey Road
Dan Zawlocki, 4520 Eleanor Drive
Larry King, 2379 Grove Park Road
Dave Hawcroft, 3302 Ponemah Drive

Their concerns/comments included:

- If boats aren't allowed to anchor in the beach area, that will increase the boat traffic on the lake.
- Trespassing, as discussed earlier in the meeting, should be enforced.
- Most boaters will abide by reasonable rules and will be self-enforcing.

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 16, 2004**

- The disputes over these issues have made the Lake Fenton community look foolish, as portrayed by the media.
- Both sides of the issue need to work together to resolve the problems. The neighboring property owners need to accept certain aspects of the situation that will not go away.
- Any resolution must balance the rights of the property owners with the rights of the public.
- The Township should enforce its existing Noise Abatement Ordinance to reduce the problem of excessive noise levels.
- The exact location of the property and the road right-of-way should be determined before any decisions are made.
- Illegal activities (drunk & disorderly, obscene language, indecent exposure, etc.) are an enforcement issue for the Sheriff Department.
- Boaters should police themselves, using a “common sense” approach.
- Alcohol is a significant factor in all problems discussed.

Revisions to Disorderly Persons Ordinance

Clerk Krug reviewed proposed revisions to the Disorderly Persons Ordinance that was adopted on 7/19/04. This proposed amendment was developed by Clerk Krug and Trustee McDermott, and reviewed by Attorney Cooley. The intent of the amendment is to clarify several provisions of the ordinance to minimize the potential for misinterpretation. It was also noted that the adopted ordinance will not take effect until 8/24/04 (30 days after publication). After additional discussion, the board agreed with the proposed amendments. Trustee Carmody added that the severability clause in the ordinance provides additional protection for the Township, should any part of the ordinance be deemed illegal. Trustee McDermott suggested making this a formal first reading in order to speed up the adoption process.

Motion to deem the review of the proposed amendments to Ordinance No. 623 as a formal first reading of the amendatory ordinance.

Motion by: McDermott

Seconded: Stiverson

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

Nay: None

Absent: Garfield

Motion carried.

MEETING MINUTES:

The minutes of the 8/2/04 regular meeting stand approved as presented.

EXPENDITURES:

Motion to approve expenditures as presented.

Motion by: Gatesman

Seconded: Carmody

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

Nays: None

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 16, 2004**

Absent: Garfield
Motion carried.

PUBLIC HEARINGS:

Byram Lake Improvement Special Assessment District/1st Hearing

Supervisor Mathis opened the public hearing for a 5-year renewal of the Byram Lake Improvement Special Assessment. The proposed cost is \$27,000.00 per year. There was no public comment. Clerk Krug presented the following resolution:

RESOLUTION NO. 2004-31

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

WHEREAS, in accordance with the aforesaid notices, a hearing was scheduled this 16th day of August 2004 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 Byram 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 Byram Lake through the control and/or eradication of aquatic weeds as prepared and presented, and the estimated costs thereof of \$27,000.00 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 Byram 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 or legal access to Byram Lake

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 16, 2004**

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 judgment, conformed in all respects to the directions contained in this Resolution and the applicable state statutes.

Motion to adopt Resolution No. 2004-31 as presented.

Motion by: Krug

Seconded: Stiverson

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

Nays: None

Absent: Garfield

Motion carried. Resolution declared adopted.

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

RESOLUTION NO. 2004-32

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 \$24,441.13 for 2004 and \$23,602.65 per year for the years 2005 through 2008 inclusive, covering all parcels of land within the Byram 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 September 7, 2004 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

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 16, 2004**

property within the Byram 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. 2004-32 as presented.

Motion by: Krug

Seconded: Stiverson

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

Nays: None

Absent: Garfield

Motion carried. Resolution declared adopted.

Proposed Zoning Amendment – PUD Conditions, parcel 06-17-100-006/Public Hearing & 1st Reading

Supervisor Mathis opened the public hearing on a proposed Zoning Ordinance amendment to revise the PUD conditions for property located at the corner of Lahring and Linden Roads. The previously approved conceptual plan included a “Traditional Neighborhood Design” concept, which was of a higher density. Mr. Harrold is proposing a different type of residential development that is less dense, therefore the PUD conditions need to be revised in order to proceed with the development. Trustee Gatesman reported that Mr. Harrold’s plan reduces the density from the approved plan and that the Planning Commission felt that the new plan was a better use of open space.

Attorney George Rizik and Vic Lukasavitz of Gould Engineering, representing the applicant, provided an overview of the proposed conceptual plan, as well as a comparison with the existing approved plan. The proposed plan reduces the number of units from 268 to 207; density is reduced from 2.4 to 1.9 units per acre. 99% of all units would be adjacent to open space, all roads and utilities would be public.

Clerk Krug asked if the open space would be designated in a manner so it could not be developed in the future. Mr. Lukasavitz confirmed that the open space would be a part of the general common element and designated as such in the condominium documents. Clerk Krug also asked if it was possible to eliminate the Lahring Road entrance to reduce the impact on that very busy road. Mr. Lukasavitz stated that the entrance issue could be reviewed, however this is only a conceptual plan. The Genesee County Road Commission will have final approval on the location of entrances.

Trustee McDermott suggested that the developer be required to construct a non-motorized trail that could be connected with other trails to be developed in the future. Mr. Lukasavitz pointed out that the property, while within 2 miles of the new Lake Fenton High School, is in the Linden School District so this development should not add to the traffic problems created by the new school. He also noted that the sidewalks in the proposed development would be connected to the existing sidewalk in the City of Linden.

Public Comment:

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 16, 2004**

Roger Day, 13122 Linden Road

Mr. Day owns the property directly across from the proposed entrance to the development. This will result in headlights constantly shining in his house. He is also opposed to the project because of the density.

Lorraine Zimmer, 6391 Acorn Way

Ms. Zimmer stated that she believes the homes in the proposed plan are too close to Linden Road. Mr. Lukasavitz pointed out that the rear lot lines on the homes closest to Linden Road north of the entrance are approximately 83 feet from the road right-of-way. The homes on the south side of the entrance are some 140 feet from the right-of-way. Ms. Zimmer also expressed concern regarding condominium developments and the lack of understanding on the part of condominium owners regarding their by-laws.

Dan Zawlocki, 4520 Eleanor Drive

Mr. Zawlocki questioned the status of the existing site plan. Mr. Rizik confirmed that the site plan approval has expired, however the conceptual plan is still valid. The original site plan could be re-submitted and approved.

Dave Franz, 3435 Breezepointe

Mr. Franz stated that the proposed setbacks from Linden Road are more than adequate. He also stated that Mr. Harrold is a reputable developer and the proposed plan, while dense, is better than what was already approved.

Debbie Dubois, 11396 Sharp Road

Ms. Dubois agreed with the elimination of the Lahring Road entrance. Lahring Road is already busy and with the potential for other nearby properties to develop, the traffic problems will only get worse.

Lee Martorana, 4180 Four Lakes Avenue

Ms. Martorana expressed concern regarding the damage caused by development to local roads.

Sonya Brown, 12159 Jennings Road

Ms. Brown supports the reduction in density but is still concerned with the use of PUD projects to obtain higher density projects. She is also concerned about protecting the rights of the residents.

Denise (no last name or address given)

Denise echoed Ms. Zimmer's concerns regarding condominium by-laws.

There was no further discussion. The second reading of the proposed ordinance will be conducted at the 9/7/04 meeting.

REPORTS:

Tree Removal – Fenton Township Civic Community Center

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 16, 2004**

Supervisor Mathis reported that, because of the condition of the cottonwood tree at the edge of the Township Hall parking lot, several quotes have been obtained for the removal of this tree, as well as an old apple tree along the east fence line. The cottonwood tree would be removed when the second phase of the parking lot project is completed, however there are concerns that one or more of the large dead limbs on this tree could fall and cause injury or damage to vehicles. Rather than take this risk, this tree should be removed as soon as possible. Any cost included in the parking lot project relating to the removal of this tree would, of course, be deleted from that project.

Motion to approve the removal of two trees from the Fenton Township Civic Community Center property as presented.

Motion by: Carmody

Seconded: Stiverson

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

Nays: None

Absent: Garfield

Motion carried.

COMMUNICATIONS:

None

UNFINISHED BUSINESS-ADOPTION OF ORDINANCES:

Rezoning #R04-009, parcels 06-06-400-016 & 06-06-400-017; AG to R-1/1st Reading

Supervisor Mathis reviewed a proposed rezoning ordinance to rezone two parcels on Sharp Road from AG to R-1. The Planning Commission initiated the rezoning request and has recommended approval. A memo from Zoning Administrator Doug Piggott was reviewed. The land division for the parcel was mistakenly approved prior to the property being rezoned. To correct the oversight, the ZBA granted a variance to allow the issuance of a building permit while the rezoning process moves forward.

Public Comment:

Debbie Dubois, 11396 Sharp Road

Ms. Dubois stated concern that allowing this rezoning will lead to other properties in the area rezoning for smaller lots sizes. It was pointed out that R-1 zoning is consistent with the Land Use Plan and that the minimum lot size in both the AG and R-1 zoning districts is 2 acres.

Sonya Brown, 11259 Jennings Road

Ms. Brown asked if a ZBA representative could attend the Township Board meetings. She believes that the ZBA is not consistent in the granting of variances in different parts of the Township. It was pointed out that Trustee Stiverson is also a member of the ZBA.

There was no further discussion. The second reading of the proposed ordinance will be conducted at the 9/7/04 meeting.

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 16, 2004**

UNFINISHED BUSINESS-OTHER:

Workshop Meeting – 8/26/04

Supervisor Mathis reminded the board of the workshop meeting scheduled for Thursday August 26th, beginning at 7:00 p.m. The purpose of the meeting is to discuss riparian issues and other lake-related concerns.

NEW BUSINESS:

Lot Split #LS04-001, Paul Clasper, division of platted lot, parcel 06-11-526-001

Supervisor Mathis reviewed the proposed division of parcel 06-11-526-001 (located at the corner of Skyline Drive and North Long Lake Road). The Planning Commission has recommended approval of the lot split, provided that driveways for both resulting parcels access Skyline Drive only. Trustee McDermott stated that a condition should also be placed to ensure that the non-lakefront parcel does not have lake access.

Motion to approve the requested division of parcel 06-11-526-001 as presented, with the condition that the driveway(s) for both lots access Skyline Drive only and that proposed parcel 2 has no lake access or riparian rights.

Motion by: McDermott

Seconded: Stiverson

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

Nays: None

Absent: Garfield

Motion carried.

Storage Space Rental Agreement – Bostwick Excavating

Supervisor Mathis reviewed a proposal from Claire Properties Inc. (Bostwick Excavating) to lease storage space for sewer equipment, parts and materials. Currently the Township's inventory of equipment, parts and materials, currently valued at over \$400,000.00, is stored at several different locations, some as far away as Mt. Morris and some equipment is stored outside because of space limitations. By leasing inside space, all inventories can be stored at a single location, making access and inventory tracking much easier. A larger storage area will also allow the Township to purchase high volume parts and equipment in larger numbers to take advantage of price breaks. The proposed agreement would include a 5-year lease of 10,250 square feet of inside storage space at a fixed rate of \$.60 per square foot per month (\$7.25 per square foot per year). This equates to an annual cost of approximately \$74,312.50. The lease cost covers all costs, including utilities, taxes, building maintenance and property maintenance.

Supervisor Mathis stated that she would like to obtain additional information regarding comparable facilities before making a decision. The board also briefly discussed the option of building our own storage facility rather than renting space. This issue will be placed on the 9/7/04 agenda.

Proposal for Trenchless Sewer Line Repair – SOS Service Group

Supervisor Mathis reviewed a proposal from SOS Service Group to repair several sections of sanitary sewer line by installing a liner inside the sewer pipe. As sections of

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 16, 2004**

sewer line are identified as needing repair, all available options are considered. Because the sections listed in the proposal involve cracked pipes and/or joint leaks, the usual method of repair would be to dig up and replace the sewer pipe. Because of the location of these sewer lines, however, access to the lines would be difficult and restoration would be very costly. Therefore Lawrence Engineering has recommended the liner option for these repairs, thus providing a viable, cost effective rehabilitation of the sewer line. It is also important to note that these repairs are included in the list of repairs necessary to comply with the Administrative Consent Order (ACO) issued by the DEQ.

Motion to approve the trenchless rehabilitation of sanitary sewer lines, at an estimated cost of \$120,620 as presented.

Motion by: McDermott

Seconded: Stiverson

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

Nays: None

Absent: Garfield

Motion carried.

Approval of Mosquito Control Proposal Ballot Language

Office Manager Broecker reported that the 2004 property tax roll is the final year of the current special assessment for mosquito control. The funds collected from the 2004 assessment will pay for the 2005 program year. In order to continue the mosquito control program in Fenton Township without interruption, it will be necessary to place the issue on the ballot for the November 2, 2004 General Election. The proposed ballot language is as follows:

Shall each parcel of real estate in the Township upon which there is located a dwelling or commercial building be assessed the sum of up to twenty-four dollars (\$24.00) per year per commercial building and per dwelling unit commencing with the December 2005 property tax statements for a four year period to fund the Township Mosquito Control Program for the calendar years 2006, 2007, 2008 and 2009?

Motion to approve the ballot proposal language for mosquito control to be placed on the ballot for the November 2, 2004 General Election as presented, and to forward the approved ballot language to the Genesee County Clerk.

Motion by: McDermott

Seconded: Stiverson

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

Nays: None

Absent: Garfield

Motion carried.

PUBLIC COMMENT - AGENDA OR NON-AGENDA ITEMS:

Paul Sharp, 4425 Thompson Road

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF AUGUST 16, 2004**

Mr. Sharp feels the mosquito control program is inadequate. The mosquitoes are awful this year. Supervisor Mathis confirmed that this year's wet weather conditions have resulted in a very high mosquito population. The Township will follow up with Advanced Pest Management.

Larry Slawson, 14163 North Road
Renee Willoughby, 14088 North Road
Barb Harris, 14100 North Road

These three individuals each reported concerns regarding two dogs owned by Trustee McDermott. Among their claims/concerns are:

- The dog cage is too close to the property line.
- The dogs do not have adequate shelter in their cage.
- The dogs are dangerous and have chased and attacked neighbors.
- The dogs have also viciously attacked other dogs in the neighborhood.

Supervisor Mathis stated that a letter has been sent to Mr. McDermott and he is attempting to correct the situation.

Bill Ochodnicki, 14107 Landings Way

Mr. Ochodnicki asked about the possibility of obtaining speed limit signs for Landings Way. Clerk Krug will follow up on this issue.

Tom Richard, 12425 Jennings Road

Mr. Richard is concerned that there will be no speed limits signs in the vicinity of the new Lake Fenton High School. He asked if the board would approach the Genesee County Road Commission to have the signs installed. Clerk Krug will pursue this issue.

ADJOURN: Meeting adjourned at 11:40 p.m.

Bonnie Mathis, Supervisor

Robert Krug, Clerk

Minutes Posted 8/17/04