

**CHARTER TOWNSHIP OF CLINTON
REGULAR MEETING OF THE BOARD OF TRUSTEES
MONDAY, MAY 10, 2010**

PRESENT:	ROBERT J. CANNON	SUPERVISOR
	GEORGE FITZGERALD	CLERK
	WILLIAM SOWERBY	TREASURER
	ERNEST HORNUNG	TRUSTEE
	DEAN REYNOLDS	TRUSTEE
	JENIFER WEST	TRUSTEE
ABSENT:	KENNETH PEARL	TRUSTEE (EXCUSED)

The Regular Meeting of the Board of Trustees was called to order at 6:30 p.m. in the Board Chambers. Also in attendance was Jack Dolan, Township Attorney. The Pledge of Allegiance was recited. A moment of silence was observed for a City of Detroit Police Officer and Clinton Township resident Brian Huff, who was recently killed in the line of duty.

APPROVAL OF AGENDA

Mr. Fitzgerald noted that following an add-on to the agenda, it was discovered that the petitioner was not able to attend tonight; therefore, he requested the following deletion:

Item #8 - Donation from Optimists to Parks & Recreation

Mr. Fitzgerald requested the following addition in its place, as well as the addition of Item #10:

Item #8 – EMS Week Proclamation

Item #10 – Request Closed Session to Discuss: 1) Action to Amend Consent Judgment: Gordon Food Service v. Charter Township of Clinton; and 2) Update on Litigation Involving Clinton Township v. ITC Holdings.

Motion by Mr. Hornung, supported by Mr. Reynolds, to approve the agenda as amended.
Roll Call: Ayes – Hornung, Reynolds, Cannon, West, Sowerby, Fitzgerald. Nays – None. Absent – Pearl. Motion carried.

**1. REQUEST TO CONDUCT ANNUAL TENT SALE – MICHELE’S SHOES:
41830 GARFIELD ROAD**

Mr. Cannon indicated that he talked with the landlord today to make sure any concerns that came up last year are being addressed, and he was assured that the landlord will be keeping a close eye on it.

Motion by Mr. Sowerby, supported by Mr. Fitzgerald, to receive and file the letter from Mr. Gregg Reo, owner of Michele’s Shoes, and approve the request for their annual tent sale to be held at 41830 Garfield on June 4th, 5th and 6th, 2010, as outlined in the correspondence, contingent upon no outdoor sales being conducted. Roll Call: Ayes – Sowerby, Fitzgerald, Reynolds, Hornung, Cannon, West. Nays – None. Absent – Pearl. Motion carried.

2. SALE OF LEGAL CLASS C FIREWORKS FROM A TENT

Mr. Hornung explained that the Township Ordinance prohibits sales from tents. He inquired as to where she would be conducting the sales.

Ms. Caren Burdi replied that the fireworks would be displayed and sold in the tent. She replied the tent would be situated close to Gratiot Avenue, and she was told by the Township that she would need to get permission from the Board to be able to put up a fireworks tent. She pointed out that the Township-sponsored Festival of the Senses has merchandise being sold out of tents. She questioned whether it is the sale of fireworks that is offensive to the Township, or whether it is the outdoor sales.

Mr. Hornung replied that he does not have a problem with the sale of fireworks, but he reiterated it is against the ordinance to sell them from a tent.

Ms. Burdi explained that she went to the Fire Department and paid them \$1,000 to start the process. They informed her she had to go to the Township Board for approval, and she claimed she was never told there was a Township ordinance prohibiting outdoor sales.

Mr. Sowerby inquired as to why the \$1,000 was required.

Mr. Dolan replied to inquiry that he is not aware of the provisions that are required by the Fire Department for that charge. He noted that the Township has approved exceptions to permit temporary tents in parking lots as long as the sales themselves take place in a building. He explained these outdoor sales are covered in Chapter 1299.01-m and sales in parking lots are prohibited. He added the Board has granted exceptions to allow the tents and display of goods in the parking lots, but only when the exchange of money or tender takes place in a building. He disagreed with the correlation between the proposed fireworks sales and the Township’s annual “Festival of the Senses”. He explained the

latter is an event that is held once a year on the Township grounds and it is not held in a parking lot that is intended for another purpose. One of the problems is that the type of tent and its proposed location take up parking. Mr. Dolan stressed that the Township does not want the sales to be disengaged from the purpose for which the development is established.

Ms. Burdi assured a lot of careful planning went into determining a suitable site for the tent, and she pointed out that there is no thru traffic at this point in the parking lot. She stated she understands the concern about taking up valuable parking spaces and lanes that are needed, but she noted this is an extremely large parking lot and the proposed tent would not make a difference in the parking situation. She questioned the safety of customers carrying fireworks from the tent to a neighboring building to pay, and felt it would be much safer to have them complete their sales transaction while in the tent so they can then leave the area.

Mr. Dolan suggested Ms. Burdi look at the drawing a request for a tent that was just granted. He noted that the tent is adjacent and immediately in front of the building for its intended purpose. Mr. Dolan felt the petitioner wants to be close to Gratiot in an area clearly designed for parking. He felt if the Township approves this request, they would be faced with many more similar requests to permit tent sales up along the road. He assured this ordinance is not directed toward SkyWorks, firework sales or any other similar use, but has been established to correlate a temporary use to the business that is already there.

Ms. Burdi claimed she has gotten two rulings, although she replied to inquiry that they are non-binding, which states that a landlord has the same rights to the use of his/her property as the tenants. To deny the landlord the same use of the property as would be allowed for the tenants is inconsistent, and she claimed this decision has come down in several cases in Macomb County Circuit Court. She did not feel it is that simple to allow everyone to go up and down along Gratiot. She admitted it is difficult to find a spot where it does not interfere with traffic or parking spaces. Ms. Burdi could not see the difference between the Festival of the Senses and her request.

Mr. Cannon maintained that this request cannot be compared to the Festival of the Senses. The tents are not located in the parking lot. He felt that there are people who utilize the parking spaces further from the shopping center because they do not want to have their cars damaged from parking too close to someone else. Mr. Cannon also pointed out that the vendors who actually have storefronts and pay taxes and employees all year long have an opportunity of making a few extra sales at this time. He suspected that Ms. Burdi wants to set up in a prime location and take business away from the Township merchants who are having trouble in these tough economic times.

Mr. Dolan clarified that the real issue is that the Township does not allow for this type of business in the parking lot. He reiterated it has only been allowed in the past when the actual sales are taking place inside a building.

Ms. Burdi inquired as to whether she would be approved if she had an actual storefront to conduct the sales, with a tent in front.

Mr. Dolan replied that it could work, but he added it would depend upon the placement of the tent and its proximity to the storefront so there is not a large space between the two. He felt the Board cannot act on such a request without having more specific details. He agreed that if they had a display tent immediately in front of the store, it may work and they would be consistent with some of the applications that have been approved by this Board.

Ms. Burdi inquired as to how many more Board meetings before the 23rd of June. She also inquired about her \$1,000 fee she paid.

Mr. Dolan replied that the Fire Chief is not present tonight, but he assured he will talk to him administratively tomorrow.

Mr. Sowerby felt they can refund the \$1,000 paid once they find out all the circumstances and what tender was used. He was confident the Board members do not have an issue with making sure the petitioner is refunded

Motion by Mr. Sowerby, supported by Mr. Reynolds, to receive and file the letter dated May 3, 2010 from Ms. Caren M. Burdi, Botsu Luna Fireworks, LLC, and deny the request to permit sale of legal Class C fireworks from a tent to be located at the Clinton Pointe Shopping Center on Gratiot Avenue, with said denial based on the Township's policy that the Board does not grant exceptions to the Township Ordinance to permit outdoor sales. Roll Call: Ayes – Sowerby, Reynolds, Hornung, Cannon, West, Fitzgerald. Nays – None. Absent – Pearl. Motion carried.

3. APPROVAL OF SPECIAL LAND USE AND SITE PLAN FOR CREATIVE EMPLOYMENT OPPORTUNITIES SCHOOL @ CAMBRIDGE OFFICE BUILDING: 3.82 ACRES FRONTING THE EAST LINE OF HARPER, SOUTH OF 15 MILE ROAD

Mr. Cannon stated that this appears to be a nice use for this property.

Ms. Kathleen Kunz-Pielack, of Creative Employment Opportunities, 10165 St. John Drive, Algonac, 48001, replied to inquiry that they will be in operation on weekdays from approximately 8 a.m. to 5 p.m., although some employees may actually come in a little early to prepare their classrooms for the day.

Mr. Cannon inquired as to whether 7 a.m. to 7 p.m. would be acceptable.

Ms. Kunz-Pielack stated that would be fine.

Mr. Dolan recommended that any motion specifying hours of operation should not indicate “normal hours of operation” but should plainly state “hours of operation”. He explained that the word “normal” indicates the hours may vary.

Motion by Ms. West, supported by Mr. Reynolds, to receive, file and concur with the letter dated April 30, 2010 from the Clinton Township Planning Commission and approve the Special Land Use for a skill development training center/school (Creative Employment Opportunities School @ Cambridge Office Building) in the B-1 Neighborhood Business District, as requested, with the hours of operation limited to weekdays from 7:00 a.m. to 7:00 p.m. Roll Call: Ayes – West, Reynolds, Hornung, Cannon, Sowerby, Fitzgerald. Nays – None. Absent – Pearl. Motion carried.

4. RECOMMENDATION OF QUOTE FOR ACO STORM WATER OVERFLOW PUMPS REGARDING BACKUP GENERATOR CONNECTIONS

Motion by Mr. Reynolds, supported by Ms. West, to receive and file the letter dated May 3, 2010 from the Assistant Superintendent of the Water & Sewer Department and award the work for installing generator switch/plugs at the seven ACO Storm Water Overflow Pumps to the low bidder, Lotus Electric, Inc., of Waterford, Michigan, in the amount of \$21,478.70, with these funds coming out of the repair and maintenance portion of the budget, as outlined in the correspondence. Roll Call: Ayes – Reynolds, West, Hornung, Cannon, Sowerby, Fitzgerald. Nays – None. Absent – Pearl. Motion carried.

5. REVIEW OF “REQUEST FOR PROPOSAL” FOR WASTE HAULING CONTRACT

Mr. Fitzgerald noted that they will have to schedule another committee meeting and work from there.

Motion by Mr. Hornung, supported by Mr. Fitzgerald, to refer the “Request for Proposal” for Waste Hauling Contract to the Sanitation Committee for their review and recommendation back to the Township Board. Roll Call: Ayes – Hornung, Fitzgerald, Reynolds, Cannon, West, Sowerby. Nays – None. Absent – Pearl. Motion carried.

6. TREASURER’S REPORT

Mr. Sowerby presented the Treasurer’s Quarterly Investment Report and offered to answer any questions.

Mr. Fitzgerald inquired as to the fact that the news has announced an additional 290,000 jobs nationwide in the last month, and he inquired as to whether the economy is starting to turn around.

Mr. Sowerby explained that there are economic variables, including the economy in the nation, in Michigan and in southeast Michigan. He indicated that the increase in the

number of jobs looked like the start of a positive turnaround; however, the international economy has not been doing as well. He talked about the instability in Greece, and he felt they are not out of the woods nationally. He also noted that the increase in jobs is not nearly as high in this area the nationwide average, so he felt they will continue to experience instability. Mr. Sowerby explained that the Township does not have any investments in CD's at this time, which are investments in individual banking institutions. One of the reasons is that they have to invest for nine months at a time at an extremely low interest rate, and they are locked in at that rate even if the interest rates begin to rise within that time. He also stressed the Township needs liquidity in its funds right now, and with so little money to be gained from the interest in CD's, it is better to maintain the security and liquidity. Mr. Sowerby added that the majority of big banks have informed that they are not going to participate in the TAG (Transaction Account Guarantee) because they have to pass the cost for that insurance on to the investors.

Motion by Mr. Hornung, supported by Mr. Fitzgerald, to receive and file the Treasurer's Quarterly Investment Report dated April 23, 2010. Roll Call: Ayes – Hornung, Fitzgerald, Reynolds, Cannon, West, Sowerby. Nays – None. Absent – Pearl. Motion carried.

7. RECOMMENDATION OF REPAIR WORK ON GARFIELD/HEALTHIER WAY SANITARY LIFT STATIONS

Motion by Mr. Sowerby, supported by Mr. Reynolds, to waive the formal bid process for the Garfield/Healthier Way Sanitary Lift Station Repair because of the immediacy in getting this repaired. Roll Call: Ayes – Sowerby, Reynolds, Hornung, Cannon, West, Fitzgerald. Nays – None. Absent – Pearl. Motion carried.

Motion by Ms. West, supported by Mr. Hornung, to receive, file and concur with the letter dated May 5, 2010 from the Chairperson of the Budget/Ways & Means Committee, and approve the quote of \$35,776.00 from Lotus Electric, who is the lowest qualified electrician, to do the repair work on the Garfield/Healthier Way Sanitary Lift Stations, as outlined in the correspondence. Roll Call: Ayes – West, Hornung, Reynolds, Cannon, Sowerby, Fitzgerald. Nays – None. Absent – Pearl. Motion carried.

8. DONATION FROM OPTIMISTS TO PARKS & RECREATION

This item was deleted from tonight's agenda.

8. EMS WEEK PROCLAMATION

Mr. Fitzgerald requested that one change be made to the "EMS Week Proclamation":

In the paragraph beginning "Therefore":

Change from: "THEREFORE, I, Robert Cannon, Supervisor of Clinton Township..."

Change to: "THEREFORE, we, the Clinton Township Board of

Trustees...”

Motion by Mr. Cannon, supported by Mr. Fitzgerald, to adopt the EMS Week Proclamation, designating the week of May 16th-22nd, 2010 as Emergency Medical Services Week and recognizing Medstar Ambulance and the Clinton Township Fire Department, with the change as noted. Roll Call: Ayes – Cannon, Fitzgerald, Reynolds, Hornung, West, Sowerby. Nays – None. Absent – Pearl. Motion carried.

9. RECONSIDERATION OF BID AWARD FOR SENIOR CENTER NEWSLETTER

Mr. Dolan inquired as to whether a contract was signed for the original bid award.

Mr. Matt Makowski, Director of the Senior Center, replied that they had an agreement; however, in their bid proposal, they had included language that the contract could be terminated by either side with a thirty-day notification.

Mr. Dolan recommended that they make a motion to officially terminate the contract, and the second motion can be to appoint the second lowest bidder to fulfill the remainder of the contract at the lowest bidder’s quote.

Motion by Mr. Hornung, supported by Mr. Reynolds, to terminate the contract between Caldwell Printing, the low bidder, and the Township for the printing and typesetting of a 2-year bid for the Senior Citizens Department newsletter, due to the company repeatedly failing to fulfill their contractual requirements. Roll Call: Ayes – Hornung, Reynolds, Cannon, West, Sowerby, Fitzgerald. Nays – None. Absent – Pearl. Motion carried.

Motion by Mr. Reynolds, supported by Mr. Sowerby, to award printing and typesetting of the remaining issues for the Senior Citizens Department newsletter, to the second lowest bidder, Litho/Mith Printing, at the lowest bidder’s price of \$3,180 per issue, in order to fulfill the obligations and terms of the original contract. Roll Call: Ayes – Reynolds, Sowerby, Hornung, Cannon, West, Fitzgerald. Nays – None. Absent – Pearl. Motion carried.

10. REQUEST CLOSED SESSION TO DISCUSS: 1) ACTION TO AMEND CONSENT JUDGMENT FOR GORDON FOOD SERVICE VS. CHARTER TOWNSHIP OF CLINTON; AND 2) UPDATE ON LITIGATION INVOLVING CLINTON TOWNSHIP V. ITC HOLDINGS

Mr. Cannon stated they will be coming out of Closed Session to act on the first item.

Motion by Mr. Hornung, supported by Mr. Reynolds, to schedule a Closed Session to discuss: 1) Action to Amend the Consent Judgment for Gordon Food Service v. Charter Township of Clinton; and 2) Update on Litigation Involving Clinton Township v. ITC

Holdings. Roll Call: Ayes – Hornung, Reynolds, Cannon, West, Sowerby, Fitzgerald.
Nays – None. Absent – Pearl. Motion carried.

APPROVAL OF MINUTES OF APRIL 27, 2010 REGULAR TOWNSHIP BOARD MEETING

Motion by Mr. Reynolds, supported by Mr. Fitzgerald, to approve the minutes of the April 27, 2010 Regular Township Board Meeting, as presented. Roll Call: Ayes – Reynolds, Fitzgerald, Hornung, Cannon, West, Sowerby. Nays – None. Absent – Pearl. Motion carried.

APPROVAL OF BILLS

Motion by Mr. Hornung, supported by Mr. Reynolds, to approve the bills as presented. Roll Call: Ayes – Hornung, Reynolds, Cannon, West, Sowerby, Fitzgerald. Nays – None. Absent – Pearl. Motion carried.

PUBLIC COMMENTS

There was one public comment:

Mr. Tim Falk, President of the Clinton Township Firefighters Association, explained that their bargaining unit received a letter dated March 15th from the Human Resources Director, and he request to have some clarification on it. He explained that this letter informed that the Township is going to terminate the Firefighter's Collective Bargaining Agreement effective on May 15th. He stated there is language in their bargaining agreement that it continues on until a new contract is settled. He questioned whether the Board authorized this letter, and if they did, when they took that action.

Mr. Cannon advised that Mr. Falk has a right to make public comments but he cautioned this is not a discussion forum and questions will not be answered at this time.

Mr. Falk understood but hoped to present the questions so he can receive answers in a timely manner. He pointed out that in 2005, the members of this Board voted to ratify the current Firefighter's contract. He suspected that to end this contract, they would be required to vote on it during a public meeting. He cautioned that there is continuation language in that collective bargaining agreement, and he questioned why that is not still in effect. He stated that according to their letter, this eliminates the 23 minimum manning level, and he inquired as to what the level will be. He further inquired as to what stations will be closed. He felt it is imperative for not only the firefighters and staff to be made aware of this, but also the residents need to know what level of service they can expect after that date. He felt the level of service will be diminished after Friday. He noted that these questions have been asked to the Fire Chief and Human Resources Director, but he claimed the Firefighters have not received a response. Mr. Falk referred to the impending layoffs that were postponed for sixty days, and pointed out that the 60-

day period will be up on May 22nd. He did not feel the contract issues will be resolved by that time. He stated he has questions on behalf of the members and their families who will be affected, such as how much notice they will be given prior to layoffs, and what will happen to their sick and vacation banks and the contributions they have put into the pension fund. He hoped their members and families will be given the same grace period on health insurance as the building inspectors who were the last group to be laid off. He felt that answers to these questions will help them plan, and urged them to answer in a timely manner. Mr. Falk thanked the Board for their time on this matter.

ADJOURNMENT INTO CLOSED SESSION

Mr. Cannon indicated that they will adjourn into Closed Session and return to take action on one item.

The meeting recessed at 7:26 p.m. to go into Closed Session, and reconvened at 7:43 p.m.

10. AMEND CONSENT JUDGMENT FOR GORDON FOOD SERVICE VS. CHARTER TOWNSHIP

Motion by Mr. Fitzgerald, supported by Mr. Reynolds, to amend the Consent Judgment issued on November 30, 1995 by Judge Chrzanowski for Gordon Food Service v. Charter Township of Clinton, as proposed. Roll Call: Ayes – Fitzgerald, Reynolds, Hornung, Cannon, West, Sowerby. Nays – None. Absent – Pearl. Motion carried.

ADJOURNMENT

Motion by Ms. West, supported by Mr. Hornung, to adjourn the meeting. Roll Call: Ayes – West, Hornung, Reynolds, Cannon, Sowerby, Fitzgerald. Nays - None. Absent – Pearl. Motion carried. The meeting adjourned at 7:44 p.m.

Respectfully submitted,

GEORGE FITZGERALD, CLERK
CHARTER TOWNSHIP OF CLINTON