

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF SEPTEMBER 18, 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:

Motion to approve the 9/18/06 Fenton Township Board Meeting agenda as presented.

Motion by: Carmody

Seconded: Tucker

Ayes: All

Nays: None

Motion carried. The agenda is approved.

MEETING MINUTES:

Trustee Zimmer asked to have additional comments made by her added to the portion of the minutes regarding the proposed PUD rezoning at Torrey and Thompson Roads. Those revisions will be made. The minutes of the 9/5/06 regular meeting stand approved as revised.

EXPENDITURES:

Motion to approve expenditures as presented.

Motion by: Brown

Seconded: Carmody

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

Nays: None

Motion carried.

PUBLIC HEARINGS:

**Fenton Township Fire Protection Special Assessment District/Hearing on 2006
Assessment Roll**

Supervisor Mathis opened the public hearing on the 2006 Fenton Township Fire Protection Special Assessment Roll. The annual assessment remains unchanged at \$65.00 per parcel. There was no public comment. Clerk Krug presented the following resolution:

Clerk Krug presented the following resolution:

RESOLUTION NO. 2006-42

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WHEREAS, the township board of the Charter Township of Fenton, Genesee County, Michigan, after due and legal notice, has conducted a public hearing upon a proposed assessment roll prepared by the supervisor and assessing officer of the Township for the purpose of raising money by special assessment for furnishing fire protection and purchasing and housing equipment, and for the operation of same, and

WHEREAS, such public hearing was preceded by a notice published in a newspaper of general circulation in the Township, and

WHEREAS, no written objections were received to said roll and levy;

WHEREAS, all present at said public hearing were given the opportunity to be heard in the matter, and

WHEREAS, the Township Board has duly inspected the proposed assessment roll and considered all comments and proposed amendments thereto and has found the proposed assessment roll, as presented, to be correct, just and reasonable;

THEREFORE BE IT RESOLVED, that the assessment roll submitted by the supervisor and assessing officer of the Township shall hereafter be designated as the Fenton Township Special Assessment Roll No. 2006-2 and shall hereby be confirmed as the 2006 assessment roll for the Fenton Township Fire Protection Special Assessment District, and

BE IT FURTHER RESOLVED, that the assessments in said Fenton Township Special Assessment Roll No. 2006-2 shall be due and payable on December 1, 2006, and

BE IT FURTHER RESOLVED, if any special assessment is not paid when due, then the special assessment shall be considered to be delinquent and there shall be collected, in addition to interest as provided by this section, a penalty at the rate of 1% for each month, or fraction of a month, that the installment remains unpaid before being reported to the Township Board for reassessment upon the Township tax roll, in accordance with Michigan Public Act 188 of 1954, as amended, and

BE IT FURTHER RESOLVED, that the assessments made in said special assessment roll are hereby ordered and directed to be collected by the Township Treasurer, and the Township Clerk shall deliver said special assessment roll to said Treasurer with his warrant attached, commanding the Treasurer to collect such assessments in accordance with the direction of the Township Board and said P.A. 188 of 1954.

BE IT FINALLY RESOLVED, that all resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same are hereby rescinded.

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Motion to adopt Resolution No. 2006-42 as presented.

Motion by: Krug

Seconded: Brown

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

Nays: None

Motion carried. Resolution declared adopted.

REPORTS:

Meeting Telecast Update

Treasurer Carmody distributed a draft of a letter to the three area school districts to determine the level of interest in assisting the Township in recording and televising public meetings.

Cable Television Service Update

Clerk Krug distributed letters from Charter Communications regarding upcoming television programming changes and Charter's new telephone service.

Traffic Signal Update

Clerk Krug noted that the traffic signal at the Torrey/Lahring intersection has still not been installed.

Loose Senior Citizen Center Representation

Supervisor Mathis reviewed a letter from Trustee Zimmer resigning from her position as the Fenton Township representative on the Loose Senior Citizen Board of Directors. Supervisor Mathis suggested that the board consider appointing a citizen representative to this board rather than an elected official. The board will consider prospective appointees at a future meeting.

COMMUNICATIONS:

None

ADOPTION OF ORDINANCES:

Rezoning #06-05, Rick Randall/Torrey Rd. Development Co. LLC, parcels 06-02-100-001, 06-02-100-002 and 06-02-100-003, (northeast corner of Thompson and Torrey Roads); R-3 and C-2 to PUD/2nd Reading

Supervisor Mathis reviewed a proposed Zoning Ordinance amendment to rezone property located at the intersection of Thompson and Torrey Roads from R-3 and C-2 to PUD, which was introduced at the September 5th meeting. The Planning Commission has conducted a public hearing on this proposed amendment and has recommended approval.

Trustee Zimmer stated that she feels that the Township has not addressed the concerns of the residents regarding having commercial development next to existing residential properties. The proposed ordinance does not adequately address screening and buffering. She also feels that there has not been as much cooperative effort between the Township and the developer in this rezoning as she has seen in previous PUD projects. Trustee Zimmer also asked for clarification regarding deadlines and expirations. Trustee Tucker

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responded that the proposed rezoning ordinance grants a five year period for the developer to begin the project or risk having the property rezoned by the Township. The site plan itself has an expiration of two years with an option for extensions.

Clerk Krug asked Trustee Tucker about the screening/buffering issue. Doesn't the Zoning Ordinance already address this? Trustee Tucker confirmed that the Zoning Ordinance has minimum landscape screening standards based on the types of uses. In this proposed ordinance, however, the Planning Commission has given the Township additional control by adding a condition that gives the Planning Commission the authority to determine what level of screening/buffering will be required. This was done to address the concerns of the neighboring property owners. Trustee Tucker stated that he is much more comfortable with the flexibility of the PUD condition as opposed to relying on the minimum standards in the Zoning Ordinance if the property is not rezoned.

Trustee Goupil asked if, under the existing zoning, commercial uses could be next to existing residences. Trustee Tucker stated that commercial could only be in the southern portion of the property as it is currently zoned. He clarified, however, that the assisted living facility is a use permitted by special use permit in residential zoning districts. Trustee Goupil stated that, as discussed at the previous meeting, the developer could develop nearly the same project under the existing zoning classifications. The PUD will give the Township much more control.

Trustee Zimmer stated that she would prefer that the Type I well system be an additional condition of the PUD rezoning. She would also like to see other conditions added to give the residents a greater level of comfort that their concerns will be addressed.

Supervisor Mathis stated that the Township Board should rely on the Planning Commission for these site plan issues. The issue before the board is just the rezoning.

Trustee Tucker stated that he would be concerned with trying to make the PUD conditions more specific. The site plan review process will allow various options to be explored and better thought out. Making the conditions too restrictive at this point could result in something less than the best possible project for the Township and its residents.

Although this is a second reading, Supervisor Mathis stated that she would allow brief public comment. There were general comments from the audience indicating that the neighboring properties are concerned with trespassing, injuries, lawsuits, etc. and want stronger buffering such as a fence or wall.

Trustee Tucker pointed out that the existing zoning includes residential zoning that is adjacent to residential zoning. Under the Zoning Ordinance requirements no screening or buffering would be required in those situations. The PUD allows the Planning Commission to address the concerns of the neighboring property owners by requiring additional screening and buffering.

Stephanie Leschuk, 11149 Torrey Road

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Ms. Leschuk also expressed concerns regarding the potential for trespassing, injuries, lawsuits, etc. She would like the neighboring property owners to have input on the screening and buffering requirements.

Mr. Randall read the following prepared statement:

Pick all of Genesee County and where would you like to live?

Some like big property and open space and some like water and some like farmland and guess what?

We/Fenton Township have it all and we can enjoy the fact that we live here. The growth is going to continue because this is a desirable place to be.

Where is Fenton Township? What is Fenton Township? *The answer to both questions is Thompson Rd., specifically between US 23 and Torrey Rd. This is a low impact area that needs a little energy and momentum and it can blossom into something special for all of us. There are currently 2 projects approved and ours is pending a vote and there is still 1200 ft of frontage on Thompson RD. next to the bowling alley.*

Stewardship: *of our resources, of our community, of our relationship with our neighbors and of our environment. All of us need to be reasonable and responsible including developers. We are that developer.*

Neighbor - *a person who lives near another person, a person who shows kindness to another person, to live or be situated nearby. A good neighbor might be that guy that for 11 years plowed Mantawauka. The only person that might know that for sure would be Valerie McDonald. I hit her mailbox. My friends on the street included Ruth and Earl Sutton, Valerie McDonald, Pauline and Walt Khloa, Betty and Dennis Flynn, Marge Bissonet, Sue and Lloyd Reynolds, Sue and Mark Reece, Martha and Mike Savoie and Ann and Ed Adams were all part of our neighborhood gatherings. I loved living there. I currently live on the US 31 Highway in Torch Lake Township just south of Eastport in the city of Kewadin in the Central Lake School District but I am in Fenton Township much of the time either physically or mentally and my heart, my friends and my family live in/and or close nearby.*

Water – *Municipal water is a dirty word in Fenton Township and there is not broad/board support for it. “It is unlikely that it will happen in our lifetimes.” What is the reluctance? Arsenic was part of a township publication that I received and another heads up was from one of the township personnel that suggested I contact the Genesee Co. Health Department concerning water and arsenic and waste to include the disposal of the contaminant. It is an apparent issue and we need to address this sooner rather than later.*

A Type I Well *is the anticipated water supply, second choice, but..... it could drain the existing aquifer that supplies the neighborhood wells or raise the arsenic levels in the water from their wells. Also, one of the board members suggested a Phase II Environmental Study because of known underground tanks that may leach into or*

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contaminate existing and future wells? Municipal water? A water district is set up and all are assessed accordingly. There are 3 projects that are in the works and will work with the township to help pay for part of this necessary infrastructure. This is the time for the board to take appropriate action.

When do we applaud the efforts, thank the efforts, appreciate the efforts of each other? Are we just in it for ourselves? When do we learn to work together for the benefit of all of us? Teamwork works!

TEAM – Together Each Achieves More – in a good way! This is why we are here.

*We don't like what we don't know or don't understand in fact we hate it and will often initially reject it. Just say no, it is easy to say no and maybe it will just go away. But sometimes **no** should be replaced by **know** and maybe we would say yes.*

***Who benefits from development?** The township. The tax base increases and now there is money for the fire department, school buses, pay increases for the township employees, etc. It is better for the bank, the bowling alley, the BP convenience store, the A&W, the Shell, Victory oil change, etc., they were not at the meetings. Another group of neighbors that we need to consider would be neighbors beyond the 600 foot mark. I think if we were to ask them we might find many more in favor than against. Our development is better for our residents. We should not let the negative few overwhelm the positive many.*

***Zoning concerns:** Our original concept has been consistent with township zoning with or without our PUD approval. The impact of our senior living center on the neighbors is minimal. We have designed our site plan with regard to our neighbors and the best location to actually live within the site. This location is also convenient to the medical facility, the EMS and Genesys Health Park.*

***Residential concerns:** Children in the independent living? I am familiar with this. There are 36 units and we will maintain a policy of no children. What percentage do you think this is? 20 %, 40 %, or 60% so maybe 7 or 14 or 21? That is still a minimal impact on the school and the community. It is not our priority and it is not our intention but if it is better for a child to be raised by a grandparent temporarily then I will make room for them in our rules and regulations regarding tenancy. So far it appears that our perimeter neighbors are against younger people and older people.*

A common concern of our neighbors is the possibility that our well will adversely affect water that comes from their wells regarding quality and quantity. Another neighbor was concerned about the stated underground storage tank leaks that could contaminate all of our wells and the possibility that our community well could raise arsenic levels. This is also a concern for us. We are entitled to an adequate water supply on our site for any of the permitted uses as specified in the township zoning ordinance. Where should this water come from? What should we do?

There is also concern about the traffic impact and the truth is that Torrey and Thompson Rds. are the main intersection of the Thompson Rd. Corridor. The traffic is and will

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continue to increase but the preliminary traffic studies indicate that the increase traffic will be Thompson Rd. and Torrey Rd. south of Thompson Rd. This may not appease anybody but the developers and the Planning Commission will work diligently to do the right thing to minimize the traffic impact.

Another concern was that of storm water run off which is one of our top priorities. It is also a top priority of Jeff Wright, the Genesee Co. Drain Commissioner. This is the purpose of our stormwater management techniques to include green roofs, bioswales and detention ponds for irrigation and water storage to mitigate any stormwater issues. The other concern that became one of my concerns was if I were to die or be killed. Before anyone takes any drastic action I would hope that everyone is aware of the due process required to change the concept plan. Another resident suggested that either we or our tenants would benefit from enemas and that she as a nurse could help us with that.

What if desired commercial tenants cannot be attracted to our development site? We will build this in phases according to our marketing success and tenant leases. We are optimistic because of our market analysis and the obvious needs of this location. We are confident in our goals, our integrity, our intentions and the end product that will result. The appropriate and necessary tenants will show up because of this.

There were approximately 60 signatures on the petition against our PUD approval. If they would like to keep the property just as it is, we will entertain purchase offers. We currently have 3.9 million dollars into our/your neighborhood and we are willing to risk a little bit more, \$40 million is the rough estimate.

Another neighbor was concerned that her property values would go down because of the project which on the bright side might lower taxes but also concerned about her property value going up which might raise her taxes.

Yet another neighbor is concerned about his proximity to the senior assisted living. I am not really sure what the concern is. Is there something wrong with these people that I do not know about? It is traditionally a low impact residential community that improves the area and is needed based on the demographic indications.

One neighbor wants a fence or a wall that is as high as possible to keep what from what? Or whom from whom?

The president of the neighborhood association reminded the board that the township residents oppose development. Things change, people change and needs change and it is important to realize the economics behind development. The Township is a business and has to be run like a business. There is a need for necessary/strategic development. More tax revenues, more customers for the businesses that already exist and a tax base to make necessary improvements that help our community stay alive and viable. Quality development brings needed / wanted services and a tax base to help pay for infrastructure, i.e. \$20 million dollars for sewer repairs is just a good and current example.

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We may be better off without the PUD zoning? The zoning that is currently in place for our property is consistent with our development plan. However with a PUD the township has more control over our project. Our intention is to work diligently with the township and produce a project/development that we will all use and enjoy and be proud of.

The Planning commission approved our project unanimously. The Planning Commission and the Board are concerned about their constituents and the future of Fenton Township. We are also concerned about what is best for all of us.

We believe in Fenton Township, we are part of Fenton Township and we care about Fenton Township. We appreciate your time and favorable consideration for PUD approval.

Thank you.

***Rick A. Randall
Managing Partner – Torrey Rd. Development Co. LLC***

Mr. Randall, in response to comments by neighboring property owners not wanting to look at commercial development, made derogatory comments regarding the attractiveness of the property immediately north of the proposed assisted living site.

Trustee Zimmer asked what type of fencing might be used for screening/buffering. She suggested that a privacy fence would be best. Mr. Randall stated that he prefers the look of wrought iron but will work with the Township to come up with the best alternative. Trustee Zimmer asked about the style of buildings that would be built in the project. It was noted that this issue would be addressed at site plan review.

Treasurer Carmody expressed concern that the board is covering some of the same issues that have already been discussed. It is time to call the question and move on.

Clerk Krug thanked Mr. Randall for the traffic studies that he provided to the Township. He also chastised Mr. Randall for his statements regarding neighboring properties. He felt that his comments were very inappropriate. Mr. Randall apologized for his comments.

Supervisor Mathis stated that the PUD option is better for the Township because the Township has more control. Some of the detail issues that have been discussed will be addressed at site plan review.

Motion to adopt Ordinance No. 673, an amendment to Zoning Ordinance No. 594 to rezone parcels 06-02-100-001, 06-02-100-002 & 06-02-100-003 from C-2 and R-3 to PUD, as presented.

Motion by: Carmody
Seconded: Tucker

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Ayes: Mathis, Krug, Carmody, Tucker

Nays: Brown, Goupil, Zimmer

Motion carried. Ordinance declared adopted.

UNFINISHED BUSINESS:

September 20, 2006 Public Forum with Consumers Energy

Supervisor Mathis announced that a special board meeting has been scheduled for Wednesday 9/20/06 at 7:00 p.m. State Representative Dave Robertson and representatives from Consumers Energy will also be in attendance. The purpose of the meeting is to conduct a public forum to give our residents the opportunity to voice concerns to and/or ask questions of the Consumers Energy officials. The main focus of the meeting will be the numerous power outages experienced in our community over the past couple of years and what is being done to correct the situation.

Special Meeting – September 25, 2006

Supervisor Mathis stated that she would like to schedule a special meeting to discuss pending litigation in a closed session with our attorneys. The board can also discuss candidates for the Zoning Board of Appeals vacancy at this meeting. The board agreed to schedule the meeting for Monday 9/25/06 at 6:00 p.m.

NEW BUSINESS:

Resolution No. 2006-43, GCRC Permit for LFHS Homecoming Parade

Supervisor Mathis reported that Lake Fenton High School wishes to hold their annual Homecoming Parade along Torrey Road between Lahring and North Long Lake Roads on Friday 9/29/06. The Genesee County Road Commission requires the Township Board to authorize the appropriate application. A resolution has been prepared for that authorization.

Clerk Krug presented the following resolution:

RESOLUTION NO. 2006-43

WHEREAS, Lake Fenton High School wishes to make application to the Genesee County Board of Road Commissioners for a permit to hold a Homecoming Parade within the road right-of-way of Torrey Road, and

WHEREAS, approval of the local unit of government, by resolution, is required to obtain said permit;

NOW, THEREFORE, BE IT RESOLVED, that Lake Fenton High School is hereby authorized to make application to the Genesee County Road Commission on behalf of the Charter Township of Fenton in the county of Genesee, Michigan for the necessary permit(s) to:

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Hold a Homecoming Parade on Friday September 29, 2006, between the hours of 4:00 p.m. and 6:00 p.m.

within the right-of-way of Torrey Road, between North Long Lake Road and Lahring Road, as requested.

Motion to adopt Resolution No. 2006-43 as presented.

Motion by: Krug

Seconded: Brown

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

Nays: None

Motion carried. Resolution declared adopted.

Proposed Amendment to Fenton Township Employee Handbook

Supervisor Mathis reviewed a memo from Office Manager Broecker regarding a proposed revision to the Township's Employee Handbook. Currently the possession of a firearm in the workplace is considered a disciplinary offense. There are occasions, however, when it may be prudent for the Ordinance Enforcement Officer, (a certified police officer), to carry a firearm while on duty. The proposed policy amendment simply allows for that exception.

Trustee Brown suggested that the provision prohibiting firearms in the workplace could be eliminated, as long as the employee has a valid concealed weapon permit. Clerk Krug stated that he believes the provision should stay but only make the possession of a firearm a disciplinary offense if the employee does not have a valid CCW permit or has not received authorization from the Township Supervisor.

After board discussion, this provision will now read:

- Possession of firearms inside the Township office, ***unless the employee has a valid concealed weapon permit and has received written authorization from the Township Supervisor to possess a firearm in the Township office.***

Motion to adopt revisions to Section 4.3 of the Fenton Township Employee Handbook as revised.

Motion by: Tucker

Seconded: Krug

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

Nays: None

Motion carried.

Schedule Public Needs Hearing – 2007 Community Development Block Grant Program

Office Manager Broecker reported that Fenton Township will receive approximately \$100,000 in Community Development Block Grant (CDBG) funds in 2007. Under the Interlocal Agreement for the Loose Senior Citizen Center, 15% of that total, or \$15,000,

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will be allocated to senior center operations over the next three years, (\$5,000 per year). That leaves approximately \$85,000 that can be allocated for other eligible projects. As in previous years, the first step in the CDBG process is a public needs hearing. He recommends that the Township Board schedule a CDBG public needs hearing for the October 2, 2006 regular meeting.

Motion to schedule a Community Development Block Grant public needs hearing for the October 2, 2006 Township Board meeting.

Motion by: Krug

Seconded: Tucker

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

Nays: None

Motion carried.

PUBLIC COMMENT - AGENDA OR NON-AGENDA ITEMS:

None

ADJOURN: Meeting adjourned at 9:05 p.m.

Bonnie Mathis, Supervisor

Robert Krug, Clerk

Minutes Posted 9/19/06