

CHARTER TOWNSHIP OF FLUSHING

6524 N. SEYMOUR ROAD
FLUSHING, MICHIGAN 48433
BOARD OF TRUSTEES

DATE: MARCH 12, 2009 TIME: 7:00 P.M.
PHONE: 810-659-0800 FAX 810-659-4212
WEB PAGE: <http://www.flushingtowship.com>

ADMINISTRATION MEMBERS

SUPERVISOR: Donald A. Schwieman
CLERK: Julia A. Morford
TREASURER: William J. Noecker

TRUSTEES

Michael S. Gardner
Scott R. Matzke
Scott P. Minaudo
Mark H. Purkey

TOWNSHIP ATTORNEY:

STEVEN MOULTON
Cooley Moulton & Smith LLP
727 S. Grand Traverse Street
Flint, Michigan 48502

MEETING CALLED TO ORDER at 7:00 p.m. by **SUPERVISOR DONALD a SCHWIEMAN (SCHWIEMAN)** with Roll Call and the Pledge of Allegiance to the American Flag led by Cub Scout Pack 42, Den 7, Weeblos I, from Elms Elementary School (Flushing).

ROLL CALL: Schwieman, Morford, Noecker, Gardner, Matzke, Minaudo, Purkey, and Attorney Steve Moulton

MEMBERS ABSENT: None

OTHER INDIVIDUALS PRESENT: 51 other interested residents

APPROVAL OF THE AGENDA: MORFORD MOVED, seconded by Purkey to approve the Agenda for the March 12, 2009 Board of Trustees Meeting.

ROLL CALL VOTE:

AYES: Gardner, Matzke, Minaudo, Purkey, Morford, Noecker, and Schwieman
NAYS: 0 **MOTION CARRIED.**

APPROVAL OF MINUTES OF FEBRUARY 12, 2009: PURKEY MOVED, seconded by Matzke to approve the Minutes of February 12, with the corrections as follows:

1. **PAGE 2**, New Business, "Continuation of Item Number 1":

Number 2: Vacation and sick days will still be on a forty (40) hour work week; the days off (holiday) will be paid as an eight (8) hour work day.

The holidays are: New Year's Day, Martin Luther King's Birthday, President's Day, Good Friday, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving, Christmas Eve, Christmas Day, and New Year's Eve.

Number 3: There will be shift premiums for second (2nd) and third (3rd) shifts.

Number 5: per the LETTER OF AGREEMENT:

"Employees hired after July 1, 2008 may, if allowed by MERS under the other terms of the parties' 2008-2011 Collective Bargaining Agreement, be placed into the following Defined Contribution Plan rather than the MERS Defined Benefit Plan set forth in the parties Tentative Agreement."

Number 8: The officer's birthday will be given back to the township.

2. **PAGE 6,**

Number 1: Finance Report, Building Department, line 4, “a local resident mentioned. . .what options were available” **changed to** “Larry Birchmeier, a local resident, mentioned that a committee of three (3) (Supervisor, Clerk, and Treasurer) of the Board Members try to sit down with Jerry and see what suggestions he would have.”

ACTION OF THE MOTION:

ROLL CALL VOTE:

AYES: Matzke, Minaudo, Purkey, Morford, Noecker, Schwieman, and Gardner
NAYS: 0 MOTION CARRIED.

APPROVAL OF BILLS: MATZKE MOVED, seconded by Purkey to approve the bills as presented.

ROLL CALL VOTE:

AYES: Minaudo, Purkey, Morford, Noecker, Schwieman, Gardner, and Matzke,
NAYS: 0 MOTION CARRIED.

PRESENTATIONS:

1. JOHN DALY, DIRECTOR OF THE GENESEE COUNTY ROAD COMMISSION

JOHN DALY (DALY) stated that 2009 would be an interesting year for the Genesee County Road Commission (Road Commission) with regards to roads. Facts are:

- a. There have already been three (3) frost cycles where the ground has frozen, a warm trend occurred where the temperatures were 40 degrees and stayed there for three (3) days and melted everything with the water getting into the cracks on the roads, and then refroze.
- b. Expenditures for snow and ice removal, for the period of October 1, 2008 through February 2009, showed twenty-three (23%) percent more was spent this year than last year. Reasons: 1) weather and 2) salt was seventeen (17%) percent higher than last year.
- c. Construction Season:
 - a. Paving of Elms Road to start early August 2009 and completed by October 30, 2009 and will run from River Road to Flushing.
 - b. There will be construction work on Coldwater Road.
- d. Genesee County was second in the State for receiving funds from the Stimulus Package in terms of funds for infrastructure. The primary purpose was to put people back to work and stimulate the economy with jobs and infrastructure is a very good way to achieve the result.
 - 1. There will be a lot of work on the Interstate System
 - 2. Replacement of the M-21 Bridge which would be a carryover from last year.
 - 3. Michigan Department of Transportation (MDOT) will be starting the installation of intelligent transportation systems on the state trunk lines. (Billboards with messages such as “Traffic Jam Ahead”, etc.). The driver would then have more flexibility to make a decision as to whether to stay on the road or get off at an exit.
- e. Decreased level of services on local roads:
 - 1. Particularly the subdivision roads.
 - 2. Letter was received from the Department of Treasury that projected the Michigan Transportation Funds (MTF) would be down 4.88 percent this year. (MTF = Fuel tax funds to support roads which is 30% of the Road Commission’s operating budget). Principal source for maintenance dollars.
- f. Prioritizing Services:
 - 1. Every year a team is sent out to evaluate the roads so in a range of 1 to 10
 - a. Number 1 being the worst and needing a new road

- b. If there were two (2) sections of road and they were both in the same condition, the road with the higher volume of traffic would be repaired first.
- c. Funds are distributed through the Genesee County Planning Commission (Flint).
- 2. There would not be any trimming on the sides of roads but would emphasis on clear vision triangles.
- 3. Where there was a really bad pot hole, will review and see how much time to spend on the pot hole; instead of cutting out and fixing would have to patch.
- 4. There will be negotiations next year regarding mowing of the sides of roads.

THANKS JOHN FOR THE GREAT PRESENTATION. . .

2. TOM ENRIGHT, FORMER FLUSHING TOWNSHIP NATURE PARK MANAGER AND HEATHER GRIFFIN, INTERIM PARK MANAGER
TOM ENRIGHT (ENRIGHT) AND HEATHER GRIFFIN (GRIFFIN) started out the presentation by giving “An Understanding of the Flushing Township Nature Park”:

- 1. The Nature Park consists of 130 acres
 - a. Areas are paved for wheel chair use, etc
 - b. Recreation area (cross country, skiing, hiking, walking)
 - c. Meeting place
 - d. Nature observation tower
 - e. Wildlife habitat
 - f. Ecological services
 - g. Increases the property value of surrounding homes
 - h. Increases quality of life
 - i. Self guided interpretive trail
 - j. Nature Park divided into 17 land management areas
 - 1. There are 55 acres of prairie
- 2. Flushing Nature Park is different from most parks because it has a large collection of native plants.
- 3. Benefits of the Nature Park:
 - a. Land stewardship
 - b. Park and Visitor safety and security
- 4. Vision of the Nature Park is to establish premier nature facilities by:
 - a. Support from the Board of Trustees
 - b. Support from the Friends of the Flushing Township Nature Park
 - c. Through grants and donations
- 5. Some of the Native Plants in the Nature Park:
 - a. Trout Lilly
 - b. Trillium
 - c. Blue Lobelia
- 6. Invasive Plants
 - a. Garlic Mustard
 - b. Dames Racket
- 7. Invasive Shrubs
 - a. Multi flora Rose
 - b. Buckhorn
 - c. Autumn Olive
- 8. Services/Grants
 - a. USDA and WHIP Grants are planting seeds
 - b. Controlled Prescribed Burn
 - 1. Good for the environment
 - 2. Creates new soil
 - 3. Rare plants come up after a burn
- 9. Schools that use the Nature Park
 - a. University of Michigan
 - b. Mott College

c. Saginaw Valley State University

THANKS TOM AND HEATHER FOR THE VERY INFORMATIVE PRESENTATION OF THE FLUSHING TOWNSHIP NATURE PARK. . .

8:59 P.M. – OPEN FOR PUBLIC COMMENTS:

Nine (9) individuals gave very interesting opinions.

9:30 P.M. – CLOSED TO PUBLIC COMMENTS

UNFINISHED BUSINESS

1. Approval of Second Reading of an Ordinance to Create a Local Officials Compensation Commission Pursuant to the Authority of MCL 42.6a

ATTORNEY MOULTON stated the Statute allowed the Board to create a Commission that would establish the rate of compensation to be paid to the Elected Officials. In order to establish the commission, there has to be an ordinance. A proposed ordinance was written by ATTORNEY MOULTON with the first reading held on February 12, 2009. The Commission will consist of five (5) township citizens approved by the Board as designated by the Supervisor. The Board will no longer be able to set their own compensation. By State Law, once an Elected Official’s term has begun, the compensation could not be reduced.

The compensation issue stemmed when NOECKER wanting to take a twenty-five (25%) percent reduction in his total compensation package. ATTORNEY MOULTON recommended having a Compensation Commission which would give five (5) residents the honor of recommending the pay wages for the Elected Officials.

MINAUDO MOVED, seconded by Noecker to approve the second reading of AN ORDINANCE TO CREATE A LOCAL OFFICIALS COMPENSATION COMMISSION PURSUANT TO THE AUTHORITY OF MCL 42.6a.

ROLL CALL VOTE:

AYES: Purkey, Morford, Noecker, Schwieman, Gardner, Matzke, and Minaudo

NAYS: 0 MOTION CARRIED.

2. Amendments to the General Fund Budget

SCHWIEMAN stated there would be a Special Meeting on Thursday, March 26, 2009 at 7:00 p.m. that would deal strictly with budgetary issues.

DISCUSSION FROM BOARD MEMBERS:

1. PURKEY stated there had been a Special Meeting held with MERS and more money would have to be budgeted in the next two (2) or three (3) years for the retirement pension funds for all the employees.
2. SCHWIEMAN stated the Board was committed to funding the retirement fund.
3. GARDNER is in the process of investigating the money that is being spent on cemeteries which the township jointly shares with the City of Flushing. (Budget, Page 5, Public Services).

3. Approval of Flushing Township Police Department Patrol Officers’ Retirement Contract

SCHWIEMAN recommended moving the Patrol Officers’ Retirement Contract to the Special Meeting to be held on March 26, 2009 and change the issue to an insurance matter because the township has to provide identical insurance to all the employees.

4. Petty Cash Amendments

NOECKER MOVED, seconded by Minaudo to implement a new procedure for co-pay reimbursements called “*Prescription and Office Calls Co-Pay Reimbursement Request Form*” which would provide that all future payments to be paid by check only from a

line item No. _____ 000-716-002, thus allowing the Treasurer to issue pre-approved checks under item No. 6, *Insurance*, page 31 of the *Charter Township of Flushing Administrative Policies and Procedures Manual*.

ROLL CALL VOTE:

AYES: Matzke, Minaudo, Purkey, Morford, Noecker, Schwieman, and Gardner

NAYS: 0 MOTION CARRIED.

PER CHIEF DOUG KENNEDY, the Flushing Township Police Department will no longer need extra petty cash money since the insurance co-pays will be taken care of in a different matter.

NOECKER MOVED, seconded by Gardner that future Flushing Township General Petty Cash Fund expenditures not exceed \$5.00 unless approved in writing by two (2) out of three (3) members consisting of the Supervisor, Clerk, or Treasurer then not to ever exceed \$20.00.

DISCUSSION:

1. **GARDNER** would like to see, at each Board Meeting, a report as to what was spent on Petty Cash.

GARDNER MOVED, seconded by Minaudo to amend the motion, on the floor, to during each regular Board Meeting a report of Petty Cash Expense will be supplied to the Board under the Treasurer’s Report.

DISCUSSION:

1. **MORFORD** stated in the *Charter Township of Flushing Policies and Procedures Manual*, the amount for Petty Cash Fund was \$250.00.

ACTION OF THE MOTION:

ROLL CALL VOTE:

AYES: Gardner, Matzke, Minaudo, Purkey, Morford, Noecker, and Schwieman

NAYS: 0 MOTION CARRIED.

NEW BUSINESS

1. Review of Property at 9060 Carpenter Road

MINAUDO stated the issue of the property at 9060 Carpenter Road has continued for approximately the last three (3) to three and one-half years (3 ½) years regarding trees on the Scoble property which backs up to the Kreutzfeldt property which has a sump pump problem.

ATTORNEY MOULTON brought the Board up to date regarding John and Kay Kreutzfeldt and Frances Scoble. Mr. & Mrs. Kreutzfeldt live on Carpenter Road; Mrs. Scoble lives on McKinley Road. The previous determination had been that the issue was a private nuisance that constituted a public nuisance. Opinions have been given from both sides. **MINAUDO** felt the issue should have been handled from the beginning as a civil matter.

MINAUDO MOVED, seconded by Gardner that the Township enforces the State of Michigan building code ordinances, Section 101.4.5, Section 101.4.6, Section 307.1, and Section 304.1.2, as they relate to the property at 5027 N. McKinley Road. This enforcement is to occur within the next ten (10) business days. If the resident does not comply in this time period, the Township will immediately remove the fire hazard and add the costs to the tax bill on that property.

DISCUSSION:

1. **PURKEY** inquired from **ATTORNEY MOULTON** as to his opinion regarding the Township not having jurisdiction over the issue. **ATTORNEY MOULTON** stated Mr. & Mrs. Kreutzfeldt have their own attorney which provided

information to **ATTORNEY MOULTON** in what he believed to be the correct interpretation of the law. A lot of time and money has been spent in taking a hard look into the matter in an attempt to reach the correct result. If the circumstances still remain the same **ATTORNEY MOULTON** stands by his previous recommendation to the Board that there isn't a basis to find a public nuisance in this situation, therefore, there isn't a basis for the township.

2. **MINAUDO** wanted to know if the Township should still enforce State Law as applied.
3. **ATTORNEY MOULTON** stated his opinion; there wasn't a violation of either State or Township law.
4. **NOECKER** saw the issue as a private neighbors' issue which would take the issue to civil court. A similar issue had taken place in 2004 regarding fire runs with the City of Flushing where the township would charge \$500.00 against property owners' taxes.
5. **GARDNER** felt the issue was a property rights issue and felt the issue would be "how many trees would be allowed on an individuals property".
6. **SCHWIEMAN** stated he agreed with **GARDNER**.
7. **MORFORD** felt the township should never have gotten involved in the issue.
8. **PURKEY** felt the township hired an attorney for a reason and this was **ATTORNEY MOULTON'S** Opinion and the township should follow the opinion.

OPINIONS FROM THE COMPLAINANTS:

1. John Kreutzfeldt made reference to a letter dated March 20, 2007 by **ATTORNEY MOULTON**:
 - a. a tree had fallen on Kreutzfeldt's house on April 16, 2007
 - b. the ordinance defines a nuisance as "any person suffering or permitting any condition or thing to be or exist which injures or endangers the comfort, repose, health, or safety of others in any way renders other persons insecure and life for the use of property or tends to depreciate the value of the property of others."
 - c. property owner had ten (10) days to correct the nuisance; township did not follow up.
 - d. fallen tree caused \$10,000.00 worth of damage to Kreutzfeldt's house; Mrs. Kreutzfeldt was standing by the window five (5) minutes prior to the tree hitting the house.
 - e. Kreutzfeldt had a concern regarding the opinion of the fire inspector regarding his backyard.
 - f. Kreutzfeldt would like any trees that are diseased and top heavy be removed.
 - g. Kreutzfeldt expected the Board to enforce State Fire Laws, an ordinance that was cited by the Fire Code Expert for Genesee County.

SUPERVISOR SCHWIEMAN REITERATED KREUTZFELDT'S CONCERN TO BE: 1. Fire Hazard and 2) Tree may fall on the shed. (The shed was built after the trees were cut down.)

2. **Scoble Family – Son in Law to Mrs. Scoble**

- a. Felt the issue should be a civil matter
- b. Felt the trees died because of the water that flooded the area from the sump pump on the other property owner
- c. Considered the issue closed and wanted people to stay off her property.

COMMENTS FROM THE BOARD:

1. **MINAUDO:** most of the Board Members have visited the Carpenter Road property and nothing has been resolved.
2. **PURKEY:** township is paying for Township Attorney to handle the issue so, Board should stand behind his opinion
3. **GARDNER:** (to Mr. Kreutzfeldt) did the offer still stand if there was a voluntarily meeting of the minds to remove some of the trees that had been cut down. **MR KREUTZFELDT** felt it was totally unfair to have him (Mr.

Kreutzfeldt) pay to resolve the issue. **NOECKER:** wanted to know exactly how many trees were involved. **MRS. KREUTZFELDT** stated it was six (6) trees.

ACTION OF THE MOTION:

ROLL CALL VOTE:

AYES: Minaudo

NAYS: Noecker, Schwieman, Gardner, Matzke, Purkey, and Morford

MOTION FAILED.

2. 2006-2014 Lateral Sewer System Operation and/or Maintenance Agreement

Mid-Michigan Manufacturing of Mt. Morris, Michigan is currently doing the maintenance on the sewer system, etc. at a better cost to the Township.

3. Approval of New Health Insurance for Teamsters Local 214

The Health Insurance issue for Teamsters Local 214 will be discussed at the Special Board of Trustees Meeting on Thursday, March 26, 2009.

4. Approval for Building Inspector to attend Code Officials Conference at Kalamazoo

NOECKER MOVED, seconded by Matzke to send the Building Inspector to the *Code Officials Conference* in Kalamazoo, Michigan and support with approximately \$375.00 to fund the conference.

DISCUSSION:

1. **MORFORD** stated the Building Inspector would be staying the Super 8 Hotel instead of the Radisson in order to save money.
2. **SCHWIEMAN** stated that whatever happened with the Building Department, the Township was still on track to support the Building Inspector and to keep him certified.

ACTION OF THE MOTION:

ROLL CALL VOTE:

AYES: Morford, Noecker, Schwieman, Gardner, Matzke, Minaudo, and Purkey

NAYS: 0 MOTION CARRIED.

5. Approval for Supervisor to attend Michigan Association of Township Supervisors Conference at Mt. Pleasant, Michigan

SCHWIEMAN declined to attend the Conference.

6. Discussion of Elected Officials Absenteeism from Board Meetings

MINAUDO MOVED, seconded by Gardner that no Elected Official misses more than three (3) Regular Board Meetings, Special, or other Board Meetings. If an Elected Official is absent, they lose the amount for the month (after the third (3rd) absence) of the wage of a Trustee for the month.

ATTORNEY MOULTON stated he understood the reason for the action but wasn't sure because it would be a reduction in salary as an Elected Official.

DISCUSSION:

1. **GARDNER** stated he thought two (2) Board Members could compel a Board Member to attend a meeting.
2. **SCHWIEMAN** felt that if the proposed Compensation Commission for the next Board put the Compensation per meeting, then the idea could be instituted with a certain amount of wages per meeting.

- 3. **MINAUDO** decided to leave the issue up to the Compensation Commission.
- 4. **ATTORNEY MOULTON** stated the Compensation Commission’s recommendation would not apply to the current Elected Officials but would apply to the term starting 2012 and they (Compensation Commission) could suggest to the Board that compensation be placed on a “per meeting” basis. The Board Member would not be entitled to the compensation unless the Member attended the meeting.

MINAUDO WITHDREW THE MOTION.

COMMITTEE REPORTS:

1. Parks and Recreation Committee:

SCHWIEMAN read a motion that was passed by the Parks and Recreation Committee which stated:

“The Flushing Township Nature Park has now been in existence for over 15 years. It has evolved from 130 acres of vacant farm land into what many of our citizens considers being the “crown jewel” of the township.

The well-over one million dollars of non-tax money derived from grants and Comcast/Cell Tower fees has been money well spent. The improvements have been remarkable and the public participation has steadily grown each and every year. Our Park Manager Tom Enright has instituted educational and recreational events too numerous to list from K through 12 activities, Boy and Girl Scout programs, various holiday events and the list goes on and on.

This Committee has spent years working on these park improvements, promoting the facility, and providing the materials that our manager needed for his many programs.

Our duty is clear: We need to do all we can to encourage our township leaders to continue the past non-tax financial support of the park and maintain a full-time qualified Nature Park Manager.

Therefore, I move that the above statement be read by the Chairman of this Committee at the next regular meeting of the Flushing Township Board of Trustees and the statement receive the approval of this committee. I am requesting a Roll Call Vote.”

COMMENTS FROM THE BOARD:

- 1. **PURKEY** felt that Heather Griffin has shown an interest and he would like to give her the opportunity to manage the Park either Full Time or Part Time.
- 2. **GARDNER** stated the reason he had wanted to be so clear with his questions to Former Park Manager Tom Enright was because items like this are being spoken, cringed, and voted on in which the phrase “the well over \$1,000,000.00 of non-tax money is derived from grants and the past non-tax financial support of the Park.” He felt there were conflicting facts.
- 3. **SCHWIEMAN** stated there were facts that needed to be brought to the next Parks and Recreation Committee and also the Special Board of Trustees Meeting on Thursday, March 26, 2009.

REPORTS:

- 1. **Treasurer’s Report:** **GARDNER MOVED**, seconded by Purkey to accept the Treasurer’s Report.

NOECKER stated the facts:

- a. “Bids” had been taken on the Ford Crown Victoria and Chevrolet Pick Up Truck and the merchandise has been delivered
- b. Delinquent Taxes reported to Genesee County were \$520,458.66 for 2008; 2007 was \$492,576.00.

- c. Budgets have been updated with concerns areas being the Police Department and the Building Department.

ACTION OF THE MOTION:

ROLL CALL VOTE:

AYES: Schwieman, Morford, Noecker, Gardner, Matzke, Minaudo, and Purkey

NAYS: 0 MOTION CARRIED.

2. **Building Department: MINAUDO MOVED**, seconded by Morford to accept the Building Inspector's Reports.

BUILDING PERMITS ISSUED:

NEW HOMES	0
ACCESSORY BUILDINGS	0
DECKS	0
REMODELING	0
ADDITIONS	1
GARAGES	0
FENCE PERMITS	0
ROOF REPAIR	0
POOL	0
COMMERCIAL	0
SIGN	0
TOTAL PERMITS ISSUED	1
PERMIT VALUATION FOR FEBRUARY 2008	\$ 70,000
PERMIT VALUATION FOR FEBRUARY 2009	37,800
PERMIT FEES COLLECTED FOR FEBRUARY 2009	\$ 189
TRAILER INSPECTIONS	0
TRASH AND RECYCLING CHARGES	0
SPECIAL USE PERMITS	0
HOME OCCUPATION PERMITS	0
EARTH REMOVAL PERMITS	0
VARIANCE REQUEST	0
REZONING REQUEST	0
CODE BOOKS	0
FOR A TOTAL OF	\$ 189
CONSTRUCTION TO DATE FEBRUARY 2008	99,000
CONSTRUCTION TO DATE FEBRUARY 2009	66,800
FOR A DECREASE OF	\$ 32,200

ACTION OF THE MOTION:

ROLL CALL VOTE:

AYES: Gardner, Matzke, Minaudo, Purkey, Morford, Noecker, and Schwieman

NAYS: 0 MOTION CARRIED.

10:30 P.M. PUBLIC COMMENTS OPEN:

One (1) person gave an Opinion.

10:40 P.M. PUBLIC COMMENTS CLOSED

BOARD COMMENTS:

1. **GARDNER** stated the Clerk had stated, at the last Board of Trustees Meeting, she had an issue with decreasing the benefits during the January 2009 Meeting. At the December 11, 2008 Meeting, **GARDNER MOVED**, seconded by Morford to have a discussion regarding the elimination of the cafeteria plan, life and disability insurance, dental, vision and pension plan. He (Gardner) had requested to have the issue on the January 2009 Agenda.
2. **NOECKER** will be giving back, to the Township, twenty-five (25%) of his total compensation package the first year he is in office, then submit to the will of the Compensation Commission.

THE NEXT BOARD OF TRUSTEES MEETING IS SCHEDULED FOR THURSDAY, APRIL 9, 2009 AT 7:00 P.M.

ADJOURNMENT: Due to lack of further business, **SCHWIEMAN** adjourned the meeting at 10:50 p.m.

JULIA A. MORFORD, Clerk

DONALD A SCHWIEMAN, Supervisor

APPROVED DATE: _____