

CHARTER TOWNSHIP OF FLUSHING

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

DATE: NOVEMBER 13, 2007 TIME: 7:00 P.M.
PHONE: 810-659-0800 FAX 810-659-4212
WEB PAGE: <http://www.flushingtowship.com>

ADMINISTRATION MEMBERS

SUPERVISOR: Andrew Trotogot
CLERK: Julia A. Morford
TREASURER: Carl G. Liepmann

TRUSTEES

Ann L. Fotenakes
Scott Minaudo
Barry Pratt
Ida M. Reed

TOWNSHIP ATTORNEY:

STEVEN MOULTON
Cooley Moulton & Smith LLP
Attorneys at Law
412 S. Saginaw Street, Suite 300
Flint, Michigan 48502

MEETING CALLED TO ORDER at 7:00 by **SUPERVISOR ANDY TROTOGOT** with roll call and the pledge to the American Flag.

ROLL CALL: Trotogot, Morford, Liepmann, Fotenakes, Minaudo, Pratt, Reed, and Attorney Steve Moulton

MEMBERS ABSENT: None

OTHERS PRESENT: 18 other interested individuals

LIEPMANN requested to add to the Agenda as Number 1, "New Business", *Update of the Results of the Flushing Township Nature Park Halloween Party.*

ADOPTION OF THE AGENDA: Motion and Second to adopt the Agenda with additions. **MOTION CARRIED.**

APPROVAL OF MINUTES OF OCTOBER 11, 2007 AND OCTOBER 19, 2007:
REED MOVED, seconded by Liepmann to approve the Minutes of October 11, 2007 and October 19, 2007 as printed. **MOTION CARRIED.**

APPROVAL OF BILLS: FOTENAKES MOVED, seconded by Minaudo to pay the bills. Questions: 1) Check No. 17237 to Treetops Resort; 2) Check No. 17238 to Sam's Club; 3) Co-payments for the Police Department

ROLL CALL VOTE:

AYES: Fotenakes, Minaudo, Pratt, Reed, Morford, Liepmann, and Trotogot

NAYS: 0 **MOTION CARRIED.**

UNFINISHED BUSINESS:

None

NEW BUSINESS

1. Update of the Results of the Flushing Township Nature Park Halloween Party

Flushing Township Nature Park Manager **TOM ENRIGHT (ENRIGHT)** stated that a lot of work went into getting the Nature Park's Nature Halloween Program set up. There were approximately fifty (50) volunteers who did a super job setting up and tearing down

for the event; there were wonderful sponsors throughout the community. The Flushing Lions Club sold food and food was purchased from Wolcotts Orchards and Montrose Orchards for resale to the public. **HEATHER GRIFFIN (GRIFFIN)**, a seasonal employee at the Nature Park was, also was honored for her dedication to the Nature Park.

The concept of the Nature Park’s Nature’s Halloween had been an alternative event for Halloween instead of ghosts, goblins, and scary items for educating individuals about animals such as bats, spiders, and snakes and how the animals are feared by humans and why not to be afraid of the animals and how and why the animals were beneficial to the environment. Approximately three hundred (300) people went on the trails; there were live snakes for the attendees to view and handle.

ENRIGHT stated that although the “rain” date had to be used, everything turned out great with approximately nine hundred (900) attendees enjoying the Program.

2. Second Reading of Ordinance to Amend Section 12-63(3) Regarding the Keeping of Recreational Vehicles to be Considered

ATTORNEY STEVE MOULTON (ATTORNEY MOULTON) stated the amendment language to Section 12-63(3) would now allow the keeping of a recreational vehicle on a residential premise in the rear, side lot, or driveway of the premise for a period of appropriate seasonal use not to exceed a total of one hundred (100) days in a calendar year. In order to be kept the vehicle on the driveway, the vehicle must be at least one hundred (100) feet from any window or door of any residence adjoining or across the street from the property where the vehicle was kept. **ATTORNEY MOULTON MOVED**, seconded by Fotenakes to have the second reading of the Ordinance to amend Section 12-63(3) regarding the keeping of Recreational Vehicles to be considered, to be effective upon publication. **MOTION CARRIED.**

3. Group Life and Long Term Disability Insurance

LIEPMANN stated Flushing Township currently had group life and short and long term disability insurance with Standard Insurance Company. The township’s agent, Total Benefit Systems, has recommended a change from Standard Insurance Company to Hartford Insurance. The change will save the township approximately \$2,000 over the next two (2) years. **LIEPMANN MOVED**, seconded by Fotenakes to recommend to the Board of Trustees to change from Standard Insurance Company to Hartford Insurance Company. The coverage will stay the same.

ROLL CALL VOTE:

AYES: Minaudo, Pratt, Reed, Morford, Liepmann, Fotenakes, and Trotogot

NAYS: 0 **MOTION CARRIED.**

4. Approval of Resolution Regarding Genesee County Regional Fire Authority

TROTOGOT stated the Genesee County Board of Commissioners (Board of Commissioners) had called a meeting to discuss the possibility of having a County Wide Fire Department. The Supervisors were concerned about the situation because it would involve another tax; the Supervisors voiced their objections by putting together a Resolution to give to the Board of Commissioners that another tax was not needed. Commissioner Jamie Lee Curtis from Burton has been in charge of the issue. The Supervisors would like for the Board of Commissioners to set the issue aside.

TROTOGOT read the Resolution which stated:

RESOLUTION

GENESEE COUNTY REGIONAL FIRE AUTHORITY

WHEREAS, the Genesee County Board of Commissioners is considering the creation of a regional fire authority administered by the Genesee County Board of Commissioners or its assigns to provide fire fighting services to county residents; and

WHEREAS, the individual municipalities of the county have historically provided fire services to their residents or entered into joint fire operation agreements with one or more neighboring municipalities; and

WHEREAS, the individual municipalities have further entered into mutual aid agreements with neighboring municipalities which may be outside the jurisdictional boundaries of Genesee County; and

WHEREAS, the individual municipalities have statutory authority to fund their fire departments separately or jointly; and

WHEREAS, each municipality maintains a budget to provide the approximate level of service for its population and land use characteristics.

THEREFORE BE IT RESOLVED that Flushing Township opposes the formation of a county wide fire authority.

CHARTER TOWNSHIP OF FLUSHING

Dated: November 13, 2007

ANDREW TROTOGOT, Supervisor

Dated: November 13, 2007

JULIA A. MORFORD, Clerk

Approved by the Charter Township of Flushing Board of Trustees at a public meeting held on this date, _____ 2007.

DISCUSSION:

- **FOTENAKES** wanted to know why Flushing Township would have to sign since there already was a contract with the Flushing Fire Department; why start another entity.
- **TROTOGOT** stated, as a Supervisor, Flushing Township would be in agreement with the other Supervisors.
- **LIEPMANN** felt the Board should sign the Resolution if the Board was opposed to the County Wide Fire Authority because it wouldn't matter if the township had a contract with Flushing City, the Township would be part of the Agreement and if the County Commissioners got enough votes, the issue would be voted on.
- **REED** felt the Resolution was only stating Flushing Township would be in agreement with the Supervisors.
- **PRATT** stated he could not image the cost figures that would be involved in creating a county wide network.
- **LIEPMANN** stated most of the fire chiefs were in favor of the regional fire authority. He (Liepmann) didn't know the cost of running a regional fire authority. The Resolution could be a wake-up call to get more information out to the townships.
- **TROTOGOT** stated the Supervisors were not in favor of the authority.

FOTENAKES MOVED, seconded by Reed to allow the Supervisor and Clerk to sign the Resolution regarding the Genesee County Regional Fire Authority. **MOTION CARRIED.**

5. County Treasurer Collection of Delinquent Property Taxes

LIEPMANN stated the Genesee County Treasurer's Office was petitioning all the entities in Genesee County to take over the collection of delinquent personal property taxes. Personal property taxes are those taxes that are levied against property that was used in businesses such as computers, dump trucks, etc. The State of Michigan requirement has been that delinquent personal property taxes must be collected by the local treasurer. The local treasurer has been required to collect those taxes or seize the

property. For the past twenty (20) years, Flushing Township has had one hundred (100) percent collection of delinquent personal property taxes; in some surrounding entities, that has not been the case. The County Treasurer has agreed to give Flushing Township until April 1, instead of March 1, as the collection date. **LIEPMANN MOVED**, seconded by Fotenakes to approve the Contract with the Genesee County Treasurer's Office for the Collection of Delinquent Property Taxes. **MOTION CARRIED**

6. What Authority Do Committees Have in General

TROTOGOT stated that Committees are appointed by the Board of Trustees and given direction by the Board. Committees could be advisory, specific committees with authority depending upon the pleasure of the Board, etc.

7. Report from Personnel Committee

PRATT stated on October 11, 2007, there were allegations brought by Trustee **SCOTT MINAUTO (MINAUDO)** against Supervisor **ANDY TROTOGOT**, Treasurer **CARL LIEPMANN**, and Flushing Township Police **CHIEF DOUG KENNEDY**.

The procedure for a situation similar to this would be to have the issue go to the Township Supervisor and then to the Personnel Committee (Committee) for review. Because some of the allegations concerned the Supervisor, **PRATT** was appointed as the Acting Chairperson. Trustee **MINAUDO** was named to the Committee in place of the Supervisor and with Clerk **MORFORD** composed the three (3) member Committee for the particular issue.

The Committee Meetings were treated as informational gathering to provide information to the Board and the public so any allegations could be answered. There were seven (7) specific allegations. A packet containing **1)** an Opinion letter from **ATTORNEY MOULTON**, **2)** minutes of the Personnel Meetings, and **3)** any other information that would pertain to the specific allegations were compiled for the Board of Trustees to review before the Regular Board Meeting scheduled for November 13, 2007.

ATTORNEY MOULTON stated the Board of Trustees should consider going into Executive Session to review the information provided by the Committee and to discuss the next item on the Agenda. **REED** had some questions that she would like answered. Under the Open Meetings Act, any issues that would involve a personnel evaluation of the Police Chief, that individual had the right to request those issues be considered in the Executive Session.

LIEPMANN stated the Chief has requested the Board meet in an Executive Session to consider the personnel evaluation and to negotiate the terms of the Employment Contract for the Police Chief. Further negotiations of the Employment Contract would include consideration of a written opinion of the Township's Labor Attorney providing specific legal advice relevant to the possible Employment Contract. In view of the Police Chief's request, the Board meet in Executive Session,

LIEPMANN MOVED, seconded by Fotenakes pursuant to Section 8(B) that the Board meet in Executive Session for the purposes of personnel evaluation consideration of the Employment Agreement. The motion required a majority vote of the Board.

LIEPMANN MOVED, seconded by Fotenakes, the Board meet in Executive Session, pursuant to Section 8(H) as consideration of the Employment Contract and would require consideration of the written opinion of counsel providing specific legal advice regarding the possible Employment Contract. The motion required two-thirds (2/3) vote of the Board.

DISCUSSION REGARDING EXECUTIVE SESSION:

- **LIEPMANN** wanted to make sure everything was covered in the two (2) motions as nothing else could be discussed once in Executive Session.

- **REED** wanted to know if there could be a discussion regarding the Police Chief’s Contract before the Board went into Executive Session. **LIEPMANN** stated in an Executive Session, there could only be discussion. All voting had to be done in Open Session.
- **PRATT** felt that if the Chief requested an Executive Session, that was all that would be needed.
- **PRATT** stated **MINAUDO** had an earlier question as to the called meeting on Tuesday, November 13, 2007. **TROTOGOT** had taken back charge of the Personnel Committee, as Chairperson, and had called the meeting the particular morning (November 13, 2007) with the original members of the Committee. **PRATT** stated the issue of the Police Chief’s Contract was separate from the Allegations when Trustee **MINAUDO** had stepped in to take the Supervisor’s place for the particular matter.
- **REED** wanted to make sure her three (3) questions were answered either in Open Session or Executive Session.

ACTION OF THE MOTIONS:

ROLL CALL VOTE:

AYES: Pratt, Reed, Morford, Liepmann, Fotenakes, Minaudo, and Trotogot

NAYS: 0 MOTION CARRIED.

**8. Approving Agreement with Flushing Township Police Chief
(Executive Session)**

9. Review and Approval of the Charter Township of Flushing Policies and Procedures Administrative Manual

MINAUDO MOVED, seconded by Fotenakes to set aside the review and approval of the Procedures Manual until the next meeting. MOTION CARRIED.

COMMITTEE REPORTS:

None

REPORTS:

Building Inspector’s Report: Reviewed and Approved.

BUILDING PERMITS ISSUED:

NEW HOMES		0
ACCESSORY BUILDINGS		4
DECKS		0
REMODELING		0
ADDITIONS		0
GARAGES		1
FENCE PERMITS		1
ROOF REPAIR		0
POOL		0
COMMERCIAL		0
SIGN		0
TOTAL PERMITS ISSUED		6
PERMIT VALUATION FOR OCTOBER 2006	\$	752,592
PERMIT VALUATION FOR OCTOBER 2007		56,174
PERMIT FEES COLLECTED FOR OCTPBER 2007		\$ 369
TRAILER INSPECTIONS (1)		50

TRASH AND RECYCLING CHARGES	0
SPECIAL USE PERMIT	0
HOME OCCUPATION PERMIT	0
EARTH REMOVAL PERMIT	0
VARIANCE REQUEST	0
REZONING REQUEST	0
CODE BOOKS	0
FOR A TOTAL OF	\$ 419
CONSTRUCTION TO DATE OCTOBER 2006	5,924,383
CONSTRUCTION TO DATE OCTOBER 2007	2,306,204
FOR A DECREASE OF	\$ 3,618,179

7:35 P.M. OPEN FOR PUBLIC COMMENTS:

1. **John Cuddeback, 5184 Blossom Drive, Flushing** – “State now collecting approximately eighteen (18) cents in sales tax for every gallon of gas which is \$3.00 plus per gallon, does any of the money go back to roads.”
2. **Greg Sabouren, 3171 Dillon Road, Flushing** – “heard that the fire chiefs are for the Regional Fire Authority, but what about the rest of the township boards.”
3. **Ron Flowers, 10146 Carpenter Road, Flushing** – “Act 51 takes care of the roads; was recently appointed to the Steering Committee for the Long Range Transportation Plan (Genesee County Metropolitan Planning Committee).”
4. **John Kreutzfeldt, 9060 W. Carpenter Road, Flushing** – “since May 2007, he has made the Board aware of a fire hazard behind his house at 9060 W. Carpenter Road, Flushing, Michigan; none of the trees have been removed and he and his wife are concerned about their safety; recently a DNR forest fire official evaluate the situation and concluded the cut trees have added fuel to the load in the event of a brush fire; it is time to resolve the problem by enforcing Michigan Building Codes; Kreutzfeldts’ have provided expert citations of the code; would like for the Board to vote to enforce the Codes and remove the cut trees from 5027 N. McKinley Road.”

MINAUDO MOVED, seconded by Fotenakes that the Township enforce the State of Michigan Building Code Ordinance 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) days. If the resident does not comply in this time period, the township will immediately remove the fire hazard and add the cost to the tax bill on the property.

DISCUSSION:

- **PRATT** wanted to know if the township was specifically charged under the laws to take care of the situations.
- **ATTORNEY MOULTON** stated that building codes were incorporated as part of the local ordinance, so the township would be charged with the responsibility to enforce the codes. **ATTORNEY MOULTON** stated there has been two (2) experts that stated there weren’t any fire hazards; Mr. & Mrs. Kreutzfeldt have experts stating there was a fire hazard.
- **LIEPMANN** stated the only thing that could be added to a tax statement, as a lein on the property, would be if there was a State Statute that backed the township. If an agreement could be reached between Attorney Moulton and Attorney Zellely, then the matter could be resolved.

- **PRATT** wanted to know how many woodlots in the township were fire hazards?
- **FOTENAKES** stated the problem started when the Supervisor, in good faith, was trying to resolve a problem between two (2) neighbors; felt there needed to be a time frame to get the issue resolved.
- **LIEPMANN** stated he was willing to meet with both parties to discuss the issue. (A letter had been received from Attorney Moulton dated November 1, 2007 that was directed to Attorney Zelle). An answer had not been received.

MINAUDO requested to amend his original motion to read:

MINAUDO MOVED, seconded by Fotenakes that the Township enforce the State of Michigan Building Code Ordinance 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) days. If the resident does not comply in this time period, the township will immediately remove the fire hazard and add the cost to the tax bill on the property. **Flushing Township Board Members were trying to meet with Ms. Scoble according to Attorney Moulton as soon as possible.** (Bold indicates the amended).

DISCUSSION:

- **MINAUDO** would like to have the issue resolved within the next ten (10) days or two (2) weeks.
- **TROTOGOT** stated a time frame could not be reached because there were two (2) families involved.
- **ATTORNEY MOULTON** has been in contact with Attorney Zelle with letters and phone calls.
- **FOTENAKES** felt the whole problem was the communication between everyone; there needed to be a time frame, even if not the ten (10) day time period; communication should be open so that everyone would know what was taking place.
- **LIEPMANN** was opposed to the motion because the problem could be solved between the parties with the information in the letter (Attorney Moulton’s letter)
- **PRATT** felt the Board should get clarification on issues of the particular nature to see specifically what was mandated and what the township’s obligations were under State Law for fire codes. The Board needed to start a system as to how the Township handled situations similar to the current issue.

ACTION OF THE MOTION:

MOTION FAILED.

7:55 P.M. – MOTION TO GO INTO EXECUTIVE SESSION: TROTOGOT MOVED, seconded by Liepmann to go into Executive Session. MOTION CARRIED.

10.55 P.M. – RECONVENED TO REGULAR SESSION:

- 1) **PRATT MOVED**, seconded by Minaudo to amend the benefit sheet to eliminate the last sentence of the provision entitled “six (6) sick days” which now reads “the Chief has the option of converting any portion of his accrued sick time into compensatory time.” MOTION CARRIED.
- 2) **FOTENAKES MOVED**, seconded by Morford to request an Opinion from the Labor Attorney regarding the Township’s access to the Police Chief’s dailies. MOTION CARRIED.
- 3) **MINAUDO MOVED**, seconded by Fotenakes that the Police Chief shall accrue no additional flex time from this point forward. MOTION CARRIED.

STATEMENT OF ACKNOWLEDGE FOR THE OPEN RECORD:

The Planned Administrator, **CARL LIEPMANN**, will check with Municipal Employees Retirement System (MERS) regarding the issue of flex time as it applies to accumulated other times toward pension.

LIEPMANN MOVED, seconded by Pratt to approve the new Police Chief's Employment Agreement as presented with a possibility of a change in the percentage factor as it applies to salary, effective upon signature by the Police Chief.

ROLL CALL VOTE:

AYES: Reed, Morford, Liepmann, Fotenakes, Minaudo, Pratt, and Trotogot

NAYS: 0 MOTION CARRIED.

BOARD COMMENTS:

None

THE NEXT BOARD OF TRUSTEES MEETING IS SCHEDULED FOR THURSDAY, DECEMBER 13, AT 7:00 P.M.

ADJOURNMENT: TROTOGOT adjourned the meeting at 11:00 p.m.

JULIA A. MORFORD, Clerk

ANDREW TROTOGOT, Supervisor

APPROVED DATE: _____