

CHARTER TOWNSHIP OF FLUSHING

6524 N. SEYMOUR ROAD

FLUSHING, MICHIGAN 48433

BOARD OF TRUSTEES MINUTES

DATE: MAY 8, 2013

TIME: 7:00 P.M.

PHONE: 810-659-0800

FAX 810-659-4212

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

ADMINISTRATION MEMBERS

SUPERVISOR: Rian R. Birchmeier

CLERK: Julia A. Morford

TREASURER: Maryion T. Lee

TRUSTEES

Shirley D. Gage

Bonnie Jean Martinson

Scott R. Matzke

Scott P. Minaudo

TOWNSHIP ATTORNEY:

STEVEN W. MOULTON PLLC

6258 W. Pierson Road

Flushing MI 48433

810-407-7658

MEETING CALLED TO ORDER at 7:02 p.m. by **SUPERVISOR RIAN R. BIRCHMEIER** with Roll Call and the Pledge of Allegiance to the American Flag.

ROLL CALL: Rian R. Birchmeier, Julia A. Morford, Maryion T. Lee, Shirley D. Gage, Bonnie Jean Martinson, Scott R. Matzke, Scott P. Minaudo, and Attorney Steve Moulton

MEMBERS ABSENT: None

OTHER INDIVIDUALS PRESENT: Fifteen (15) other individuals

ADOPT THE AGENDA WITH AMENDMENTS: MATZKE MOVED, seconded by Lee to adopt the Agenda with the amendment of "New Business", letter e, *Establishment of the Township Police Department*.

DISCUSSION:

It was mentioned that the previous Board of Trustees approved the meeting dates for 2013 at the December 2012 Board Meeting and May 9, 2013 was listed. At the April 13, 2013 Board of Trustees Meeting, it was stated that the next regular meeting would be May 9, 2013. There hasn't been any discussion this year that addresses changing the 2013 meeting dates. A Board Member stated the agenda which was received didn't mention anything about the current meeting being a Special Meeting so the individual assumed that it was part of the regular scheduled meeting. To have the meeting be a Regular Scheduled Meeting certain things needed to have happened.

The changes to the meeting dates for 2013 would have needed to have been voted on by the whole board and approved; if approved, they would have had to be posted for eighteen (18) hours prior to the next meeting. The Agenda would have had to be delivered to the Board Members and posted appropriately. Another idea would have been to have addressed the meeting as a Special Meeting and make the appropriate changes. Per the Board Member, Mr. Jim Beelen of the Michigan Townships Association stated the meeting would fall under the Open Meetings Violation; the things to be approved or disapproved could not be approved. The meeting would have to be held again.

The Township Attorney (the Attorney) stated as long as the Notice was posted eighteen (18) hours prior to the meeting, it could go forward properly noticed.

The Board Member stated that the meeting dates posted on the front door had to be approved and posted for eighteen (18) hours and then post the Agenda for the Special Meeting on May 8, 2013.

Per the Attorney, it is a matter of schematics, because under the Open Meetings Act, a Special meeting can be properly scheduled with eighteen (18) hours notice; everyone agreed that was properly met. The meeting could proceed as a Special Meeting. If anyone wanted to have another meeting on Thursday, May 9, 2013, that is possible.

Another Board Member did some research and found that when the meeting dates are posted at the first meeting of the year, for the full year, if the Board wanted to change a regular scheduled meeting, all that had to be done was post the notice immediately after the change was done. It stated the Notice must be posted within three (3) days after the change stating the new date, time, and place the meeting will be conducted. This is the only notice required for the regularly scheduled meetings. Sometimes regular scheduled meetings have to be changed; the township is allowed to change meetings.

The Attorney stated that the scheduling of meetings was statutorily and the issue with the Open Meetings Act was to make sure that public bodies meet with notice to the public so that the Board wasn't doing something alone behind closed doors without notice to the public. With the Board meeting the eighteen (18) hours notice, per the Open Meetings Act, the Board can proceed and go forward with a valid meeting of the Board.

It was suggested to form a Policy Committee to address notification issues.

ACTION OF THE MOTION

ROLL CALL VOTE:

AYES: Matzke, Gage, Lee, Morford, and Birchmeier

NAYS: Minaudo and Martinson

Motion Carried.

APPROVAL OF PREVIOUS MINUTES:

A. MATZKE MOVED, seconded by Lee to approve the Minutes of April 11, 2013 as presented.

ACTION OF THE MOTION

ROLL CALL VOTE:

AYES: Matzke, Martinson, Gage, Lee, Morford, and Birchmeier,

NAYS: Minaudo

Motion Carried.

B. GAGE MOVED, seconded by Lee to approve the Special Meeting Minutes as presented for the April 24, 2013.

ACTION OF THE MOTION

ROLL CALL VOTE:

AYES: Martinson, Gage, Lee, Morford, Birchmeier, and Matzke

NAYS: Minaudo

Motion Carried.

APPROVAL OF PAYMENT OF BILLS: MATZKE MOVED, seconded by Gage to approve the payment of the bills as presented.

ACTION OF THE MOTION

ROLL CALL VOTE:

AYES: Gage, Lee, Morford, Birchmeier, and Matzke

NAYS: Minaudo and Martinson

Motion Carried.

7:22 P.M. – OPEN FOR PUBLIC COMMENTS FOR NON AGENDA ITEMS:

One (1) individual gave a comment

7: 24 P.M. – CLOSED FOR PUBLIC COMMENTS FOR NON AGENDA ITEMS

UNFINISHED BUSINESS:

- 1. Second Reading of AN ORDINANCE REGULATING THE TRANSPORTATION OR POSSESSION OF USABLE MARIJUANA; TO MAKE VIOLATION A MISDEMEANOR; PENALTY**

ATTORNEY STEVE MOULTON (ATTORNEY MOULTON) explained that the ordinance tracks verbatim of the State Statute as to the manner in which usable marijuana, which is medical marijuana, being transported. It is to be transported in the

trunk of a vehicle that has a trunk, otherwise it is to be transported in an area that is not readily assessable in a motor vehicle that does not have a trunk. The ordinance creates a ninety-three (93) day misdemeanor violation which is punishable by jail time of ninety-three (93) days and/or a \$500 fine.

2. Second Reading of AN ORDINANCE TO AMEND AND RESTATE SECTIONS 17-1 THROUGH 17-5 OF THE CODE OF ORDINANCES REGARDING THE IMPOUNDMENT OF VEHICLES AND THE PROCEDURES FOR THE RELEASE OF SAME

ATTORNEY MOULTON stated this was the second reading; the first reading was held at the April 11, 2013 Board Meeting; a full copy of the proposed ordinance is available. The ordinance amends an existing ordinance to add a definition of a custodian with regard to the impoundment of motor vehicles which is to take place pursuant to the direction of the Flushing Township Police Department. The ordinance sets out the criteria to be used in considering those individuals or companies that can serve as custodians or impoundment companies which sets forth the release of the vehicle. This not only sets forth the procedure for those who may impound but also the criteria for those companies to establish an impound facility.

NEW BUSINESS:

1-a. Approval of 2012-2013 Fiscal Year End Budget

LEE MOVED, seconded by Morford to approve the 2012-2013 Fiscal Year End Budget.

ACTION OF THE MOTION

ROLL CALL VOTE:

AYES: Gage, Lee, Morford, Birchmeier, and Matzke

NAYS: Martinson and Minaudo

Motion Carried.

1-b. Discussion to Add Line Item "PEG Services"

LEE MOVED, seconded by Morford to amend the General Fund Budget 2013-2014 to add line item "*PEG Services*" to Public Services Department in the amount of \$30,000 and reduce the General Fund Balance.

ACTION OF THE MOTION

ROLL CALL VOTE:

AYES: Matzke, Gage, Lee, Morford, and Birchmeier

NAYS: Martinson and Minaudo

Motion Carried

1-c. Proposed Contract for Flushing Township Police Chief

LEE MOVED, seconded by Morford to approve the contract for Brian Fairchild to be Chief of the Flushing Township Police.

BACKGROUND SNYOPSIS:

Attorney Moulton stated the Personnel Committee, consisting of Supervisor Rian Birchmeier, Treasurer Maryion Lee, and Clerk Julia Morford, had several meetings. Mr. Fairchild, represented by his Attorney Tom Pabst had submitted a proposed written employment agreement which was the start of the negotiations. The Personnel Committee reviewed the initial proposal. Attorney Pabst agreed that the Personnel Committee and Attorney Moulton could discuss the contract and proposed changes with Mr. Fairchild directly without necessarily going through Attorney Pabst, who, with the understanding that any proposed changes to the original submission would be submitted to Attorney Pabst for his review before a final agreement was reached with Mr. Fairchild. There were a number of issues that were significantly discussed, modified, proposals and

counter proposals going back and forth between the parties. There were two (2) times when things got a little testy so if there were any beliefs that the township board was “rubber stamping” the initial proposal that was submitted by Mr. Fairchild, Attorney Moulton who was a party to the final meetings and the last session when the *tentative agreement* was reached, can attest that is not the fact.

PROPOSED AGREEMENT BY ATTORNEY STEVE MOULTON:

- Period of three (3) years (May 1, 2013 to June 5, 2016).
- Period within the period of the Police Millage or the Millage that was characterized as “Millage for Law Enforcement”.
- The position will be a salary position with pay at \$70,000 for the first year, \$71,000 the second year, and \$72,000 for the third year.
- The Police Chief will have the same insurance benefits provided to the Patrol Officers.
- The duties of the Police Chief are spelled out in detail in the Agreement.
- The Police Chief’s immediate supervisor will be the Township’s Supervisor.
- A number of issues were addressed as to what Mr. Fairchild is to do with regard to reinstating the Police Department.
- The Police Chief will have complete administrative control over the Police Department. The issue was negotiated, overlapped, and encompassed in the Patrol Officers who recently negotiated a Collective Bargaining Agreement.
- Holidays correspond with those provided for in the Patrol Officers Agreement; however, in the event that Mr. Fairchild works a holiday, he will not be paid extra. He will receive his agreed-upon salary.
- Mr. Fairchild will continue as a participant in MERS with the same factors that are contained in the Patrol Officers’ Agreement. Mr. Fairchild will contribute two (2%) percent to MERS which was the most discussed item. The final figures being significantly lower than what had initially been discussed.
- Other definitions such as Bereavement Leave, Vacation Time, and Accruals in the same formula, were picked up from the Patrol Officers’ Contract.
- The Employment Agreement was one part of a three (3) component package to resolve the pending arbitration disputes involving Mr. Fairchild and the pending lawsuit, the other two (2) components remaining being the repayment of back pay and addressing the issues in the lawsuit that remain to be addressed through counsel involved on behalf of the lawsuit and Mr. Fairchild’s attorney that taken together, his *Employment Agreement* is reasonable. A different *Employment Agreement* might have been reached if it were a situation where we needed to hire a new police chief who didn’t have twenty-two (22) years of experience with the township, who didn’t have all of the experience with the existing officers, who didn’t have the experience dealing with the Flushing Community Schools, who isn’t known to the Sheriff and other law enforcement personnel throughout the County, who didn’t have all the grant writing experience that Mr. Fairchild has. All of those issues coming into play, the pending lawsuits, pending grievances, all rolled into a complete package, have to be considered by the Board in determining the terms of this Agreement. Attorney Moulton felt it was a good Agreement and there wouldn’t have been any reductions in the compensation or benefits provided to the Police Chief had the negotiations gone any further. Based on all those circumstances, it is the personal recommendation of Attorney Moulton that the Board ratify the Police Chief Agreement and employ Brian Fairchild as the Township’s Police Chief for the next three (3) years under the terms of the Agreement and take the necessary step to complete the reinstatement of the Police Department.

Treasurer Lee was involved in the negotiations and believed the Agreement to be a total package; there were a lot of comparisons made between the arbitrations and the lawsuits, comparisons between what Mr. Fairchild made as a Sergeant under Chief Stevenson (Chief Dale Stevenson). Because of shift premiums, etc. Mr. Fairchild made more as Sergeant than he will make as Chief. Mr. Fairchild will probably end up working as many hours because it has been written into the Contract that Mr. Fairchild

will work a minimum average of forty (40) hours per week. Because the Township is committed to the goal of 24/7, Mr. Fairchild has committed to helping the Township keep the shifts on the road. Mr. Fairchild will be an acting police officer taking shifts. Between the dates of April 20, 2013 through May 3, 2013, Mr. Fairchild worked eighty-seven (87) hours; between May 4, 2013 and May 17, 2013, he worked one hundred sixteen (116) hours. Currently, Mr. Fairchild is being paid hourly; if he was the contracted Chief, he would only be making his salary. The officers who will be receiving shift premiums will be making more than the Chief.

At the time Chief Stevenson was Chief, he had Sergeant Fairchild. Taking two (2) years of that time into consideration, the cost for the first year was \$134,931; the second year including sell backs and premiums was \$136,697. There will be a command staff of one (1) person who is not only working as Chief but taking five (5) shifts on the road. For year one at a salary of \$70,000, there will be a savings of almost \$65,000; the same thing is true for year two which Mr. Fairchild will be making \$71,000, which is a savings of the Command Position of almost \$66,000.

The Township was in a situation that the most financially responsible thing to do was to re-establish the Township Police so that the Township wasn't paying for two (2) police forces.

Treasurer Lee attended the depositions and in talking with Chief Stevenson and several other Board Members, very positive things were stated about Acting Chief Fairchild.

Looking at the totality of the Contract, the fact that the Township has made, with Mr. Fairchild's concurrence, the Township will be working strongly to get the 24/7 and keep it.

ACTION OF THE MOTION

ROLL CALL VOTE:

AYES: Matzke, Gage, Lee, Morford, and Birchmeier

NAYS: Minaudo and Martinson

Motion Carried

1-d. Approval for Flushing Township Police Department to become a Participating Member of the Law Enforcement Officers Regional Training Commission (LEORTC)

GAGE MOVED, seconded by Morford to grant approval for the Flushing Township Police Department to become a participating member of the Law Enforcement Officers Regional Training Commission (LEORTC).

DISCUSSION:

The State of Michigan has authorized funding for police departments for training purposes; Genesee County has a consortium called LEORTC which works through Mott College. As long as Flushing Township is a member, the officers can have free training; if a municipality is not a member, there is a cost for the training. There are no costs to belong to LEORTC. Some Board Members were glad to see the Acting Chief is taking advantage of the free training.

ACTION OF THE MOTION

ROLL CALL VOTE:

AYES: Birchmeier, Matzke, Martinson, Gage, Lee, and Morford

NAYS: Minaudo

Motion Carried.

1-e. Establishment of the Township Police Department Funding.

LEE MOVED, seconded by Morford that the Flushing Township Board approve the advancement from the Water Fund of \$120,000 at .5% interest for 4 years with an annual payment of \$33,000 to repay the Fund.

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

AYES: Lee, Gage, Matzke, Birchmeier, Morford,

NAYS: Martinson and Minaudo

Motion Carried.

COMMITTEE REPORTS:

1. Flushing Area Senior Center:
 - a. An *Appreciation Dinner* was held on April 24, 2013, at the Flushing Area Senior Center with sixty-five (65) people in attendance; great fun, food, and fellowship was had by all; four (4) individuals have resigned from the Board of Directors but are still members of the Center – 1) Dan Adamson, 2) Dorothy Flory, 3) Mary Hackett, and 4) Paul Blanchard – the four (4) individuals have donated a huge number of hours without pay.
 - b. 2013 Flushing Area Senior Center Board of Directors: *President* – Mike Stanton, *Vice President* – Ron Flowers, *Secretary* – Gary Dearing, and *Treasurer* – Natalie Lucas
2. Election Update: The Clerk thanked Mr. William Westenbarger and Mr. Arthur Johnson for being on the Receiving Board. The turnout was very low – maybe we should give some thought to the fact that we have our military in foreign countries trying to protect our freedom and yet we don't take the time to go to the polls to voice our opinion.
3. Fire Department: Supervisor Birchmeier gave a Flushing Fire Department report received from the Fire Chief: there were nine (9) runs consisting of three (3) fire runs, two (2) odor investigations, one (1) open burn, one (1) natural gas leak, one (1) smoke investigation, and (1) accident. There weren't any fire losses to property contents during the month of April 2013.
4. Flushing Township Police Department: Chief Fairchild stated that as of today, the painting of the Police Department and a few rooms in the Main Office have been completed, all the dead trees on the East and West sides of the office building have been cut down and removed; of the nine (9) portable radios, eight (8) have been located – two (2) are in custody of the Genesee County Parks and will not be returned, the Genesee County Sheriff Department has returned six (6) radios to the Township Department, so only one (1) radio is still missing and will be turned off as the radios do belong to the Flushing Township Police Department; there was only one (1) Patrol Car on the road Wednesday Morning, May 1, 2013 with Chief Fairchild being on duty – another car is being built and should be on the road in approximately two (2) weeks; still waiting on decisions for several grants that were written, a third (3rd) grant is being written to get cameras for the patrol cars; the officers have been recertified in all the areas for which the State requires to be certified to get back on the road and; starting next month the Board will be supplied a spreadsheet by the Flushing Township Police Department of what is going on in the Township.
5. Parks and Recreation Committee: A synopsis of the *Parks and Recreation Committee* was given by Heather Griffin –
 - a. Nature Park Meetings were held at the Flushing Township Nature Park – April 29, 2013 Committee walked the North end of the Park; on May 6, 2013 Committee walked the South end of the Nature Park; some items have been damaged:
 1. The Park already has items that only needs TLC (tender loving care); money would not be needed for these items; hoping to have a “*Community Work Day*” which the Board would be invited to participate; some of the damaged items are not only cosmetic but safety issues.
 - b. Boy Scout Troop 42 has adopted the Flushing Township Nature Park and will be camping May 18 -19, 2013; the Scouts will be picking up all the debris along the Flint River; there will be another work day in June and will involve raking the area and staining items in the Park.

- c. Joe Martin, a member of the *Parks and Recreation Committee* has stepped down from the Committee; a big “Thank You” for all the work, participation, advise, etc. that he has put into the Park.
- d. The *Parks and Recreation Committee* has reviewed different ways to come up with money for the Nature Park – previously there was a group called “Friends of the Flushing Township Nature Park” that had funds that were set aside for a specific mission; the funds did not belong to the Township but were achieved from fundraisers held by the “Friends of the Flushing Township Nature Park”; The group has offered to give the money to the Committee specifically for Eagle Scout projects that have been damaged, vandalized, or weathered at this time.
- e. Grant options and other fundraisers have been looked into to obtain funds for the projects.
- f. There are three (3) top priorities that need to be addressed:
 - 1. Playground – criteria for the mulch in a playground
 - 2. Boardwalk – met ADA and wetland requirements but has lifting and shifting – erosion issues by the culvert
 - 3. Prescribed Burns – having a transition issue - the forest is coming into the prairie; the Flushing Township Nature Park has one of the largest prairies in the State which consists of fifty-five (55) acres.
- g. Trustee Gage would like to see a sign in the Nature Park regarding the issue of the leasing of animals. Ms. Griffin stated previously there had been money dedicated for leash signs in the Nature Park and would like to purchase the signs if given approval by the Board; thanked Joe Martin for his dedication and a job well done.
- h. Supervisor Birchmeier thanked Joe Martin for all the work that he has done in the Nature Park.

FINANCIAL REPORT:

1. Financial Report for APRIL 2013

General Account Fund - **\$1,114,981.88**

Bank Checking Balance - \$1,149,800.49

Checks in Transit – (\$39,073.67)

Deposits in Transit - \$4,255.06

Bank Checking Balance, Checks in Transit, Deposits in Transit - **\$1,114,981.88**

Chase Savings Account - \$301,649.27

General Fund Checking/Savings Grand Total - \$1,416,631.15

Cash in Bank

General/Bldg/Park/Dental/Vision - \$487,441.26

Police Fund - \$275,954.94

Trash Fund - \$366,406.96

Drug Enf Fund - \$528.92

CDBG – (15,350.20)

Chase Savings - \$301,649.27

General Fund Checking/Savings Grand Total - \$1,416,631.15

Water Fund Checking/Savings Total - \$1,523,915.56

Water Fund Investment Schedule - \$1,479,790.70

Water Fund Grand Total - \$3,003,706.26

Short Term Loan to Police Fund - \$0

Tax Account Fund for April 2013 - \$0

There was one NSF Check.

Tax Checking Grand Total - \$4,106.70

LEE MOVED, seconded by Gage to accept the Financial Report for April 2013.

DISCUSSION:

A Membership Fee of \$5.00 from Elga Credit Union was listed under the Water Fund Account for April 2013; it was asked is that should be a minus \$5.00 instead of an addition of \$5.00. The Treasurer will check.

ACTION OF THE MOTION

ROLL CALL VOTE:

AYES: Matzke, Gage, Lee, Morford, and Birchmeier

NAYS: Minaudo and Martinson

Motion Carried

BOARD COMMENTS:

1. **GAGE:** not sure who was in attendance at the May Special Board of Trustees Meeting but if anyone has not heard of the Thomas Smith Memorial Foundation, Thomas was the young man that died after participating in sports; his family has founded the Thomas Smith Memorial Foundation; with some of the monies received from one of the fundraisers, the family has donated as a gift in the memory of their son, a defibrillator to the Flushing Township Police Department and to the AYSO Complex; it is a wonderful idea. With the help of one of the hospitals in the area, the Flushing Middle School recently did a heart screening for three hundred eighty-seven (387) students and thirty-one (31) of the students needed to be seen by a cardiologist or their own doctor. Thanked everyone for attending the meeting tonight.
2. **MINAUDO:** has three (3) issues: 1) apologized for not attending the Special Meeting but the time did not work into his schedule; what Shirley said sounds like a fabulous proposal that the Board approved. 2) With regards to the Park, Troop 302 was out to the Park within the last month or so and has spent a lot of time and work at the Park; the Park looks great – *Thanks*; 3) the reason that he voted “no” on everything tonight because it didn’t involve any specific issue, even though he agreed with most things on the Agenda anyway, he felt it was a violation of the Open Meetings Act and that was the reason that he voted the way he did.
3. **MARTINSON:** apologized for not being at the May 24, 2013 Special Board of Trustees Meeting because she was five (5) days out of having surgery; thanked Heather for the information and thought the pictures were very good.
4. **MATZKE:** thanked Heather for the report; “Congratulations” to Chief Fairchild.
5. **MORFORD:** thanked everyone for the reports and have always felt the reports were necessary so that the community knew what was going on; the Owosso area has different department heads give reports at each meeting; thanked Joe Martin because he has done so much for the Park; thanks to Heather for the information; and “Congratulations” to Chief Fairchild.
6. **LEE:** “Congratulations” to Chief Fairchild; wanted to compliment the Police that came back to work; the officers painted, cleaned the yard, cut the dead trees, even though they could not be back on the road due to having service with the Genesee County Sheriff Department, who did a good job, and so were the police that they were willing to do some of the jobs that needed to be done to put the police department back together; have been concerned about some of the misunderstandings about delivering packets, posting of meetings, time items to be delivered to Clerk at 5:00 p.m. Wednesday prior to Board Meeting on Thursday which is impossible, and time period to get to get the information to the Board Members which mentions a seven (7) day period. Treasurer Lee recommended to come together and form a Committee to research the information and put a policy in affect where all are in agreement. Treasurer Lee said she would be glad to work on a Committee but would like help; recommended Trustee Minaudo and Martinson. It was recommended by Trustee Martinson to change to the MTA Guidelines. ATTORNEY MOULTON stated that Flushing Townships Policies and Procedures were subject to the Townships creations and amendments. Further research will be done.

7. **BIRCHMEIER:** great to have the Board work together; thanks to Clerk Morford for her work.

8:25 P.M. OPEN FOR PUBLIC COMMENTS

Two (2) individuals gave comments.

8:27 P.M. - CLOSED FOR PUBLIC COMMENTS

THE NEXT REGULAR SCHEDULED BOARD OF TRUSTEES MEETING WILL BE THURSDAY, JUNE 13, 2013 AT 7:00 P.M. AT THE FLUSHING TOWNSHIP HALL.

ADJOURNMENT: Due to lack of business issues, **SUPERVISOR BIRCHMEIER** adjourned the meeting at 8:30 p.m.

JULIA A. MORFORD, Clerk

RIAN R. BIRCHMEIER, Supervisor

APPROVED DATE: _____

05/08/2013 Regular Min