

**CHARTER TOWNSHIP OF FENTON BOARD OF TRUSTEES
MINUTES FOR REGULAR MEETING OF OCTOBER 3, 2011**

**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, Tucker, Brown, Goupil, Kesler, Attorney Cooley and
Operations Manager Broecker

Absent: None

PLEDGE OF ALLEGIANCE:

The members of Boy Scout Troop 219 led the pledge of allegiance to the flag.

APPROVAL OF AGENDA:

Supervisor Mathis announced that the quarterly Fire Department report will be moved to the 10/17/11 agenda. Motion to approve the 10/3/11 Fenton Township Board Meeting agenda as amended.

Motion by: Tucker

Seconded: Brown

Ayes: All

Nays: None

Motion carried. The agenda is approved.

MEETING MINUTES:

The minutes for the 9/19/11 regular meeting and the 9/26/11 workshop meeting stand approved as presented.

EXPENDITURES:

Motion to approve invoices and expenditures for all funds totaling \$108,450.83 for payment as presented.

Motion by: Tucker

Seconded: Brown

Ayes: Mathis, Krug, Tucker, Brown, Goupil, Kesler

Nays: None

Motion carried.

PUBLIC HEARINGS:

None

REPORTS:

None

COMMUNICATIONS:

None

ADOPTION OF ORDINANCES:

Proposed Outdoor Wood Fired Boilers, Stoves and Furnaces Ordinance/1st Reading

Supervisor Mathis introduced a proposed ordinance to regulate the use of outdoor wood fired boilers, stoves and furnaces, which was reviewed at the 9/26/11 workshop meeting. The use of wood fired boilers is becoming more prevalent and this ordinance will establish standards to regulate this use.

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There was no public comment. The second reading of the proposed ordinance will be conducted at the 10/17/11 meeting.

UNFINISHED BUSINESS:

Resolution No. 2011-12, Loon Lake Improvement Special Assessment Roll

Supervisor Mathis stated that the board conducted a public hearing at the last meeting on a 3-year renewal of the Loon Lake weed control special assessment. Final action on the special assessment roll was delayed while the Township looked into an issue raised during the public hearing. A property owner (Lot 20 of the Lakeside Acres plat) claimed that he did not have lakefront property and should not be assessed. The Township's research found the following:

- Lots 19-27 of the Lakeside Acres subdivision have exclusive access to Pamella Park, a wetland conservation easement that fronts Loon Lake.
- In 2006 the Township Board, based on a Supreme Court ruling, approved a determination that lots 19-27 have riparian access to Loon Lake.
- Lots 19-21, while farther from the lake than lots 22-27, do have access to the lake, with the same riparian rights.
- Lots 19-27 were included in the special assessment rolls adopted in 2003 and 2008.

Based on this information the special assessment roll is being presented to the board for confirmation with no revisions. The assessment per parcel will be \$257.75 in the first year and \$254.17 per year for 2012 and 2013.

Public comment:

Mike Hoedeman, 4254 Neal Court (Lot 20, Lakeside Acres Subdivision)

Mr. Hoedeman, who is also representing the owners of lots 19 and 21, re-asserted his position that these three properties do not benefit from the weed control project and should not be assessed. Although they may have legal access to Loon Lake, legal access is not the same as physical access. He believes that they have no practical way to get to the lake. Mr. Hoedeman also urged the board to consider eliminating this type of special assessment and leave the financial responsibilities to the lake associations.

Supervisor Mathis and Clerk Krug both stated that Mr. Hoedeman could apply to the DEQ for a permit to install a dock across the wetland area.

Treasurer Tucker stated that he is not comfortable trying to determine the quality of a property owner's lake access. If the property have legal access to the lake, they should be assessed for the improvement. If the property owners would like to take the necessary actions to terminate their riparian rights, then removing the properties from the special assessment district could be justified.

Randy Haney, 4206 Neal Court

Mr. Haney agreed with Mr. Hoedeman that lots 19-21 do not have reasonable access to Loon Lake, due to distance, wetlands, detention pond, woods, etc., and should not be assessed.

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Dave Franz, 3435 Breeze Pointe Court

Mr. Franz clarified that the original deed restrictions did not grant lake access to these lots. It was only the interpretation caused by the court decision that made lots 19-27 riparians.

Rick Lutgens, 4289 Cahokia Ridge

Mr. Lutgens, President of the Loon Lake Association, urged the board to continue using special assessments to fund private improvements like lake projects. It is much more efficient that private collection and a vast majority of the property owners appreciate the Township's efforts in managing the special assessments.

Clerk Krug presented the following resolution:

RESOLUTION NO. 2011-12

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 defraying the costs of the weed eradication/control project proposed to be continued within the Loon Lake Improvement Special Assessment District as shown on the plans and specification for such project;

AND WHEREAS, such public hearing was preceded by proper notice in a newspaper of general circulation in the Township, and by First Class Mail notice to each property owner of record within said district and upon said assessment roll;

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

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

AND WHEREAS, a record of those present to protest, and of written protests submitted at or before the public hearing was made a part of the minutes of the hearing;

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 submitted, 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 Fenton Township Special Assessment Roll No. 2011-2 and shall hereby be confirmed as the assessment roll for the Loon Lake Improvement Special Assessment District.

BE IT FURTHER RESOLVED, that the assessments in said Fenton Township Special Assessment Roll No. 2011-2 shall be divided into three annual installments with the first installment due on or before December 1, 2011 and the following installments to be due on or before the first day of December of each year thereafter indicated.

BE IT FURTHER RESOLVED, that future due installments of an assessment against any parcel of land may be paid to the Township Treasurer at any time in full. If

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any installment of a special assessment is not paid when due, then the installment shall be considered to be delinquent and there shall be collected 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 P.A. 188 of 1954, as amended.

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 FURTHER 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.

Motion to adopt Resolution No. 2011-12 as presented.

Motion by: Krug

Seconded: Brown

Ayes: Mathis, Krug, Tucker, Brown, Goupil, Kesler

Nays: None

Motion carried. Resolution declared adopted.

NEW BUSINESS:

Adjustments to Road Improvement Special Assessment Rolls - Byram Lake Drive, Curtwood Drive & Silver Ridge Road and Woodhull Landing

Operations Manager Broecker reported that Byram Lake Drive, Curtwood Drive/Silver Ridge Road and Woodhull Landing were paved in 2002 under three separate special assessment districts, and financed with a single bond issue. The final payment on those bonds is due in the spring of 2012. Unfortunately, due to the number of early special assessment payoffs and declining interest rates over the past decade, the debt service account for these projects will be in a deficit position. Therefore, per Public Act 188 of 1954, (the statute used to establish the special assessments), the Township Board may authorize an adjustment to the final assessment installment for all properties in the special assessment districts. The amount necessary to eliminate the account deficit is \$16,869.43, so each parcel in the district would be adjusted a proportionate amount. The adjusted amounts would appear on the December 2011 property tax bill for each parcel.

Treasurer Tucker and Trustee Goupil expressed concern about having to assess the additional amount to these property owners. Is there any way this could have been avoided? Operations Manager Broecker clarified that the projects were funded with a bond issue with a specific debt schedule (no early payments). As property owners paid off their individual assessments, the Township could only hold those funds on deposit, earning far less in interest than the interest charged on the bonds. In the future the Township could explore the use of installment purchase contracts with local banks to fund projects, which would allow early payments. It was also clarified that the Township could not absorb any of the costs since all three roads are private roads.

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Motion to confirm revisions to the special assessment rolls for the Byram Lake Drive, Curtwood Drive & Silver Ridge Road, and Woodhull Landing road improvement special assessment districts, as presented.

Motion by: Brown
Seconded: Krug
Ayes: Mathis, Krug, Tucker, Brown, Goupil, Kesler
Nays: None

Motion carried.

Proposed Amendments to 2011 Fenton Township Budget

Operations Manager Broecker reviewed proposed amendments to the 2011 Fenton Township Budget. There are several relatively minor revisions in the General Fund, (projected balanced budget), and Fire Fund, (projected small surplus). There are significant changes to the Sewer Fund, primarily due to restructuring the general ledger accounts used. The year-end cash reserves are projected to be approximately \$2 million. There are no proposed amendments to the Solid Waste Management and Mosquito Control funds.

Motion to adopt amendments to the 2011 Fenton Township Budget as presented.

Motion by: Brown
Seconded: Krug
Ayes: Mathis, Krug, Tucker, Brown, Goupil, Kesler
Nays: None

Motion carried.

Appointment to Fenton Township Board

Supervisor Mathis reported that five individuals have submitted their names for consideration to fill the Township Board vacancy created by Ken Hill's resignation. The board discussed the candidates at the 9/26/11 workshop meeting. The board discussed the option of taking action at this meeting versus scheduling a special meeting to give the board an opportunity to meet directly with the candidates before making a final decision. Because the appointment must be made no later than 10/13/11 it was suggested that an attempt to fill the vacancy be made this evening.

Motion to appoint Andrew Marko to the position of Township Trustee for the term ending 11/20/12.

Motion by: Krug
Seconded: Goupil
Ayes: Mathis, Krug, Goupil
Nays: Tucker, Brown, Kesler

Motion failed.

After additional discussion the board agreed to schedule a meeting for Sunday 10/9/11 at 12:00 noon (later changed to 2:00 p.m.).

BOARD COMMENT:

None

PUBLIC COMMENT - AGENDA OR NON-AGENDA ITEMS:

None

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ADJOURN: Meeting adjourned at 9:15 p.m.

Bonnie Mathis, Supervisor

Robert Krug, Clerk

Minutes Posted 10/4/11