

**Minutes of the Clay Township Regular Board Meeting Held Monday October 20, 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 20

**BILLS PAYABLE**

**Motion** by Turner, supported by Dare, to approve paying the bills in the amount of \$140,285.52

**ROLL CALL VOTE**

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

NAYES: None

**MOTION CARRIED**

**CONSENT AGENDA**

**Motion** by Makuch, supported by Dare, to approve the Consent Agenda as submitted with the reading of the notice

AYES: All

NAYES: None

**MOTION CARRIED**

Clerk Pellerito read the notice absentee ballots are avail and the Clerk's office will be open Saturday November 1, 2008 for absentee ballots.

**OLD BUSINESS**

**1. H.I.F.D. Request for EMT Specialist Training**

Makuch: In light of the correspondence we have received from St. Clair County Emergency Medical Control Board and the opinion of Dr. Mills think there are better ways to use the training funds for this year.

Krueger: Seems to me if Dr. Mills won't go ahead with the upgrade what's the sense of getting the training. I was for it but we though he was going to approve the upgrade but he is not.

**Motion** by Makuch, supported by Krueger, to deny the request for EMT Specialist training.

AYES: All

NAYES: None

**MOTION CARRIED**

**2. BMJ Litigation**

Manos: Settlement type proposal has been received. Mr. McNamee our attorney is here and suggests we go into executive session.

**Motion** by DeBoyer, supported by Pellerito, to go into Executive session

Pellerito: Suggest we include Water Department Superintendent Jon DeBoyer since he's been deposed on this litigation.

**ROLL CALL VOTE**

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

NAYES: None

**MOTION CARRIED**

The Board went into Executive session at 7:35 p.m.

**Motion** by Makuch, supported by Krueger, to reconvene the regular Board meeting at 7:54 p.m.

AYES: All

NAYES: None

**MOTION CARRIED**

**Motion** by Krueger, supported by DeBoyer, to authorize the Township attorney to continue the settlement discussion.

**ROLL CALL VOTE**

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

NAYES: None

**MOTION CARRIED**

**PUBLIC COMMENTS RELATING TO ANY NEW BUSINESS**

None

**NEW BUSINESS**

**1. Prosecutor's Office Update**

Chief Drake: Prosecutor Mike Wendling and I have organized a new program that is Michigan law and want everyone to know about it. We have had several fatal accidents lately where there has been drinking involved with our younger adults both on the water and roadways. Need to do something about it. Find numerous cases where driving drunk for second and third times. State law indicating we can have a forfeiture of vehicle when arrested for OWI second time. Together with the Prosecutor's office; Clay Township Police Department will be the example for the County to start. Will roll out program October 30<sup>th</sup> that anyone arrested for driving under the influence second or third offence, our officers will forfeit the car and submit it to the Prosecutor's office.

Prosecutor Mike Wendling: MCL 257.625 allows us to not only to prosecute but also allows almost like a narcotic forfeiture to forfeit the vehicle they use to perpetrate the offense on second, third, fourth offense. We plan a pilot program here and with Marysville starting on the 29<sup>th</sup> or 30<sup>th</sup> and the 1<sup>st</sup> in Marysville. Will seize the vehicles and store them and then negotiate either a buy back with the owner for one time, if seized twice will not return the vehicle under any circumstance. It will generate a certain amount of revenue but the interest is in taking the vehicle away from the drunk driver. Have been frustrated with the sentences that have been able to get on drunk driving and the incarcerations costs and the cost of the fines don't seem to deter these people from committing the same offense over and over again. We are going to take a further step and see if that has a deterrent in the County. Will generate a certain amount of revenue for the Township; statute allows for sale of vehicle if not returned by buy-back and also a division of the funding which has yet to be worked out with Clay Township. Chief Drake was forward thinking enough to allow us to train his officers through the Prosecutor's office on the correct procedures for seizing those vehicles and go through the process. Marysville Police Department is also willing to work with us and we are in negotiations with Port Huron and we plan Countywide to start this program starting New Year's Eve.

Makuch: Great program. What about on the water, enforcement through Marine Division or Clay Township Police? Had four fatalities, not stating alcohol involved. Can we do that or just the cars first?

Wendling: Statute applies to vehicles. The County is going to pass an ordinance that will allow to recover some of those expenses.

Pellerito: How does this apply to lease vehicles?

Wendling: Just like it does on forfeiture vehicles for drug offenses. If driving a vehicle you owe money on priority goes to secured party, if leased vehicle can be returned back to the lease company, if owned by third party who doesn't have knowledge being used under drunk driving that person is an innocent party and can't take vehicle. Way we deal with on narcotic offenses and will deal with it here is will send on the first time a notice that their vehicle has been used in a drunk driving offense, this is the person who used it and on notice now that the next time we will seize the vehicle and seek forfeiture.

Pellerito: So if it was an impound you would deal directly with the secured party or the leaser to get the vehicle back.

Wendling: Will deal with both parties but most that I have dealt with, the person who owes on the vehicle owes more than it is worth and walks away from it. And then you deal with the leasing company. Doesn't prevent seeking storage costs, etc. It still seeks our primary goal; it prevents the driver from access to that vehicle. Revenue is important but my interest is prevention.

**2. Plante & Moran**

Mark Hurst: Audit partner with Plant & Moran. Introduced Melissa Demery, our Audit Manager, responsible for overseeing Clay's audit and Tom Burke, Audit-In-Charge, he was in charge of the day-to-day work. Mr. Hurst then explained the Audit and Financial for June 30, 2008. Clay Township received an unqualified opinion, the highest level of assurance that you can get on a financial document. Given a clean opinion. Had an Accounting Uncertainty this year; City of Algonac has approached Clay Township and asked Clay to revise or revisit the replacement reserve that the State of Michigan revolving funding bonding that Algonac had taken out for the expansion of the water plan be expanded and is asking the Clay Township increase the amount of reserves that are being put aside in the water fund for the purpose of

future replacements. Because of the uncertainty of that one item we indicated in the footnote that that is an unresolved issue. Clay has set aside the amount that was included in the original agreement. Spoke with Township Attorney who feels the amount that is currently set aside is the correct amount. We do know there will be ongoing discussions with Algonac. There is a report to the Township Trustees June 30, 2008. Every year as auditors we have seen the number of auditing standards that are required increase year after year. It has required us to reformat what we refer to as the Township Board letter has a requirement of that we had to include some additional information that would not have been in the past. First, report letter on internal control that is required. If we are involved in the development of any journal entries or advising we are required to report to you. The Township records are maintained by the elected officials, your Treasurer Connie Turner maintains the books and records. They are maintained on a cash basis meaning dollar in is recorded, dollar out is recorded. There are year-end accruals that we as your auditor assist the Treasurer in posting. Those are adjustments done once a year. We are required now to point that out to you. It is the decision of the Township Board in respect to your accounting procedures. The only way to avoid this comment is to hire a degreed accountant, which currently you do not have. You have to weigh the cost of bring a degreed accountant on board against having your auditors do this once a year. There is a separate new letter this year titled Resultive Audit. Different titles, one is Difficulties Encountered During the Audit; we are saying there were not difficulties or disagreements. Appreciate the cooperation from the Township.

The Water Fund is in a much better financial condition than it was a year ago. Urged you a year ago to increase water rates; Township Board took the action required but you are not done. The Board is going to have to continue to take action including passing along the inflationary increases you are receiving from Algonac, and really a little bit more to make certain you are maintaining and protecting your margins because you have outstanding Bonds in the water fund that need to be paid as well. For fiscal year ending June 30, 2007 the water fund experienced a decrease in its cash and investment balance of \$550,000 the decrease this year was less than \$190,000. This is a result of those rate increases.

Bank deposits, the issue of FDIC on your bank deposits has come up. Townships are only permitted to invest into Certificates of Deposit, Commercial paper and then your deposit accounts so you have no market loss. However, the bank failures and the issues on Wall Street have raised a lot of questions. We suggest the Township look at the financial institutions that they do business with, not suggesting a reason for concern, communities need to do more due diligence. Should bring the representative from your financial institution to the Board and ask them to tell you about their institutions. Historically communities have had approximately 10% of their total deposits covered and were not concerned. Now that the coverage amount has been increased and with what has happened on Wall street and bank failures find communities are revisiting those policies and seeing if those are still good practices.

There are new accounting pronouncements that take effect next year regarding your posted funded benefit obligations. We will be reporting your present value of your liability for retiree health care. The year after you will need to start funding that; the Township has made great strides in terms of the amount of dollars you have set aside for that. Suspect you will be in much better shape than most communities.

Melissa covered the financial highlights in the Township audit.

Turner: The bank is scheduled to be at our next Board meeting.

DeBoyer: Think we need to review the secondary reviews that are recommended

Pellerito: We will need to commission the OPED for the Health Care Savings, use the actuary we received in 1994.

Hurst: You will have to have an actuarial study done before next year's financial audit. Want to thank the Township for their cooperation.

### **3. Request for Assessor's Certificate Renewal**

DeBoyer: Spoke with Barb; we know she also works with Cottrellville Township

**Motion** by DeBoyer, supported by Makuch, to approve the renewal for Robin Martin at the cost of \$75.00 and one half for Barbara Schutt for \$125.00 and she will approach the Cottrellville Township Board for the other half.

AYES: All

NAYES: None

**MOTION CARRIED**

**4. Board Appoints**

Manos: Have some appointments for ZBA and Planning Commission

**Motion** by Makuch, supported by DeBoyer, to reappoint Tony Antkowiak as the Planning Commission representative to the Zoning Board of Appeals and George Lyle as a Planning Commissioner and Joanne Shirkey to the ZBA.

AYES: All

NAYES: None

**MOTION CARRIED**

**5. Harsens Island Fire Department Request for Trainees**

**Motion** by Makuch, supported by Turner, to approve Debra Wyscaver and Georgianna Wenckovsky as trainees with the Harsens Island Fire Department.

AYES: All

NAYES: None

**MOTION CARRIED**

**6. St. Clair County Metro Planning Commission Fall Workshop**

**Motion** by Makuch, supported by Dare, to allow any Board member, Planning Commissioner or ZBA Board member to attend the Fall workshop at a cost of \$7.00 each

AYES: All

NAYES: None

**MOTION CARRIED**

**7. Set Halloween Hours**

**Motion** by DeBoyer, supported by Makuch, to set the Halloween hours for October 31, 2008 from 5:00 p.m. to 7:00 p.m.

AYES: All

NAYES: None

**MOTION CARRIED**

**PUBLIC COMMENTS**

None

**BOARD MEMBER COMMENTS**

Pellerito: Have been contacted by several candidates that their signs have been removed, please refrain, it is a misdemeanor.

**ADJOURNMENT**

**Motion** by Makuch, supported by DeBoyer, to adjourn the meeting at 8:30 p.m.

AYES: All

NAYES: None

**MOTION CARRIED**

Michael P. Pellerito  
Clay Township Clerk