

CHARTER TOWNSHIP OF FLUSHING

6524 N. SEYMOUR ROAD

FLUSHING, MICHIGAN 48433

BOARD OF TRUSTEES MINUTES

DATE: JULY 14, 2011

TIME: 7:00 P.M.

PHONE: 810-659-0800

FAX 810-659-4212

WEB PAGE: <http://www.flushingtowship.com>

ADMINISTRATION MEMBERS

SUPERVISOR: Terry A. Peck

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 TERRY A. PECK** with Roll Call and the Pledge of Allegiance to the American Flag.

ROLL CALL: Terry A. Peck, Julia A. Morford, William J. Noecker, Michael S. Gardner, Scott R. Matzke, Scott P. Minaudo, Mark H. Purkey, and Attorney Steve Moulton

MEMBERS ABSENT: None

OTHER INDIVIDUALS PRESENT: Thirty-two (32) other individuals

APPROVAL OF THE AGENDA: MINAUDO MOVED, seconded by Noecker to amend the Agenda by adding under "New Business" letter "f", *Resolution to Adopt Millage Consolidation, Replacement, and Extension Proposal for Flushing Charter Township*; and letter "g", *Flint Area Reinvestment Shared Services*.

ACTION OF THE MOTION

AYES: 7

NAYS: 0

Motion Carried.

APPROVAL OF PREVIOUS MINUTES: PURKEY MOVED, seconded by Minaudo to approve the Minutes of June 9, 2011 as presented.

ACTION OF THE MOTION

AYES: 7

NAYS: 0

Motion Carried.

APPROVAL OF PAYMENT OF BILLS: MINAUDO MOVED, seconded by Gardner to pay the bills as submitted.

DISCUSSION:

There was a question on Page 5 regarding a Speedway Bill. It was determined the Flushing Township Police Department's "Crash Dummies" were loaned out to Sanilac County and the Chief had to pick up the "Dummies" and had to purchase gas. Normally the township gas is purchased from the Flushing Community Schools bus barn.

ACTION OF THE MOTION

AYES: 7

NAYS: 0

Motion Carried

UNFINISHED BUSINESS:

1. **Second Reading of AN ORDINANCE TO AMEND CHAPTER 4 OF THE CODE OF ORDINANCES TO ADD SECTIONS 4-4 THROUGH 4-10 TO DEFINE “VICIOUS DOG”; TO REGULATE THE KEEPING OF A VICIOUS DOG; TO REQUIRE THE REPORTING OF VICIOUS DOGS; AND TO PROVIDE FOR THE ENFORCEMENT OF THE ORDINANCE, INCLUDING MAKING A VIOLATION A 90 DAY MISDEMEANOR SUBJECT TO A FINE OF UP TO \$500.00 AND/OR 90 DAYS IN JAIL**
2. **MORFORD MOVED**, seconded by Matzke to approve the second reading of AN ORDINANCE TO AMEND CHAPTER 4 OF THE CODE OF ORDINANCES TO ADD SECTIONS 4-4 THROUGH 4-10 TO DEFINE “VICIOUS DOG”; TO REGULATE THE KEEPING OF A VICIOUS DOG; TO REQUIRE THE REPORTING OF VICIOUS DOGS; AND TO PROVIDE FOR THE ENFORCEMENT OF THE ORDINANCE, INCLUDING MAKING A VIOLATION A 90 DAY MISDEMEANOR SUBJECT TO A FINE OF UP TO \$500.00 AND/OR 90 DAYS IN JAIL

ACTION OF THE MOTION:

ROLL CALL:

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

NAYS: 0

Motion Carried

3. **FIRST READING OF AN ORDINANCE TO PROHIBIT MEDICAL MARIJUANA DISPENSARIES AND TO PROHIBIT THE POSSESSION, STORAGE, TRANSFER OR SALE OF MEDICAL MARIJUANA, EXCEPT AS EXPRESSLY PROVIDED IN THE MICHIGAN MEDICAL MARIJUANA ACT**

PURKEY MOVED, seconded by Gardner to postpone the issue of medical marijuana indefinitely.

DISCUSSION:

The Planning Commission has spent almost a year discussing the subject with information which was obtained from Rowe Engineering, a Professor from Cooley Law School, and Michigan Townships Association (MTA) seminars. It was recommended by the Cooley Law School Professor, and the Planning Commission agreed, that the best thing for a township to do with medical marijuana was to not do anything.

Flushing Township Attorney Steve Moulton (Attorney Moulton) understands the frustration; part of the problem is that the Court cases and related laws regarding the medical marijuana issue change so fast it is hard to pin point as to what the local ordinance should say. One of the Circuit Court Judges in Midland County recently ruled that the Federal Government has completely pre-empted the regulation control substance. Marijuana is a schedule one controlled substance and the State of Michigan could not enact a statutory scheme in violation of the Federal Law. In other words, the Medical Marijuana Act has been pre-empted by Federal Statute and not enforceable. The case is currently only a Circuit Court case. The case will make it way up to the Court of Appeals and if that decision stands and is affirmed by the Court of Appeals, then there is nothing to do with the medical marijuana ordinance.

ACTION OF THE MOTION

AYES: 7

NAYS: 0

Motion Carried

4. Update for Sale of Six (6) Acres on Duffield Road

The issue will be discussed in Closed Session.

5. Update on Policies and Procedures Manual

Page 1 of the Policies and Procedures Manual entitled “*Welcome to the Charter Township of Flushing*” was signed by all seven (7) Charter Township of Flushing Board Members.

6. Building Security

Updates: The Board wants to work with the employees to make them feel safe. Different ideas have been proposed such as: cameras in the office and parking lot, the use of Plexiglas on the front counter in the Main Office, panic button, etc. Estimates ranging from \$2,000.00 to \$4,000.00 have been received. Three (3) chiefs have recommended the Board to something for Building Security. When it is determined the best route to go as for the safety of the employees, more bids will be received.

A decision was not made.

7. Misteguay Creek Intercounty Drain

- a) **GARDNER MOVED**, seconded by Purkey to pay the \$445.06 to Maple Grove which would end Flushing Township’s obligation.

DISCUSSION:

Several months ago, Flushing Township approved \$500.00 for the Misteguay Creed Intercounty Drain joint lawsuit; the case was dismissed. The first bill Flushing Township received for the lawsuit was for \$294.00; there is a second bill for \$445.06 which needs approval, which would bring the total up to \$739.06.

Another appeal has been made but there were only six (6) townships which were involved, but none in Genesee County.

ACTION OF THE MOTION:

ROLL CALL:

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

NAYS: 0

Motion Carried

- b) **NOECKER MOVED**, seconded by Gardner for the Township to join in the appeal process with the other five (5) municipalities (Caledonia, Hazelton, Maple Grove, New Haven, and Venice) to rejoin the group in the appeal process not to cost us over \$1,000.00 for the next twelve (12) months.

DISCUSSION:

The Misteguay Creek issue originated in Albee Township. Flushing Township Treasurer has been contacted by the Maple Grove Township Supervisor regarding Flushing Township being involved in the appeal so there would be one-hundred (100%) percent involvement in the appeal process. The legal council is highly recommended and is the legal council for Michigan Township Association (MTA). It was mentioned, by Attorney Bauckham of Bauckham, Sparks, Lohrstorfer, Thall & Seeber, P.C, that if the appeal went forward, the top price would be no more than \$15,000.00; the cost to Flushing Township, if we joined, would be no more than \$645.00. Flushing Township can get out of the appeal at any time; the appeal would bind the ability to sell bonds for the project and cause the agency to negotiate with the other eight (8) entities.

It was felt by paying the \$1,000.00 toward the appeal process, it would prevent the township from having to pay the \$1.8 million which had been quoted by the Supervisor from Albee Township at a previous Flushing Board of Trustees Meeting. Supervisor Peck stated he heard the price could go as high as \$10,000,000.00.

It was felt the process should be scaled down and do some repairs for five (5) years and have more like a maintenance program rather than fixing everything brand new.

ACTION OF THE MOTION:

AYES: 7
NAYS: 0
Motion Carried

NEW BUSINESS:

1-a. Web Presentation by Antimatter Technologies

NOECKER MOVED, seconded by Purkey to accept and pay the \$1,000.00 to Antimatter Technologies for a new Web Site.

DISCUSSION:

The system is new and can be done in house and will be very user friendly. The roll is to get the information out to the public for such issues as taxes on line, meeting minutes, agendas, nature park, calendar of events, etc. The changes will be made by the Clerk.

The cost of developing, customization, and optimization the Flushing Township Web Page is a one time cost of \$1,000.00; when there are problems, Mr. Grace will be contacted. The normal price would be between \$7,000.00 and \$13,000.00.

Once the web has been formed, it was recommended that Mr. Grace not be on the Web Committee since he would be considered a private contractor. Attorney Moulton, recommended that Mr. Grace not be a Web Committee Member (a voting member); Mr. Grace can attend the meetings; he will be considered on a 1099 Basis.

Since Mr. Grace lives in the township he felt he should do something for the community. Supervisor Peck un-appointed Mr. Aaron Grace from the Web Committee.

ACTION OF THE MOTION

ROLL CALL VOTE:

AYES: Purkey, Morford, Noecker, Peck, Gardner, Matzke, and Minaudo
NAYS: 0
Motion Carried.

1-b. Approve June Monthly Budget

NOECKER MOVED, seconded by Purkey to approve the June Monthly Budget.

ACTION OF THE MOTION

AYES: 7
NAYS: 0
Motion Carried

1-c. 2011 MAA Assessors Continuing Education Registration for Assessor Dennis Judson

PURKEY MOVED, seconded by Matzke to approve Assessor Dennis Judson attending assessor classes at Grand Rapids and Traverse City, Michigan.

DISCUSSION:

The classes will be held at Grand Rapids on September 28-30, 2011 and Traverse City on October 5-7, 2011.

ACTION OF THE MOTION:

ROLL CALL VOTE:

AYES: Morford, Noecker, Peck, Gardner, Matzke, and Minaudo
NAYS: 0
Motion Carried

1-d. Nationwide Deferred Compensation Investment Options

NOECKER MOVED, seconded by Gardner to approve and adopt the Nationwide Retirement Solutions Deferred Compensation Plan for public employees 457 Governmental Plan and Trust as a restated plan in substitution of the existing 457 Plan and maintained by the Township with Nationwide Retirement Solutions effective January 1, 2011; and authorization is also requested (by the Treasurer) to sign on behalf of the Township the following documents to be implemented adoption of the Nationwide 457 Plan and Trust. The Planned Document, the Roth 457 B Provision, fax sheet and signature page to Roth 457 B Amendment, Transition Support and Service Agreement, and Transition Support and Service Signature Card.

DISCUSSION:

The program has been amended and restated the 457 Plan available to governmental employees. Flushing Township is already a participant of the previous 457 Plan. A number of changes have been made in the Internal Revenue Code with respect to 457 Plans; the revised plan incorporates the changes. Now there is a specific Provision in the Code that allows Roll Over's to Roth IRA's to enable Plan participant to avail themselves the feature. There are two (2) other Agreements that Nationwide will provide to its participants at no cost to the planned participant or to the Township. It is something the township board should approve in order for the participants who are in the 457 Plan can continue in the Plan without any interruption; most of the employees in the Nationwide Retirement Plan are retired but are still participating in the program and the township needs to keep the plan up to date.

The Supervisor stated that since he is the signing agent for the township, should the Treasurer sign the proposed documents.

ACTION OF THE MOTION:**ROLL CALL:**

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

NAYS:

Motion Carried

1-e. Ambulance Services

Scott Fraim, Attorney and Member of the Swartz Ambulance Service Board of Directors, along with two (2) other members of the Ambulance Service, were in attendance to update the Flushing Township Board of Trustees regarding a former Genesee County Ambulance Ordinance. Some background facts:

- December 2007 – Genesee County adopted an ordinance that provided that the County had given themselves the right to choose one (1) or two (2) ambulance services to serve the entire County. They could chose one provider to service the whole County or two (2) - one (1) provider to service the Northern half and another provider to service the Southern half.
- The ordinance would have made it illegal for any other ambulance providers to operate in Genesee County.
- Swartz Ambulance Service and Patriot Ambulance Service objected to the ordinance so decided to challenge the ordinance for the preservation of the locally owned and operated ambulance companies, because normally there are between eight (8) and ten (10) ambulance companies operating in Genesee County.
- Swartz Ambulance Company, along with C & M Ambulance Company, challenged the ordinance. C & M was forced out of business at the early stages of the litigation. The challenge went on for over three (3) years (until April 2011).
- April 2011 – Genesee County repealed the ordinance and no longer the threat to the locally ambulance companies.
- Due to the size and service are, there wasn't one locally owned ambulance service in the County that could handle the size of one-half (1/2) of the County. Most providers felt they would not be chosen by the County to be one of the providers and would be forced out of business.

- Local companies can not operate in Genesee County.
- Competition among providers which provided better service instead of a monopoly.
- New Ideas:
 1. 9-1-1 – medical dispatch center; updated ambulance service through the AVL (Automobile Vehicle Locator) so would know where nearest ambulance is located
 2. Genesee County allowed direct radio contact with 9-1-1
 3. Use of laptop computers inside ambulances – 9-1-1 would be able to send information to computers in the ambulances when in route to an emergency so would have the address, etc.
 4. After appeal of the ordinance, companies are now free to pursue better service to communities and expand their business
 - a. One ambulance for 24 hours costs \$350,000.00 per year to operate.
 - b. Promote locally ambulances
 5. Better to have a local owned company
 6. Swartz is the largest locally owned company in the County and hopes to be an important part of the community since it moved back into the Flushing area.
 - a. Swartz has 110 employees
 - b. There have been 205 ambulance calls since May 6, 2011 at the Flushing Office.

Questions/Answers:

- Dispatched by the closest ambulance
- Some communities do not have the call volume to support an ambulance
- Swartz is here to serve, not asking for anything in return

1-f. Flint Area Reinvestment Shared Services

MORFORD MOVED, seconded by Noecker to postpone the issue until the township gets more information.

ACTION OF THE MOTION

AYES: 7

NAYS: 0

Motion Carried

1-h. 8:06 P.M. ADJOURNED TO CLOSED SESSION

GARDNER MOVED, seconded by Noecker that the Board meet in Closed Session for two (2) separate reasons: 1) to discuss the possible sale of the Duffield Road property the issue is subject to a written Attorney’s Opinion MCL 15.268(h) and 2) to discuss an issue regarding the on going negotiations regarding the patrol officers’ collective bargaining agreement MCL 15.268(C).

ACTION OF THE MOTION:

ROLLCALL VOTE:

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

NAYS: 0

Motion Carried

8:50 P.M. RE-CONVENE TO REGULAR SESSION

MINAUDO MOVED, seconded by Purkey to re-convene to regular session for the Board of Trustees

ACTION OF THE MOTION:

ROLLCALL VOTE:

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

NAYS: 0

Motion Carried

1-i Resolution to Adopt Millage Consolidation, Replacement, and Extension Proposal for Flushing Charter Township

NOECKER MOVED, seconded by Minaudo to approve the Resolution to Adopt Millage Consolidation Replacement and Extention Proposal for the Flushing Charter Township.

**RESOLUTION TO ADOPT MILLAGE CONSOLIDATION,
REPLACEMENT AND EXTENSION PROPOSAL
Flushing Charter Township, Genesee County
Resolution Number 2011- _____**

WHEREAS, the Township Board of Flushing Charter Township wishes to consolidate and replace the existing police millages at their current level, and extend the consolidated replacement millage for levy through 2016; and

WHEREAS, the Township may provide police services as authorized by MCL 41.801, *et seq*, and other applicable statutes, and may authorize and levy *ad valorem* property taxes to finance police purposes under the Michigan Constitution of 1963 and other laws; and

WHEREAS, the electors of Flushing Charter Township previously authorized millages that originally totaled 5.5777 mills to be levied for township police purposes; and

WHEREAS, the previously-authorized millages for township police purposes were reduced to a total of 3.4114 mills in 2011 by the required millage rollbacks; and

WHEREAS, the previously-authorized millages for township police purposes will expire in 2013 and 2014; and

WHEREAS, the Township Board of Flushing Charter Township wishes to consolidate and replace the previously-authorized millages for township police purposes, and extend the consolidated replacement millage for five (5) years, 2011 through 2016 inclusive, at 3.4114 mills;

NOW, THEREFORE, BE IT RESOLVED that the Township Board of Flushing Charter Township, Genesee County, approves the following millage proposal language and directs the Clerk to submit it to be placed on the November 8, 2011, election ballot:

**Flushing Charter Township
Proposal to Consolidate, Replace and Extend Police Millages**

Shall Flushing Charter Township be authorized to consolidate and replace existing Township police millages currently totaling 3.4114 mills (\$3.114 per \$1,000 of taxable value) with a consolidated replacement millage totaling that same amount, and shall the Township be authorized to levy the consolidated replacement millage for police purposes within the Township for a period of five (5) years, 2011 through 2016, inclusive? If approved, this millage would consolidate and replace the existing police millages, and would raise an estimated \$825,480.00 in 2011.

Yes _____

No _____

Motion made by William Noecker and supported by Scott Minaudo.

Roll call vote:

Yes: _____

No: _____

The Supervisor declared the resolution adopted.

CERTIFICATE

I, Julia Morford, the duly elected and acting Clerk of Flushing Charter Township, hereby certify that the foregoing resolution was adopted by the Township Board by a roll call vote at a regular meeting of the Board held on _____, 2011, at which meeting a quorum was present; and that this resolution was ordered to take immediate effect.

Julia Morford, Clerk

DISCUSSION:

The three (3) previous millages will be consolidated. It was suggested that the time frame for the expiration of a millage be on a Presidential Cycle. The millage rate would stay the same; there would not be an increase. If the millage failed, there would still be time to go back to the residents in one (1) year.

Flushing Township will be responsible for the entire cost of the November Election because there isn't any County-wide or School elections to help with the cost.

ACTION OF THE MOTION:

ROLL CALL VOTE:

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

NAYS: 0

Motion Carried

COMMITTEE REPORTS:

None

REPORTS:

1. **Treasurer's Report:** As presented.
 - a. **Plante Moran Meeting** – the draft meeting was held with Plante Moran; very good audit; no audit adjustments were needed
 - b. **MERS** – annual actuarial meeting was held with MERS Representative Mike Strader; actuarial is available to the public through the Freedom of Information Act; last year unfunded liability to MERS was \$1,999,258.00; for 2010 \$2,311,000.00.
 - c. **Seminar with Plante Moran** – the Treasurer recently attended an all day Seminar in Detroit; very educational and informative; no cost to the township
 - d. **Garage Sale** - proceeds from the garage sale amount to \$1,180.50
 - e. **2006 Ford Crown Victoria Police Cruiser** – recently sold for \$1,500.00
 - f. **Treasurer's Report:**
 - 1 new changes in the format for the Treasurer's Report
 - a. transferred money to a Chase High Yield Saving Account with .45 percent interest
 - b. at the Plante Moran was told that most municipal don't put in line item for interest earned
 - c. new ELGA Credit Union Account yielding .8 percent interest
 - d. three (3) new investments earning \$6,500.00.
 - e. Total Water Fund is \$2,565,617.00.
 - f. Police Department, as of June 30, 2011 has borrowed \$100,000.00; approximately \$50,000.00 per month.

2. Planning Commission Report:

The Planning Commission has to update their Master Plan this year. Rowe Engineering recently attended a Planning Commission and reviewed the Plan with the Commission; if Rowe did the work it would be approximately \$20,000.00 to update the Plan.

The Planning Commission decided they would be able to do the work themselves. The Plan requires input from the public as to the direction of the community. If you have any opinion you would like for the community to go as far as zoning, please email the Clerk or put in the form of a letter because it needs to be included in the Master Plan.

9:15 P.M. – OPEN FOR PUBLIC COMMENTS

9:16 P.M. - CLOSED FOR PUBLIC COMMENTS

BOARD COMMENTS:

1. **NOECKER:** the person that will be doing the web is a very nice, polite, smart person and thrilled to meet him.
2. **SUPERVISOR'S COMMENTS:**
 - a. Flushing Township Nature Park Activities:
 1. There have been four (4) Boy Scout Camp Outs at the Park this year
 2. Three (3) Eagle Scout Projects this year: Wood Duck Bird Houses (Winter); Blue Bird Houses (Winter); and the latest Project has been a Split Rail Fence (with the Troop)
 3. A gate has been installed where the drive way will be located for the canoe launch and will be locked; an "Open/Close" sign will also be posted for the public to know if the canoe launch is open or closed.
 - b. Department of Environmental Quality (DEQ) – The Supervisor met with John Cherry of the DEQ; the Township applied for a grant through the DNR (license plate fees -for Parks and Recreation); \$24,000.00 applied for gravel and other necessities; reviews are being done and the grants will be awarded in October.
 - c. Paving of Carpenter Road – the road is being worked on; six (6) week delay due to problem with the Drain – resolved and the drain has been put in; future time frame; four (4) 85' tiles have to be put in; three (3) storm sewer basins have to be fixed; then will be put on the list for the milling machine which will mill three (3) inches off the road and will take between two (2) to six (6) weeks to get the machine); as soon as the milling is done the paving will start.
 - d. Unmowed Lawns and Junk Car Complaints – twenty (20) letters went out last week regarding the lawns – all taken care of except two (2) and the township hired an individual to take care of the problems; four (4) cars and six (6) lawn complaints have recently been received.
 - e. Genesee County Road Commission Committee – Director John Daly informed the Committee of changes for the future:
 1. there will no longer be repairs on private roads
 2. currently, if a mail box has been damaged by the snow plows in the winter, the property owner can call the Maintenance Department and they will repair the mailbox or will pay the owner \$20.00. In the future, the property owner will be paid \$25.00. If you have questions, please contact the Road Maintenance Department at 810-767-4920.
 - f. Drive Way Culverts – in the future if ditching has to be done, everyone will have to pay \$125.00 for the replacement of a culvert. If a property owner wants to put in another culvert, the owner has to obtain a permit from the Genesee County Road Commission and put the culvert in themselves.
 - g. Community Development Block Grant – approval has been obtained for two (2) Grants. One grant for \$5,200.00 will be used for the Flushing Senior Center. A grant for \$35,000.00 will be used for: **1)** two (2) handicap parking spaces in front of the Main Township Office, electric palm buttons on the glass double doors at the front of the building, and the main office door inside the building; the Police Department will have one (1) handicap parking space in front of the Police Department, an electric palm button on the main front door. **2)** Flushing Township Nature Park will have one (1)

sidewalk from the restroom to the pavilion, one (1) sidewalk from the restroom to the parking area, and four (4) handicap parking spaces in front of the pavilion, There will be an electric palm button on one (1) door of the restroom.

- h. Ponds – lately there have been problems with ponds. Per Attorney Moulton, the Supervisor has the authority to shut down ponds. In the past, the individual could apply for the permit and the Planning Commission could see all the details. If can see the pond complies with the ordinances, the individual would pay the permit fee and everything would be great. If could tell there were issues, the individual would have to fill in the pond. There have been instances where the township had to go to Court with similar issues. It was discussed whether an issue should go the Planning Commission or Zoning Board of Appeals.

THE NEXT REGULAR SCHEDULED BOARD OF TRUSTEES MEETING WILL BE THURSDAY, AUGUST 11, 2011 AT 7:00 P.M. AT THE FLUSHING TOWNSHIP HALL.

ADJOURNMENT: Due to lack of business matters, SUPERVISOR PECK adjourned the meeting at 9:28 p.m.

JULIA A. MORFORD, Clerk

TERRY A. PECK , Supervisor

APPROVED DATE: _____