

**Minutes of the Clay Township Regular Board Meeting Held Monday March 3, 2008 in the Clay Township Meeting Hall, 4710 Pointe Tremble Road, Clay Township, Michigan**

Supervisor Jon Manos called the meeting to order at 7:30 p.m.

**ROLL CALL**

PRESENT: Supervisor Jon Manos, Clerk Michael Pellerito, Treasurer Connie Turner, Trustee Thomas Krueger, Trustee John Makuch, Trustee Jay DeBoyer, Trustee David Dare

ABSENT: None

Citizens: 14

**BILLS PAYABLE**

**Motion** by Turner, supported by Makuch, to pay the bills in the amount of \$16,713.50

**ROLL CALL VOTE**

AYES: Krueger, Makuch, Turner, Pellerito, Manos, DeBoyer, Dare

NAYES: None

**MOTION CARRIED**

**CONSENT AGENDA**

**Motion** by Makuch, supported by Turner, to approve the Consent Agenda as submitted

AYES: All

NAYES: None

**MOTION CARRIED**

**OLD BUSINESS**

**1. Stauder, Barch & Associates Correspondence**

Manos: We asked them to evaluate the position of our Water fund regarding the Bonding. They have concluded their study and have some recommendations to resolve the situation we have with the outstanding Bonds. Few years back the Algonac Water plant had to be expanded and that was a great deal of money; the Harsens Island district came on board and that added some new customers and some new revenues. Came to a point where the Bonding that was occurring for the plant, we were not receiving the growth that was necessary to maintain the original funding mechanism. Our population has maintained below 10,000 and this has caused some problems and expenses occurred that were not raised in the water rates. When Harsens Island water came on board a number of the properties were paid off and the interest income was not there. We have not had the development there either. The users of the system have got to reestablish the creditability and soundness of that bonding program to reassure the bond people are assured there is the money there. The Township Board took some steps to do that by raising some of the charges that our Auditors felt would be necessary to resolve the problem. According to Stauder, Barch there are couples of things that could be done that are not as major as the last ones the Board approved. This would put some stability back into those funds and would satisfy the bonding people. I believe we are close to resolving it based on some reasonable growth.

DeBoyer: I didn't believe Stauder Barch was going to tell us anything different than we already knew and if you go back and look at the minutes it will reflect that. When I look at the report I see they look at one side of the Water fund, the Bond principal and interest payments. They take two things; system benefit fee dollars and quarterly capital charges, which amount to \$527,000.00 and plug them into bond debt relief, debt interest and principal. The problem with that is this; a large portion of those dollars are used to operate the Water Department, to buy materials, to pay the employees, to put gas in the trucks, etc. When we get to the end of the report it says we are still \$124,000.00 short and we can make it up by charging some quarterly fees and so on. The problem is that when we pull all the quarterly capital charges out of the operations side of the Water Department it puts our Water Department \$300,000.00 upside down. I don't know why we pretend there is not problem; there is a serious, serious problem. Fortunately we did have a Harsens Island water project and we had people who paid their assessments off early. We had zero funding mechanism in place to pay for the Water plant. So we've had income from Harsens Island special assessment district that we have used to disguise the debt problem we have with the Water plant refurbishing. The problem with that is that from a cash flow perspective we have taken the money from the Harsens Island district and pay to cover the cost of the Bonds principal and interest on the Water plant. Today cash flow based on a banked revenue, which was designed to help the water system down the road in the event of a catastrophe, has been burned through, at least three to four million dollars

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Now the Harsens Island water district is going to be short in about five to seven years. We have a long commitment of Bond principal and interest that needs to be paid off over there. We've been robbing Peter to pay Paul. This report has not told us anything we did not know. The citizens of our Township need to have understand we have a serious problem because we have done two project, Harsens Island water district and the Water plant, neither of them were properly fund and that is the root of our problem.

Makuch: On the first page, second paragraph, it says, "The original bond repayment plan contemplated an increase in the commodity charge paid to the City of Algonac in the amount of \$1.16 per thousand gallons of water purchased. Such a charge would have generated approximately \$307,000 per year as compared to the 1998 debt service which is \$310,000 per year". It bothered me that it goes on, "We are not sure as to the reason, apparently that was never put into place. It may have been due to the favorable financial position of the water fund that existed at that time". If you are going to do water plant upgrades and put in water lines you don't dip into water department capital funds. We have a real problem we have to face. I think the simple fact is that we have to fix this. When the Harsens Island water fund runs into problems we may not be here but we have to look at it and fix it now.

DeBoyer: This is not a favorable thing, I live in this Township as we all do and we have debts together that we have to pay. I don't want to pay more on anything but the problem is I am not going to bury my head in the sand and hope it is going to go away. Let's face it today because we have time on our side.

Krueger: Have a question. System benefit fees and quarterly capital charge, Connie do you know where they fall in on the financial report of the Water department? Are they in user charges?

Turner: On the Balance sheet is where that comes in.

Krueger: So they are not part of the revenue from the enterprise fund.

Manos: Jay indicated the officers did not want to address the problem, which certainly is not true. When I came back into office I recognized that fact and it came to light through the audit that some things had to be reconfigured being that we were using the funding that would normally gone into the Harsens Island mechanism to pay off the debt. There was a schedule that was put forth that showed interest income. Can't earn interest if you spend the principal. So the principal was moved over and put into operating costs of the water department. This occurred in a number of areas and debt service charges, which have been factored into the payment of the bonds on that particular system just as there were in other systems. What has happened is that the money has been used up and in the future it can't generator what it should have. The water plant was another mess that came about and we are still in litigation regarding that as the largest customer to Algonac. Made clear that even without Harsens Island coming on board that the water operational fund was running so far in the hole each year that if there was another funding to draw from right away there would have been a tremendous increase in rates because we only had 2600 customers at the time to pay that debt. I believe today we have another 800 customers from the Harsens Island district to do that. Another thing I would like to comment on is, good that each Board member looks at everything and attempts to analyses it and Paul Stauder has done. He has dealt with a way to stabilize the bonds and what our debt requirements are under the bonds. If we fail to make bond payments some of those contracts call for adding ad valorem taxes and so on. That was his primary objective. Plante & Moran is capable to look at this. We have another issue and that is operational funds, from what I can garner the bond issue does not detract from the operating fund dollars that we charge for water use. We bill over and above what we pay Algonac and that money is generated into the operational money. I believe we need to have Plante & Moran take a look at it and give us an evaluation and to tell us where is the operational fund and what does it take to finish up the bond stability. Stauder Barch has merely told us that if we want to straighten out all of the bonds we can do so by a minimum raise in the system benefit fee which doesn't effect anyone already in the system, for new tap ins only and it would be on a graduated basis and another smaller increase within that debt service charge on a quarterly basis. I would like to see where we are going with the revenue that is available to us for operating.

DeBoyer: So the people understand; the operating budget for the water department which does not include bond principal and interest is about 1.095 million dollars of that about 650 thousand is water sales and of that 650 thousand there is only 286 thousand dollars of profit so lets pull the water out of it and we are still \$300,000 short on operations. If you take your money from your credit card payment to make your mortgage payment it doesn't matter, you still have to pay both. We can't continue to hit fund balance to make payments, we're going to be out of money. We started with a healthy fund balance. They tell us we should take a maximum of \$23,000 a year out of fund balance now, that's how bad it is. It needs to be addressed, doesn't make me happy

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that we have operations that were set up by previous boards that got us to this point, I am not blaming other boards, it just doesn't make me happy. Both of these were under funded originally and that was the beginning of the problem and we have perpetuated it now.

Krueger: I think we should also look at this from the legal point of view too. I'm part of the special assessment on Harsens Island. Can we use other funds in the water department to off set special assessment costs for the water district on Harsens Island? It doesn't seem like we should.

DeBoyer: I have done research and found things. Public 188 of 1954 says "No special assessment district shall be compelled to pay the obligations of any other special assessment district". So when you take my quarterly charges and use them to pay down bond principal and interest on another special assessment district you are making me pay someone else's special assessment district.

Krueger: I think we should get McNamee in the hunt here, and find out what exactly we should do, we might be looking at this all wrong, we might have to chunk up these special assessments we have and figure out what we have to within the special assessment to make it whole. Also, wasn't there a loan from the water department to the Harsens Island special assessment district for a significant amount of money?

DeBoyer: There is a \$500,000 loan.

Krueger: That should also be part of this investigation.

DeBoyer: That same public act addresses that: "It must be a loan that does bear interest and is repayable". This \$500,000 doesn't do either

Krueger: Plante & Moran has addressed it, they said at the current rate of decline it is foreseeable that the water fund could be in a cash deficit within the next three to five years. They outline six different things that had a lot more dramatic increases in them than we have done. I think we should have legal look at whether we can use general revenue to fix a specific special assessment and based on what they tell us give our accountant some marching orders to evaluate.

Turner: Plante & Moran is analyzing the revenue we have taken since we increased the rates to see where we stand and how it is getting us out of the hole. I don't have report back.

Krueger: That would be fine to fix the operational part of the water fund but if it is true then those funds can't be used to fix the special assessment because someone out on Jankow is paying to fix the special assessment on Harsens Island.

DeBoyer: Would like to read something. Public Act 188 of 1954 if any citizen would like to read it. It is section 41.732. It says, "Should the assessment in any special assessment prove insufficient for any reason including the non-collection thereof, to pay for the improvement for which they were made or pay for principal and interest on the bonds issued in anticipation of the collection thereof then the Township Board shall make additional pro rata assessments to supply the deficiency but the total amount assessed against any parcel of land shall not exceed the value of the benefits received for the improvement". Shall means must.

Pellerito: Stauder Barch put the original bond repayment schedule together. They were the ones who put the \$500,000 loan in there and they were the ones who put the \$1,000 in-lieu-of fee in there. The fund balance that was here five years ago was greatly under estimated because of everybody coming in and paying their loans off. If you go to 1989 there was a schedule put together with the City and the Township where there was supposed to be a dollar per thousand gallons attached to the water rate, which was never followed through. There are so many variables as to why the projections as to growth didn't come to fruition. Capital improvements taken from other districts back in 6 and 6A, it isn't just happening overnight. Bottom line, if Plante & Moran and Stauder Barch and Miller Canfield all approved these schedules, Miller Canfield was the one that approved it sell the bonds.

DeBoyer: A quote from the Stauder Barch report: "According to Township officials these funds may be applied to bond debt retirement periodically as needed."

Krueger: That was part of the report. Miller Canfield approves the bond issue, has nothing to do with moving the funds around. Stauder Barch, are they attorneys?

Pellerito: They are consultants

Makuch: Sounds like had couple projects going on, had cash coming in, still have cash coming in and we are robbing peter to pay Paul. The increase in the system benefit fees to go against all new users is going to be in the negative so can't count on that. The assumptions were wrong. How are we going to fix this?

Pellerito: No refinancing ability

Turner: Nothing left but to raise the water rates to the customers, we have the lowest around.

Manos: If in effect back some period ago there was supposed to be some increases in rates, it didn't occur. There was adequate fund balances that satisfied the accounting firms at the time and still at this point in time. They said you may want to consider waiting awhile before raising

debt service charges again. Predicated on review and looking at all the factors and see if they are all

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occurring. We had auditors come in and say don't get excited, it's down the road. If we would have had some normal development in the quarterly charges, didn't happen.

DeBoyer: I think the people of Harsens Island would prefer the money they paid in to their special assessment district went to pay down the bonds principal and interest in their special assessment district.

Manos: That's true

DeBoyer: When we slush our money together and don't analyze independent special assessment districts we don't know which ones are insufficient. We do now, I have talked to our auditors, I know Harsens Island is insufficient and it is going to be insufficient in five to seven years.

Manos: It is not insufficient because if you go back and look at whole district and it was calculated at about 1200 and we have 800 in now who have with paid off their debt or are paying on their debt and we are collecting interest on that. We only need another 300 to reach the goal of the schedule.

DeBoyer: However, when the total dollars taken in from a special assessment district is not enough to cover the obligation of the bonds that were sold that is a problem.

Manos: That hasn't occurred.

DeBoyer: Yet, it is going to occur.

Manos: There may be some growth on the Island that helps.

DeBoyer: How much was the water plant?

Pellerito: Nine million

DeBoyer: What was our share?

Pellerito: 6.8 million

DeBoyer: Do the math and see how soon that will be paid down.

Manos: It was to be paid for through debt service recovery and through water rate recovery without Harsens Island even being in. Brought in 800 new customers that are paying debt service and that is going to pay the debt service at the plant.

DeBoyer: Agree the plant debt is the entire Townships responsibility but to lump all specials into a pie and dole the money out regardless of where it comes from is wrong.

Manos: Too late to go back, would have to go back and calculate all the money that's been removed that was put into operations.

DeBoyer: That's what we're going to do.

Manos: I don't believe with a total tap ins of 1200 it won't pay for itself.

DeBoyer: When it doesn't the law is very clear what needs to happen.

Makuch: The comment that bothers me is that if you are spending the principal then you can't get the interest that you counted on. The principal should not have been spent. What is it going to take to get us out, we have to fix it.

Manos: We will bring it back and give it some more consideration.

Pellerito: Plante & Moran already gave us a tentative schedule increase every six months and we started that. You look at 20 years of being stagnant doing what you think is best for the people and not raising rates is wrong. If you did the 2% to 3% per year then you stay on track but we didn't raise our debt service fee for 22 years. When you bonded x amount for Harsens Island and paid 6% for the money and sell it back at 8% to the residents and everybody comes in and says I can get it at the bank on a second mortgage for 3% or 4% this cash comes but you still have an obligation. A lot of assumptions have gone into this over the last 20 years, didn't start over night. They have been using a formula that was defect in 1989 so that is something Plante & Moran didn't tell us about.

DeBoyer: Need Plante & Moran to break our system into the components that it actually is because that is how you fairly put fees on people, you don't hit everybody for everybody's debt.

Manos: Bonds issues are for 20, 30 or 40 years, interest payments will not occur until down the road. It comes in on a regular basis and it not paid out until further on down in the schedule process. Will bring back.

## **PUBLIC COMMENTS RELATING TO ANY NEW BUSINESS**

None

## **NEW BUSINESS**

### **1. Cottage Lane/North Channel Dredging Resolution #2 & #3**

**Motion** by Turner, supported by Makuch to adopt Resolution #2 to approve the Special Assessment Improvement Project and District and instruct the Supervisor and Assessing officer to prepare a Special Assessment Roll.

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Pellerito: The Boards roll in special assessments districts; the Township does not initiate or inspect, just the bus drivers to unite the people for the loan or to get the money. When questions proposed as to depth or disposals, it is not the Township's project. We by Public Act 188 were asked by 73% of the residence in that district. If we tell them no then we are violating Public Act 188. It is not us driving the ship on this we just procure the funds.

Makuch: Do a special for my canal. It is not up to the Township to make sure everything gets done, just to provide the funding.

ROLL CALL VOTE

AYES: Makuch, Turner, Manos, Pellerito, DeBoyer, Dare, Krueger

NAYES: None

**MOTION CARRIED**

**Motion** by DeBoyer, supported by Makuch, to adopt Resolution #3 to set the Public Hearing to review the roll and make any corrections on Monday, April 7, 2008 at 7:15 p.m.

ROLL CALL VOTE

AYES: Turner, Manos, Pellerito, DeBoyer, Dare, Krueger, Makuch

NAYES: None

**MOTION CARRIED**

**2. Stark Drive Special Assessment Resolution #4**

**Motion** by Turner, supported by Dare, to adopt resolution #4 for the Special Assessment renewal for Stark Drive

ROLL CALL VOTE

AYES: Pellerito, DeBoyer, Dare, Krueger, Makuch, Turner, Manos

NAYES: None

**MOTION CARRIED**

**3. Shriners Annual Hospital Fund Drive**

**Motion** by Pellerito, supported by Dare to approve the Shriners to conduct their annual Fund drive Thursday, Friday and Saturday, June 19, 20 and 21, 2008 and waive all permit fees.

AYES: All

NAYES: None

**MOTION CARRIED**

**4. Clay Township Website**

**Motion** Pellerito, supported by Dare, to pay for the new website in the amount of \$2,710.00

AYES: All

NAYES: None

**MOTION CARRIED**

**5. Mechanical Inspectors Request for Reimbursement**

Makuch: Kelly Smith does the mechanical inspections, is he considered an employee or a subcontractor?

Pellerito: Kelly works for a 75% basis of the permit, we pay on a W-2 so he has workers compensation.

Makuch: Every time he does an inspection he submits an invoice and we pay him?

Pellerito: Yes

Makuch: So why would we reimburse for the conference registration fee?

DeBoyer: Mike would you shed some light on the payment of unemployment.

Pellerito: When people apply for unemployment now all employers TIN numbers come up associated with your social security number. So MESC recognizes he is paid on a W-2 and deems it as a part associate and therefore qualifies for part time under employment. That creates a situation that MESC back charges us for unemployment.

DeBoyer: He works for someone else full time and subcontracts for us, he gets laid off from the full time then his unemployment rate we pay a percentage rate based on our percentage of his total W-2 earnings.

Pellerito: Yes – no, it would be based on for example our contribution for his base wages was \$10,237 so would be liable for a maximum charge of \$1,104.

DeBoyer: Even when he is employed by us?

Pellerito: You are supposed to tell MARVIN that you made either enough or not enough and not receive an unemployment check for that period.

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DeBoyer: How much have we paid so far?

Pellerito: Five hundred and twenty-five dollars since December

DeBoyer: How many inspections since December?

Pellerito: Can't give actual number.

Krueger: Can we challenge?

Pellerito: Yes, we do, every one has been overturned.

DeBoyer: If we have a mechanical inspection tomorrow he is going to do it, so he isn't laid off from us.

Pellerito: He would say he didn't have any wages because he didn't submit a bill. You can pay him on a 1099 as we used to years ago. It changed for the Fire Fighters in the event he went out on a call and got hurt and this segues into an inspector.

**Motion** by Makuch, supported by Krueger, to deny paying the \$395.00 reimbursement.

AYES: All

NAYES: None

**MOTION CARRIED**

**6. Treasurer's Request for Printers**

Turner: Everyone shares the large printer and when we want to print checks, which we do every day, we have to check to make sure no one else is printing at the same time, be more convenient with our own printers.

**Motion** by DeBoyer, supported by Dare, to approve purchasing two HP Laser Jet P1005 printers at \$129.99 each plus cables and ink cartridges for a total of \$411.94.

AYES: All

NAYES: None

**MOTION CARRIED**

**7. Police Chief Request for 911 Maintenance**

Chief Drake: This a 10% increase unfortunately. Our 911 system is quite antiquated and there is no other company out there that will touch it. Need to consider revamping our 911 system in the future. Need it 24/7. Need it now; if system goes down we are unprotected.

Pellerito: Cost of new system?

Drake: Don't know will look into it and bring it back for the next budget year.

**Motion** by DeBoyer, supported by Pellerito, to award the maintenance agreement from March 1, 2008 to February 28, 2009 to Pro-Tel, Inc. in the amount of \$9,460.00

AYES: All

NAYES: None

**MOTION CARRIED**

**8. Police Chief Request for Part Time Police Officer**

Chief Drake: We now have two openings, one for a full time officer and one for a part time officer. Have put in a new procedure for hiring; we give a written test and then run oral boards. Candidates for full time are down to three and I will be interviewing and do background checks and then select a full time officer. In the mean time I need someone for the part time position.

Jerry Pawelski is a retired Detroit police officer, he served 25 years there and has lived in Clay Township 11 years. He is MCOLES certified and he passed the tests.

**Motion** by Pellerito, supported by DeBoyer, to hire Jerry Pawelski as a part time police officer for Clay Township

AYES: All

NAYES: None

**MOTION CARRIED**

**9. Planning Commission Request for Citizen Planner Classes**

**Motion** by Pellerito, supported by Makuch, to approve any Board member to attend the Citizen Planner class at a cost of \$10.00 each.

AYES: All

NAYES: None

**MOTION CARRIED**

**10. Peddler's Permit Fee Resolution**

Pellerito: If you go back you will see the original resolution was enacted in 1984 with a charge of \$25.00 for a permit and a \$100.00 cash bond. In 2003 we started live scan for the fingerprints. We took the fingerprints and just kept it in house. We have changed procedures and the abilities that we have today. It costs us \$35.00 to send it to MSP and there is nothing that drives getting the revenue for the Township. It should cover itself in costs and many local businesses do not like that competitive peddlers come in and sell products that they sell.

**Motion** by Pellerito, supported by Makuch, to increase our peddlers permit fee; application \$40.00, Fingerprinting \$25.00, State Police cost \$35.00 for a total of \$100.00.

ROLL CALL VOTE

AYES: Pellerito, DeBoyer, Dare, Krueger, Makuch, Turner, Manos

NAYES: None

**MOTION CARRIED**

**11. Harsens Island Fire Chief Request for Trainee**

DeBoyer: Have talked to Chief Daryl DuPage and Marty McGrath. Have had reservations and would like to ask Mr. McGrath some questions, our job is to mitigate risk. Chief DuPage you realize you are putting your reputation at risk with this Board by bringing Marty in and vouching for him.

Chief DuPage: Absolutely, have done a background check and he has taken all the classes.

Manos: Did you apply to the Mainland Fire Department, you live on the Folkert.

McGrath: No

Pellerito: You mention you have your EMT and you are working on your Fire I and II, did you pay for the classes out of you pocket?

McGrath: Yes

DeBoyer: Is it safe to assume you are not going to come to us and ask for reimbursement?

McGrath: Yes

Turner: As a trainee there is an automatic probationary period. Feel we should give him a chance.

**Motion** by Turner, supported by Dare, to approve the request by the Harsens Island Fire Chief to accept Marty McGrath as a trainee.

ROLL CALL VOTE

AYES: DeBoyer, Dare, Krueger, Makuch, Turner, Pellerito

NAYES: Manos

**MOTION CARRIED**

**12. Harsens Island Fire Chief Request for Ice Rescue Classes**

**Motion** by Makuch, supported by DeBoyer, to approve the Chief's request for Ice Rescue classes for seven of his personnel for a total cost of \$630.00

Dare: Are we still within budget?

DuPage: Believe the funds are there

AYES: All

NAYES: None

**MOTION CARRIED**

**13. Harsens Island Fire Chief Request to Sell Generator**

**Motion** by Makuch, supported by DeBoyer, to approve the Chief's request to put it up for either Public Surplus auction or to get bids on ebay with a minimum and if he can't get anything for it can withdraw it.

AYES: All

NAYES: None

**MOTION CARRIED**

**PUBLIC COMMENTS**

H. Mikolowski, 5472 Middle Channel: On water situation

A. Bryson, Chamber of Commerce: Buy local promotion and resolution

**BOARD MEMBER COMMENTS**

Makuch: Encouraged citizens to shop locally

Pellerito: Road Commission has salt again

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**ADJOURNMENT**

**Motion** by Makuch, supported by DeBoyer, to adjourn the meeting at 9:07 p.m.

**AYES:** All

**NAYES:** None

**MOTION CARRIED**

Michael P. Pellerito  
Clay Township Clerk