

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF JULY 24, 2006**

**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, Brown, Goupil, Tucker, Zimmer, Attorney
Cooley and Office Manager Broecker.

Absent: None

PLEDGE OF ALLEGIANCE:

Supervisor Mathis led the pledge of allegiance to the flag.

APPROVAL OF AGENDA:

Trustee Goupil asked to have a brief presentation from Patriot Ambulance Service added to the Reports section of the Agenda. Treasurer Carmody asked to add a Channel 19 broadcasting update, also to the Reports section. Motion to approve the 7/24/06 Fenton Township Board Meeting agenda as amended.

Motion by: Carmody

Seconded: Krug

Ayes: All

Nays: None

Motion carried. The agenda is approved.

MEETING MINUTES:

The minutes of the 7/10/06 regular meeting stand approved as presented.

EXPENDITURES:

Motion to approve expenditures as presented.

Motion by: Carmody

Seconded: Brown

Ayes: Mathis, Krug, Carmody, Brown, Goupil, Tucker, Zimmer

Nays: None

Motion carried.

PUBLIC HEARINGS:

None

REPORTS:

Channel 19/Broadcasting Update

Treasurer Carmody reported that he will be visiting the City of Troy, who has been televising public meetings for the past 15 years, to review their broadcasting setup. He will also make arrangements to have experienced individuals look at our system and provide suggestions.

Ambulance Service Update

Trustee Goupil reported that the existing service agreement between the Township and Regional EMS Ambulance Service will expire in August. As discussed at previous meetings, the Township is considering other companies to provide this service, which is

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under a non-monetary agreement. He introduced Jim Grady of Patriot Ambulance Service.

Mr. Grady stated that Patriot is a local, family-owned business and are very interested in providing ambulance service to Fenton Township under the same provisions as our existing agreement with Regional.

Trustee Goupil noted that the Township has experienced service problems with Regional, partially due to their dispatch point being in Southfield. Although most ambulance companies are “for-profit” entities, we need to find one that places a high priority on service levels. Patriot has a proven track record of high quality, reliable service and is a good candidate to work with Fenton Township.

Trustee Zimmer asked if this company would also service the cities of Fenton and Linden. Mr. Grady clarified that ambulance companies cannot exclude certain areas from service. Under the agreement, however, Patriot’s first priority would be Fenton Township. Trustee Goupil asked if Patriot has backup coverage. Mr. Grady stated that backup would be provided by other Patriot ambulance vehicles in other parts of Genesee County and through a mutual aid agreement with Swartz Ambulance Service. Trustee Goupil also asked if Patriot had experienced any disciplinary issues. Mr. Grady stated that there have been no formal complaints or lawsuits filed against Patriot.

The board thanked Mr. Grady for his presentation.

COMMUNICATIONS:

Consumers Energy Update – Torrey/Lahring Road Intersection

Supervisor Mathis reviewed a memo from Kevin Keane of Consumers Energy regarding the installation of the required poles for the beacon flasher signal at the Torrey/Lahring intersection. Mr. Keane indicates that he has concerns regarding the design of the installation and the need for some tree clearing. This will apparently delay the installation of the signal.

ADOPTION OF ORDINANCES:

Amendment to Zoning Ordinance – Michigan Zoning Enabling Act /2nd Reading

Supervisor Mathis reviewed a proposed amendment to the Zoning Ordinance to change statutory references from the Township Zoning Act to the newly enacted Michigan Zoning Enabling Act (MZEA), which was introduced at the 7/10/06 meeting. It was noted that the MZEA consolidates the zoning requirements for all forms of government under a single statute. There was no further discussion.

Motion to adopt Ordinance No. 668, an amendment to Zoning Ordinance No. 594 to change statutory references from the Township Zoning Act to the newly enacted Michigan Zoning Enabling Act, as presented.

Motion by: Carmody

Seconded: Tucker

Ayes: Mathis, Krug, Carmody, Brown, Goupil, Tucker, Zimmer

Nays: None

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Motion carried. Ordinance declared adopted.

Amendment to Zoning Ordinance – PUD Conceptual Plans/2nd Reading

Supervisor Mathis reviewed a proposed amendment to the Zoning Ordinance to remove the time limits for PUD projects to move through the planning phases, which was introduced at the 7/10/06 meeting. It was noted that this change will allow the Township to treat PUD projects the same as other types of site plans. There was no further discussion.

Motion to adopt Ordinance No. 669, an amendment to Zoning Ordinance No. 594 to remove the time limits for PUD projects to move through the planning phases, as presented.

Motion by: Tucker

Seconded: Brown

Ayes: Mathis, Krug, Carmody, Brown, Goupil, Tucker, Zimmer

Nays: None

Motion carried. Ordinance declared adopted.

Amendment to Zoning Ordinance – Site Plan Approval Standards/2nd Reading

Supervisor Mathis reviewed a proposed amendment to the Zoning Ordinance to revise language relating to the construction of sidewalks in new developments, which was introduced at the 7/10/06 meeting. It was noted that the Planning Commission's intent with this amendment is to always require sidewalks along main roads in order to one day have connecting non-motorized pathways for walking, biking, etc. Trustee Zimmer suggested that the Zoning Ordinance should be further amended to provide specific construction standards for sidewalks, (width, material, etc.), and to provide for sidewalk maintenance. Trustee Tucker agreed that these issues could be considered in future amendments. There was no further discussion.

Motion to adopt Ordinance No. 670, an amendment to Zoning Ordinance No. 594 to revise language relating to the construction of sidewalks in new developments, as presented.

Motion by: Zimmer

Seconded: Brown

Ayes: Mathis, Krug, Carmody, Brown, Goupil, Tucker, Zimmer

Nays: None

Motion carried. Ordinance declared adopted.

Amendment to Zoning Ordinance – Sump Pumps/2nd Reading

Supervisor Mathis reviewed a proposed amendment to the Zoning Ordinance to revise provisions relating to sump pumps, which was introduced at the 7/10/06 meeting. It was noted that the revised language has been expanded to include a list of permissible methods of sump pump water disposal. There was no further discussion.

Motion to adopt Ordinance No. 671, an amendment to Zoning Ordinance No. 594 to revise provisions relating to sump pumps, as presented.

Motion by: Brown

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Seconded: Tucker

Ayes: Mathis, Krug, Carmody, Brown, Goupil, Tucker, Zimmer

Nays: None

Motion carried. Ordinance declared adopted.

Amendment to Zoning Ordinance – Non-Conforming Lots of Record/1st Reading

Supervisor Mathis reviewed a proposed amendment to the Zoning Ordinance to add a definition for “Zoning lot” and to revise the provisions for non-conforming lots of record, which was introduced at the 7/10/06 meeting. It was noted that the intent of the amendment is to prevent the division of parcels made up of one or more platted lots unless the dimensional requirements of the Zoning Ordinance are met.

Trustee Brown stated that he could not support this proposed amendment. He feels that it would unfairly penalize people who purchased property that was conforming at the time. Supervisor Mathis added that this amendment would be very difficult to monitor and enforce and, at the very least, all affected property owners should be notified before the amendment is adopted. Trustee Brown stated that identifying and notifying affected property owners would likely be more work than the ordinance is worth. Trustee Tucker noted that this issue has been discussed at great length by the Planning Commission and they recognize that the proposed amendment is somewhat controversial. Supervisor Mathis suggested postponing action on the proposed ordinance, pending further review and discussion. Treasurer Carmody agreed, noting that he is also not comfortable with the proposed amendment.

Motion to postpone an amendment to Zoning Ordinance No. 594 to add a definition for “Zoning lot” and to revise the provisions for non-conforming lots of record.

Motion by: Brown

Seconded: Goupil

Ayes: Mathis, Krug, Carmody, Brown, Goupil, Tucker, Zimmer

Nays: None

Motion carried.

Rezoning # R06-002, Scott R. Allen, parcels 06-06-200-002 & 06-06-100-017, (6245 Ray Road); Conditional Rezoning from R-3 to AG/1st Reading

Supervisor Mathis introduced a proposed amendment to the Zoning Ordinance to conditionally rezone property on Ray Road from R-3 to Agricultural. The Planning Commission has conducted a public hearing on the proposed rezoning and has recommended approval. Trustee Tucker stated that this is the first conditional rezoning request to come before this Township Board. Under the current law, the applicant is required to “offer” the conditions that will be applied to the rezoning. The statute does not allow the Township to add conditions or negotiate the conditions in any way. This was a very controversial application and a difficult issue for the Planning Commission, as evidenced by the 4-3 vote recommending approval.

The proposed conditions, as offered by the applicants, are:

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1. The farm fence that shall confine any and all farm animals will be set back a minimum of 30-ft. from parcels 06-06-200-010 (6269 Ray Road) & 06-06-100-009 (6309 Ray Road).
2. There shall be no more than 300 total poultry on the property.
3. There shall be no farm or rehabilitation animals located in any pens cages or buildings on the section of land, fronting on Ray Road, between parcels 06-06-200-010 (6269 Ray Road) & 06-06-100-009 (6309 Ray Road) from Ray Road to the rear property line of parcel 06-06-200-010.
4. The total number of animal units on the parcel shall not exceed 25 animal units in accordance with the Michigan Department of Agriculture and the Generally Accepted Agricultural Management Practices.

Applicants Scott and Michelle Allen presented a brief history and overview of their rezoning request. Part of their property was zoned agricultural at one time but was rezoned when the Township adopted the new Zoning Ordinance in 2002. They want to rezone back to AG to eliminate their status as a legal non-conforming use and allow them to change and expand their farm within the limits of the proposed conditions.

Clerk Krug asked how an “animal unit” is determined. Mr. Allen explained that the unit factors are determined by the Department of Agriculture. For example, 100 chickens = 1 unit, 2.5 pigs = 1 unit, 1 dairy cow = 1.25 units, 1 horse = 2 units. Trustee Brown asked if the proposed conditions would allow them to have up to 25 animal units of each type of animal. Mr. Allen responded that the 25 animal units would be a maximum combined number for all animal types. Mrs. Allen added that they have no plans to expand to 25 animal units, (nearly double what they currently have), in the foreseeable future. It was the number recommended by the Department of Agriculture based on their available acreage.

Trustee Goupil asked if they would be able to maintain their existing animals if the rezoning was denied. Mr. and Mrs. Allen responded that they would be able to legally maintain their existing animals but want the AG zoning classification to allow them to farm the property and eliminate zoning concerns. Trustee Brown, noting that Mrs. Allen is a certified wildlife rehabilitator, asked if the rehab animals are included in the proposed 25 animal unit limit. Mrs. Allen stated that rehab animals are wild animals kept on the farm only until they are able to be released back into the wild. They do not count toward the 25 animal unit limit. Trustee Goupil asked if the zoning decision would affect Mrs. Allen’s ability to continue in wild animal rehabilitation. Mrs. Allen stated that it would not affect her status for animal rehab.

Treasurer Carmody stated that this will be a difficult decision for the board, especially in light of the split vote on the Planning Commission recommendation. Trustee Zimmer encouraged the board to preserve farmland, especially for properties located outside the urban service boundary. She feels that the Allens have worked hard to minimize the negative impact on neighboring properties.

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Clerk Krug asked about the zoning of the subject property at the time the Stocktons and Reynolds purchased/moved into their homes. Mr. Allen stated that the property was AG and that most of the surrounding properties are used for agricultural purposes.

Public comment

Bob Quick, 6223 Ray Road

Mr. Quick has lived at this address since 1976. Regarding the other neighboring properties, Mr. Quick stated that the 80 acres across the road has never had more than 20 head of cattle. The horse farm across the road had only around 10 horses. Mr. Quick expressed concern regarding the proximity of the raccoon cages to his property. This creates a significant odor problem during the summer and he would like the cages moved further back on the Allen's property. Other than that, he believes the Allens' agricultural activities do not impact him greatly.

Mark & Cindy Stockton, 6269 Ray Road

Mr. & Mrs. Stockton voiced the following concerns regarding the proposed rezoning:

- Crowing roosters are a nuisance.
- Animal odors are a problem.
- There were no animals on the property when they moved into their home in 1996.
- The Allen's chicken coop is only 150 feet from their property.
- The animals are too close to the neighboring properties.
- Of the four families affected by this rezoning request, only one is in favor of it. Why should one family be able to "bully" their way to a zoning change?
- The Township has not been responsive to their complaints.

Supervisor Mathis pointed out that the Township's policy is to require written complaints for enforcement purposes. The Township has responded to the Stocktons' concerns despite the fact that they have never filed a written complaint. When asked what would be acceptable to them, the Stocktons indicated that maintaining the animal counts at the current level would be acceptable.

Tom Reynolds, 6309 Ray Road

Mr. Reynolds expressed concern over the Township's ability to adequately enforce the conditions of the rezoning, both now and in the future. He also stated that if AG zoning is approved, thus putting most of the enforcement responsibility on the Department of Agriculture, the Township Board may be shirking its duties. He believes that approving the rezoning request would set a bad precedent.

Trustee Brown asked if the four families had made any effort to resolve the issue jointly. Mr. Allen responded that there were initial discussions but everything eroded from there.

The second reading of the proposed rezoning amendment will be conducted at the 8/7/06 meeting.

UNFINISHED BUSINESS:

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Appointment of Citizen Representative – Genesee County Metropolitan Alliance

Supervisor Mathis reminded the board of the recently approved committee assignments of the board members. One vacancy that was not filled at that time was the citizen representative on the Genesee County Metropolitan Alliance. Supervisor Mathis has spoken to K.C. Baran, a resident of Pine Lake, who has indicated a willingness to fill this vacancy. Trustee Brown stated that Mr. Baran is a good candidate, noting that he has a military background, is the co-chair of the Genesee County Republican Party and recently ran for Genesee County Prosecutor.

Motion to appoint K.C. Baran as Fenton Township's citizen representative on the Genesee County Metropolitan Alliance.

Motion by: Mathis

Seconded: Brown

Ayes: Mathis, Krug, Carmody, Brown, Goupil, Tucker, Zimmer

Nays: None

Motion carried.

NEW BUSINESS:

Resolution No. 2006-16, Proposed Chateaux du Lac/Barrington Hills Special Assessment District for Island View Drive Road Improvement Project

Office Manager Broecker reported that the residents of Barrington Hills and Chateaux du Lac have submitted petitions to create a special assessment district for the purpose of raising funds to contribute to the cost of repaving Island View Drive. The Island View Drive residents have petitioned the Genesee County Road Commission (GCRC) for a special assessment district for the same improvement, however the GCRC will not assess properties that do not front the proposed road improvement. The Chateaux/Barrington petition represents their willingness of approximately 75% of the property owners to contribute \$2,000.00 per unit toward the cost of the project. A public hearing is the first step in the special assessment process.

[Trustee Goupil stepped out of the meeting at 10:04 p.m.]

Trustee Tucker reported that he had received word that the Chateaux du Lac condominium association board may have concerns regarding the proposed special assessment district, but acknowledged that this issue would be better discussed at the public hearing. Although this is not a public hearing, Supervisor Mathis stated that she would allow brief public comment on the issue.

Ray Lord, 4520 Eleanor Drive

Mr. Lord stated that he has heard that the Township's CDBG funds may somehow be used to assist the Chateaux du Lac residents in this special assessment. Office Manager Broecker clarified that there have been no discussions of any kind regarding the use of CDBG funds for Chateaux du Lac. There have been preliminary discussions regarding the potential eligibility of some Island View Drive residents for grant assistance. This will not be determined, however, until the Township has decided if grant funds will be allocated for such a project.

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Richard Steinhoff, 4436 Island View Drive

Mr. Steinhoff feels that the Barrington Hills/Chateaux du Lac properties should pay more than \$2,000.00 per property for the re-paving of Island View Drive. The road would not be in such poor condition except for the construction traffic caused by the development of Chateaux du Lac over the years. Office Manager Broecker clarified that the Island View residents have petitioned the Genesee County Road Commission for their special assessment. The County does not assess properties that do not front the proposed improvement. The petition by the Barrington Hills and Chateaux du Lac residents represents a voluntary contribution toward the cost of the project.

Clerk Krug presented the following resolution:

RESOLUTION NO. 2006-16

WHEREAS, the Fenton Township Board has accepted a petition from the record owners of properties in Barrington Hills and the Chateaux du Lac condominium development to establish a special assessment district for the purpose of levying special assessments to be utilized toward the cost of improving Island View Drive, and

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

WHEREAS, preliminary plans and estimated costs for the foregoing road improvement have been placed on file in the office of the Township Clerk,

THEREFORE BE IT RESOLVED, that the Fenton Township Board does hereby tentatively establish the boundaries of the proposed special assessment district to include all properties in Barrington Hills and the Chateaux du Lac condominium development, and

BE IT FINALLY 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 7, 2006 at the Fenton Township Civic Community Center, beginning at 7:30 p.m.

Motion to adopt Resolution No. 2006-16 as presented.

Motion by: Krug

Seconded: Brown

Ayes: Mathis, Krug, Carmody, Brown, Tucker, Zimmer

Nays: None

Absent: Goupil

Motion carried. Resolution declared adopted.

Resolution No. 2006-17, Pine Lake Improvement Special Assessment District

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Office Manager Broecker reported that the residents of Pine Lake have submitted petitions for a new 5-year lake improvement special assessment for Pine Lake. The first step in the process is to adopt a resolution to set the date for the first public hearing. Clerk Krug presented the following resolution:

RESOLUTION NO. 2006-17

WHEREAS, the Fenton Township Board has accepted a petition from the record owners of properties abutting Pine Lake to establish a special assessment district for the purpose of improving the lake through the eradication and control of aquatic weeds, and

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

WHEREAS, plans and estimated costs for the foregoing lake improvement 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 implement an aquatic weed eradication and control program for Pine Lake, and

BE IT FURTHER RESOLVED, that the Fenton Township Board does hereby tentatively establish the boundaries of the proposed special assessment district to include all properties abutting Pine Lake, 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 7, 2006 at the Fenton Township Civic Community Center, beginning at 7:30 p.m.

Motion to adopt Resolution No. 2006-17 as presented.

Motion by: Krug

Seconded: Brown

Ayes: Mathis, Krug, Carmody, Brown, Tucker, Zimmer

Nays: None

Absent: Goupil

Motion carried. Resolution declared adopted.

Resolution No. 2006-18, Revised Special Assessment Roll – Dollar Lake Improvement Special Assessment District

Office Manager Broecker explained that the final installment of the Dollar Lake Improvement Special Assessment roll needs to be revised in order to avoid a shortfall at the conclusion of the 6-year treatment period. The original assessment roll was adopted in 2001. The MDEQ implemented a significant increase to the permit fees for weed treatments on lakes, thus creating this shortfall situation. The proposed assessment roll will increase the final installment by approximately \$27.00 to cover the additional costs.

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A public hearing is required in order to confirm the revised assessment roll. Clerk Krug presented the following resolution:

RESOLUTION NO. 2006-18

WHEREAS, Fenton Township Special Assessment Roll 2001-2 for the Dollar Lake Improvement Special Assessment District was confirmed by the Fenton Township Board on September 4, 2001, and

WHEREAS, subsequent to the confirmation of said special assessment roll, the Michigan Department of Environmental Quality significantly increased the fees for the necessary permits for lake weed treatments, thus creating a potential shortfall in the special assessment account after the final assessment installment is collected from the 2006 property tax roll, and

WHEREAS, an increase to the amount assessed in 2006 to each parcel within the Dollar Lake Improvement Special Assessment District will eliminate this potential shortfall, and

WHEREAS, the Supervisor and assessing officer of Fenton Township has, in accordance with the laws and statutes pertinent thereto, prepared a revised special assessment roll covering all parcels of land in the Dollar Lake Improvement Special Assessment District, and has affixed thereto her Certificate as required;

THEREFORE BE IT RESOLVED, that said revised 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 7, 2006 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 Dollar 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. 2006-18 as presented.

Motion by: Krug

Seconded: Brown

Ayes: Mathis, Krug, Carmody, Brown, Tucker, Zimmer

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Nays: None
Absent: Goupil

Motion carried. Resolution declared adopted.

PUBLIC COMMENT - AGENDA OR NON-AGENDA ITEMS:

Dave Hawcroft, 3302 Ponemah Drive

Mr. Hawcroft reported that the patrolling of illegal parking at the Lake Ponemah public access has improved. He also asked for clarification regarding the Torrey/Lahring intersection. Supervisor Mathis explained that Consumers Energy has indicated that the installation of the necessary poles will be slightly delayed.

[Trustee Goupil returned to the meeting at 10:15 p.m.]

Mr. Hawcroft also expressed concern that the City of Fenton continues to harvest weeds in their millpond, which flow downstream into Lake Ponemah, causing more weed growth.

Ted Goupil, 14166 Eastview Drive

Regarding the proposed sewer special assessment districts, Mr. Goupil asked if the Township considered assessing all properties equally. Supervisor Mathis responded that this was the Township's initial intent, however our financial consultant and attorney informed us that the assessments must be tied to specific project costs.

Mr. Goupil also reported that on this date in 1966, Trustee Mark Goupil was born. The board sang "Happy Birthday" to Trustee Goupil.

ADJOURN: Meeting adjourned at 10:25 p.m.

Bonnie Mathis, Supervisor

Robert Krug, Clerk

Minutes Posted 7/26/06