

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF OCTOBER 20, 2008**

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

Clerk Krug called the meeting to order at 7:30 p.m.

Present: Krug, Tucker, Brown, Goupil, Ketchmark, Zimmer, Attorney Cooley and
Operations Manager Broecker

Absent: Mathis

PLEDGE OF ALLEGIANCE:

Clerk Krug led the pledge of allegiance to the flag.

APPOINTMENT OF TEMPORARY CHAIRPERSON:

Due to the absence of the Township Supervisor, a temporary chairperson needs to be appointed for tonight's meeting.

Motion to appoint Clerk Krug as chairman pro-tem.

Motion by: Tucker

Seconded: Brown

Ayes: All Present

Nays: None

Absent: Mathis

Motion carried.

Chairman Krug advised the audience that this meeting was being recorded for telecast on local public access television.

APPROVAL OF AGENDA:

Motion to approve the 10/20/08 Fenton Township Board Meeting agenda as presented.

Motion by: Brown

Seconded: Tucker

Ayes: All Present

Nays: None

Absent: Mathis

Motion carried. The agenda is approved.

PRESENTATION:

Southern Lakes Parks & Recreation Update

Chairman Krug introduced Dan Zawlocki and K.C. Baran – Fenton Township's representatives on the Southern Lakes Parks & Recreation (SLPR) board of directors. Mr. Baran and Mr. Zawlocki provided updated information regarding SLRP programs, including:

- Free Swim & Gym Program
- Aquatics Program
- Market Survey of Services
- Financial Need Scholarship Program
- Free and Nominal Fee Programming

The annual budget, totaling just over \$1 million, was reviewed. The issue of the SLPR funding allocation to the Loose Senior Citizen Center (LSCC) was also discussed. The SLPR board has requested, but not yet received, an accounting of how the

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approximately \$90,000 allocation is spent. The board thanked Mr. Baran and Mr. Zawlocki for their report.

Sewer Fund Financial Update

Operations Manager Broecker provided an update regarding the finances of the Sewer Fund. Highlights included:

- A brief history, including the state-mandated Administrative Consent Order that prompted the extensive sewer system rehabilitation project.
- Approximately \$19 million has been spent on system rehabilitation since 2002.
- Remaining repairs are currently being review and prioritized.
- The Township has issued \$11 million of the \$20 million in bonds approved by the Township Board in 2006. The amount of funding still needed is yet to be determined.
- Total current sewer debt, including bonds issued 10-12 years ago, is approximately \$32 million.
- Annual expenditures for Genesee County O&M and debt service have increased approximately \$3 million since 2000, while annual revenues from property taxes and connection fees have decreased approximately \$1.3 million over that same time frame. The user fees have been increased to their current level to accommodate those shortfalls.
- Sewer user rates are not expected to decrease for at least ten years.
- A significant increase in new connections could reduce sewer rates sooner.
- Although Fenton Township sewer rates are very high, the property tax rate is among the lowest in Genesee County. It is still less expensive to live in Fenton Township than several surrounding communities.

MEETING MINUTES:

The minutes for the 10/6/08 regular meeting stand approved as presented.

EXPENDITURES:

Trustee Ketchmark asked how much of the Bostwick Excavating invoice was related to emergency calls. Operations Manager Broecker stated that approximately \$25,000 of the invoice was for emergency calls related to storms and power outages. Motion to approve expenditures for payment as presented.

Motion by: Tucker

Seconded: Brown

Ayes: Krug, Tucker, Brown, Goupil, Ketchmark, Zimmer

Nays: None

Absent: Mathis

Motion carried.

REPORTS:

Quarterly Investment Report

Treasurer Tucker reviewed a report of the Township's investments as of 9/30/08. The total amount invested is approximately \$5.38 million, with approximately \$1.41 million being bond proceeds not yet spent for sewer repairs. Trustee Zimmer asked if the Township could invest some funds with Dort Federal Credit Union since they recently opened a branch in Fenton Township. Operations Manager Broecker stated that the Township's Investment Policy would have to be amended to include any new financial institutions.

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Channel 19 Update

Trustee Zimmer noted the ongoing issues with the audio quality of the Township Board meeting recordings that are televised on Channel 19. Precision Media, the company that records the meetings, needs to allocate time to research and resolve the audio issues. Chairman Krug stated that the expense for the diagnostic work can be handled within the approved budget. Trustee Zimmer also suggested using Channel 19 to televise general information, such as the information that we publish in the newsletters. She believes that there are many other potential uses for Channel 19.

PUBLIC HEARINGS:

None

COMMUNICATIONS:

None

ADOPTION OF ORDINANCES:

Rezoning #R08-002, Amendment to PUD Conditions for Cottage Cove Development (3472 Allen's Landing), parcel 06-27-100-022/2nd Reading

Chairman Krug reviewed a proposed Zoning Ordinance amendment to revise the PUD conditions for the Cottage Cove development located at the south end of Lake Ponemah (formerly known as the In Between Campground), which was introduced at the October 6th meeting. The amendment would permit, on a limited basis, the use of Ponemah Drive to access the site with equipment that is too large to safely cross the railroad tracks. A motion to adopt the amendment was made by Tucker and seconded by Ketchmark.

Discussion:

Trustee Ketchmark stated that the developer should have known or anticipated access problems during his original rezoning request. The Township should not simply change the PUD conditions because the developer asks for it. It would set a bad precedent. Trustee Ketchmark also stated that, based on discussions in a closed session earlier this evening regarding an ongoing lawsuit, she believes that changing the PUD conditions may not be legal.

Treasurer Tucker disagreed with Trustee Ketchmark's portrayal of the situation. The Planning Commission does not routinely recommend approval this type of PUD revision, and he believes this may be the first time it has ever happened. The Planning Commission recommendation was based on the safety concerns since the first attempt to move large equipment to the site via Silver Lake Road resulted in the trailer getting stuck on the railroad tracks. Treasurer Tucker stated that he also believes Trustee Ketchmark's interpretation of the discussion regarding the legality of PUD revisions is incorrect. The Township can revise PUD conditions.

Trustee Goupil stated that he understood Trustee Ketchmark's concerns regarding setting a bad precedent but believes that the safety factor is more important.

Trustee Brown asked if the gate is the primary or auxiliary entrance for the development. Treasurer Tucker confirmed that, during construction, it is an auxiliary entrance. When

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the development is completed, however, Ponemah Drive will be the primary access for those residents.

Regarding Trustee Ketchmark's concerns over the legality of revising the PUD conditions Treasurer Tucker asked attorney Tim Wilhelm, who is representing the Township on a different matter, if he could provide any input. Mr. Wilhelm confirmed that PUD conditions can be revised by mutual consent of both parties.

Planning Commissioner Dave Franz asked Attorney Cooley if the Township even has the right to limit access to a public road. Mr. Cooley stated that, as a general rule, the Township does not have that authority. In the context of a PUD condition, however, he believes it is legal.

Trustee Brown suggested that this matter be postponed until the 11/3/08 meeting pending clarification of potential legal issues. The motion and second for adoption of the proposed ordinance were withdrawn.

Motion to postpone until 11/3/08 action on an amendment to Zoning Ordinance No. 594 to revise the PUD conditions for parcel 06-27-100-022.

Motion by: Brown
Seconded: Zimmer
Ayes: Brown, Goupil, Zimmer
Nays: Krug, Tucker, Ketchmark
Absent: Mathis

Motion failed.

Motion to adopt an amendment to Zoning Ordinance No. 594 to revise the PUD conditions for parcel 06-27-100-022 as presented.

Motion by: Krug
Seconded: Ketchmark
Ayes: Krug, Tucker, Goupil
Nays: Brown, Ketchmark, Zimmer
Absent: Mathis

Motion failed. Ordinance is not adopted.

Proposed Fire Code Ordinance/1st Reading

Chairman Krug introduced a proposed ordinance to formally adopt the 2006 International Fire Code as the fire code for Fenton Township. Trustee Goupil, chairman of the Public Safety Committee, stated that this is just a formality to adopt the most up-to-date fire code. The 2006 code was just published this year. There was no public comment. The second reading of the proposed ordinance will be conducted at the 11/3/08 meeting.

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Appointment to Fenton Township Board of Review

It was announced last month that Fenton Township was seeking candidates to fill a vacancy on the Board of Review. The only application received by the Township was from Bev McKenna. Ms. McKenna previously served on the Fenton Township Board of Review from 1991 to 2004 and is well qualified to fill the position. Trustee Goupil

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endorsed Ms. McKenna's appointment. She has a great deal of experience in the real estate business and would be a real asset to the Board of Review. Trustee Ketchmark concurred with Trustee Goupil's comments.

Motion to appoint Beverly J. McKenna to the Fenton Township Board of Review for the term ending December 31, 2008.

Motion by: Ketchmark

Seconded: Tucker

Ayes: Krug, Tucker, Brown, Goupil, Ketchmark, Zimmer

Nays: None

Absent: Mathis

Motion carried.

Pending Litigation – Lands Edge, Inc. vs. Fenton Township

Attorney Cooley reported that the owner of property on Wendell Drive had filed an appeal of the ZBA's denial of setback variances that would allow the construction of a new home. The property owner then filed a takings lawsuit over the same issue. The Circuit Court Judge overturned the ZBA's decision, effectively granting the variances. The status of the takings lawsuit is still pending. Attorney Tim Wilhelm asked the board to authorize action pursuant to the discussions held in the closed session conducted earlier this evening.

Motion to authorize the appeal of Judge Farah's decision in Genesee County Circuit Court Case No. 08-88949-AV to the Michigan Court of Appeals unless Lands Edge, Inc. dismisses the takings lawsuit with prejudice and without any costs and without any further conditions or variances.

Motion by: Tucker

Seconded: Krug

Ayes: Krug, Tucker, Brown, Goupil, Ketchmark

Nays: Zimmer

Absent: Mathis

Motion carried.

BOARD COMMENT:

Chairman Krug reminded everyone to vote on November 4th.

Chairman Krug noted that County Commissioner Pat Lockwood was in the audience and asked if she would like to address the board. Commissioner Lockwood reported that a new Neighborhood Stabilization Program would be announced on 10/21/08. Genesee County has been allocated \$7.5 million to provide emergency to acquire and redevelop foreclosed and abandoned property. This program will be administered through the Genesee County Land Bank. More information will be forthcoming.

PUBLIC COMMENT - AGENDA OR NON-AGENDA ITEMS:

Dave Hawcroft, 3302 Ponemah Drive

Mr. Hawcroft asked if there was any progress in the Settle situation on Lake Valley Drive. Chairman Krug stated that the Township's attorney has advised the board not to discuss the issue since it is under litigation. Mr. Hawcroft also commended Trustee Ketchmark for her opposition to the proposed zoning amendment for Cottage Cove.

Susan Foland, 11421 Fairbanks Road

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Ms. Foland also agreed with the denial of the Cottage Cove zoning amendment. The developer should have anticipated access problems with large equipment.

With regard to municipal water, Ms. Foland asked Trustee Brown for his opinion of the proposed Thompson Road water line. Trustee Brown stated that he believes the approved developments along the Thompson Road corridor would negatively impact the aquifer in that area if water is provided to those developments by private community well systems. For that reason he supports municipal water in this area. Ms. Foland also noted that the last meeting of the Water Steering Committee included only one committee member. Treasurer Tucker clarified that had planned to attend, however the Planning Commission meeting scheduled for that night ran much longer than expected.

ADJOURN: Meeting adjourned at 9:35 p.m.

Robert Krug, Chairman Pro-Tem

Thomas Broecker, Deputy Clerk

Minutes Posted 10/21/08