

CHARTER TOWNSHIP OF WATERFORD
5200 CIVIC CENTER DRIVE
WATERFORD, MI 48329
MARCH 14, 2011
6:00 PM
- A G E N D A -

APPROVE AGENDA -
APPROVE MINUTES -
APPROVE BILL PAYMENT -

ANNOUNCEMENTS:

1. The Waterford Area Chamber of Commerce will host its 4th Annual Expo on Thursday, March 31, 2011 from 5:00 PM – 8:00 PM. The Annual Expo will be held at Waterford Mott High School, 1151 Scott Lake Road.

AWARDS & PRESENTATIONS:

1. 50+ Parks and Recreation Program would like to honor Steve Redfern on reaching 5000 mile mark for walking.

REPORTS:

1. Public Library, 2010 Annual Report

OLD BUSINESS:

1. Planning Commission Recommendation on Medical Marijuana Use

NEW BUSINESS:

1. Parade Permit for VFW Memorial Day Parade, May 30, 2011, Dixie Hwy
2. Approval of Waterford Senior Center Banner Permit
3. Approval of EECBG Township Building Energy Improvement Project Priorities
4. HelpNet Employee Assistance Program



Betty Fortino, Clerk

IN CONFORMANCE WITH THE AMERICANS WITH DISABILITIES ACT, LARGE-PRINT AGENDAS AND MINUTES ARE AVAILABLE UPON REQUEST. BARRIER-FREE PARKING AND ACCESS ARE ALSO AVAILABLE AT TOWN HALL. MINUTES ARE AVAILABLE UPON REQUEST AT THE CLERK'S DEPARTMENT, AND ON THE TOWNSHIP'S WEB SITE.

Minutes of the Waterford Township Board Meeting, held March 14, 2011 at 6:00 PM in Town Hall Auditorium, 5200 Civic Center Drive, Waterford, Michigan 48329.

BOARD MEMBERS PRESENT:

Carl W. Solden, Supervisor
Margaret Birch, Treasurer
Anthony Bartolotta, Trustee
David Kramer, Trustee
David Maloney, Trustee
Bette O'Shea, Trustee

BOARD MEMBERS ABSENT:

Betty Fortino, Clerk

OTHERS PRESENT:

Margaret K. Stites
Steve Redfern
Martin F. Kuhn
Beth Lawson
Bob Vallina
Sharon Hunt

Liz Lesnau
Daniel T. McCaw
Gary Wall
Chris Gault
Doris Smith
Norma Cryderman

Lisa Plunkett
Rob Tuttle
Mike Fanning
Joanne Charboneau
John Tenjeras
Todd Johnston

Supervisor Carl Solden called the meeting to order at 6:00 PM, asked for a moment of silence and then lead the Pledge of Allegiance.

Moved by Birch,
Supported by Maloney, RESOLVED to have Bette O'Shea act as temporary secretary.

Motion Carried unanimously.

Moved by Maloney,
Supported by Kramer, RESOLVED, to approve the agenda as printed.

Motion carried unanimously.

Moved by Kramer,
Supported by Birch, RESOLVED, to approve the February 28, 2011 minutes as printed.

Motion carried unanimously.

Moved by Birch,

Supported by Bartolotta, RESOLVED, to approve the payment of the bills for March 14, 2011 as presented. A list of the bills is attached to these minutes.

Motion carried unanimously.

Supervisor Solden made the following announcements:

The Waterford Area Chamber of Commerce will host its 4th Annual Expo on Thursday, March 31, 2011 from 5:00 PM – 8:00 PM. The Annual Expo will be held at Waterford Mott High School, 1151 Scott Lake Road.

The Waterford Parks & Recreation 50+ program recognized Steve Redfern on achieving his 5000 mile walking mark.

Moved by O'Shea,

Supported by Maloney, RESOLVED, recognize Steve Redfern on achieving his 5000 mile walking mark.

Motion carried unanimously.

The following report was presented:

1. Public Library – 2010 Annual Report

Moved by Kramer,

Supported by Birch, RESOLVED, to receive the foregoing report.

Motion carried unanimously.

The following memo was received from Bob Vallina, CPD Director:

In accordance with the ordinance to defer land use decisions related to medical marijuana that the Township Board passed on July 26, 2010, the Planning Commission notified the public and subsequently held a public input forum on the issue of medical marijuana land uses. This public input forum was held on September 28, 2010 (*please refer to the enclosed copy of the meeting minutes for the record of this forum*). On October 5, 2010, the Planning Commission held a special study meeting to discuss and consider possible approaches and recommendations regarding the regulation of medical marijuana land uses under the Zoning Ordinance (*please refer to the enclosed copy of the meeting minutes for the record of this meeting*). After their review of the medical marijuana land use issue, the Planning Commission passed the following resolution:

IT IS THE PLANNING COMMISSION'S OPINION THAT IT IS THE STATE OF MICHIGAN LEGISLATIVE AND ADMINISTRATIVE OFFICIALS' RESPONSIBILITY TO CLARIFY THE MMMA AS IT PERTAINS TO ALLOWING AND REGULATING MEDICAL MARIJUANA LAND USES, AND RECOMMENDING THAT THE TOWNSHIP BOARD MAINTAIN THE TOWNSHIP'S EXISTING ZONING ORDINANCE REGULATIONS PROHIBITING MEDICAL MARIJUANA LAND USES IN CONFORMITY WITH FEDERAL LAWS AND REGULATIONS UNTIL SUCH TIME AS THE STATE PROVIDES MMMA REVISIONS PROVIDING SPECIFIC GUIDANCE AND REGULATIONS FOR THESE LAND USES.

Attached to this memo, please find privileged and confidential attorney-client communication from Township Attorneys Steve Joppich and Tom Schultz that also provides for your consideration a draft resolution that would implement the Planning Commission's recommendation.

If you have any questions regarding this matter prior to your meeting, please do not hesitate to contact me at (248) 618-7443.

RESOLUTION REGARDING MEDICAL MARIJUANA

RESOLUTION NO. _____

At a regular meeting of the Board of Trustees of the Charter Township of Waterford, Oakland County, Michigan, held at the Waterford Township Hall, 5200 Civic Center Drive, Waterford, Michigan, on March 14, 2011, at 6:00 p.m., with those present and absent being,

PRESENT: _____

ABSENT: _____

the following resolution and preamble were offered by _____ and supported by _____:

WHEREAS, on November 4, 2008, Michigan voters approved a statewide legislative initiative to create the Michigan Medical Marihuana Act ("MMMA"), which has been codified at MCL 333.26421, *et seq*, providing for the possession, use, and cultivation of marijuana for the treatment of certain illnesses or conditions under certain circumstances and pursuant to certain regulations; and

WHEREAS, the MMMA does not address the fact that federal law — specifically, the federal Controlled Substance Act (“CSA”), 21 USC §841 — makes it a crime to use, manufacture, cultivate, or distribute marijuana and does not make any provision or exception for the medical use of marijuana; and

WHEREAS, the MMMA also does not provide any regulations as to where and on what conditions a marijuana-related land use can be located, or if such a use can be prohibited or regulated in any particular way; and

WHEREAS, the Michigan Court of Appeals, in a recently-published decision known as *People v King*, has clarified the law concerning medical marijuana in Michigan by indicating that the MMMA does not create a “right” to use, possess, manufacture or provide marijuana, and that such activities remain illegal under *both* state and federal law, but that an individual who meets all of the criteria and requirements of the MMMA may avail themselves of an affirmative defense in the event of being prosecuted under state laws; and

WHEREAS, the Charter Township of Waterford Zoning Ordinance currently provides at Section 2-300 that “No building, structure, or part thereof, shall hereafter be erected, constructed, reconstructed, or altered and maintained, and no new use or change in use shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this Zoning Ordinance, the Township General Ordinances, and all applicable county, state, and federal laws and regulations”; and

1. Medical marijuana land uses are not consistent with the purpose, goals, and objectives of the Township’s Master Plan and are not complementary to other land uses or consistent with the established and planned character of the community.
2. It is within the rights of the Township to establish reasonable regulations to control medical marijuana land uses in order to protect the public health, safety, and welfare and achieve the intent set forth above.
3. Certain activities involving the use, growing, and provision of medical marijuana in one’s own home for oneself or for residents of that home (as described in detail below), however, would not be inconsistent with the Township’s Master Plan or the above-described purposes and intent of the Township’s Zoning Ordinance, and, in any event, are of a nature that they are not considered by the Board to constitute discrete uses of land intended to be regulated under the Zoning Ordinance.

IT IS FURTHER RESOLVED, that, for the reasons and based on the findings of the Planning Commission in its report and recommendation and those findings set forth above, the Township Board hereby accepts the recommendation of the Planning Commission and determines that the Township Zoning Ordinance not be changed at this time, with the understanding and declaration that, for enforcement purposes, the following activities involving medical marijuana are interpreted as not constituting discrete and separately identifiable land uses and are not, as a result of said interpretation, regulated or prohibited under the Zoning Ordinance:

1. An individual registered with the state under the MMMA as a medical marijuana patient possessing, smoking, or ingesting medical marijuana in his or her home in accordance with the MMMA.

2. An individual registered with the state under the MMMA as a medical marijuana caregiver transporting medical marijuana grown and processed outside of the Township to medical marijuana patients located in Waterford Township in accordance with the MMMA.
3. An individual registered with the state under the MMMA as a medical marijuana patient growing no more than twelve marijuana plants in his or her home solely for his or her own medical use provided such activity is in accordance with the MMMA.
4. An individual registered with the state under the MMMA as a medical marijuana caregiver growing medical marijuana in his or her home in accordance with the MMMA solely for purposes of providing such cultivated medical marijuana to a state-registered medical marijuana patient residing in the same home as such caregiver without compensation of any kind to the caregiver.

IT IS FURTHER RESOLVED that the activities described in the immediately preceding paragraph only relate to the Township's Zoning Ordinance and may be regulated by and in violation of other laws or ordinances. Nothing in this Resolution or the Township's Zoning Ordinance is intended to grant, nor shall they be construed as granting, immunity from or affirmative defenses against criminal prosecution under state laws or local ordinances for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that MMMA and the General Rules of the Michigan Department of Community Health. Also, since federal law is not affected by the MMMA or said General Rules, nothing in this Resolution or the Township's Zoning Ordinance is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. Moreover, nothing in this Resolution or the Township's Zoning Ordinance shall be construed or interpreted as permitting, allowing, endorsing, aiding, or abetting violations of federal or state law. The MMMA does not protect users, caregivers or the owners of properties on which the medical use of marihuana occurs from federal prosecution, or from having their property seized by federal authorities under the federal Controlled Substances Act.

IT IS FURTHER RESOLVED that the Township Board has decided to implement the MMMA in this way with respect solely to medical marijuana related land uses and activities due to the lack of material clarity in that state statute (among the other reasons stated in this Resolution), and the Board may revisit this matter in the future in recognition of the fact that the law in Michigan pertaining to medical marijuana is likely to be further clarified in the future by additional court rulings, amendments to the MMMA, and/or the enactment of other state or federal laws. Given the unique and difficult circumstances the Township is placed in as a result of such lack of clarity in the MMMA, this Resolution and the reasoning provided herein are not intended to set a precedent or basis for any interpretations or defenses pertaining to other land uses or activities in the Township under the Zoning Ordinance.

IT IS FURTHER RESOLVED that, as used in this Resolution:

1. The term MMMA shall mean the Michigan Medical Marihuana Act, which has been codified at MCL 333.26421, *et seq.*
2. The term "marijuana" shall have the meaning ascribed to it in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.
3. The term "medical marijuana" shall mean marijuana that is used for a medical use.

4. The term "medical marijuana land uses" shall mean and include any principal or accessory use of land for purposes of or involving the growing, cultivating, processing, manufacturing, selling, conveying, or dispensing medical marijuana, or for purposes of a compassion club, compassionate care club or other similar facility or establishment in which persons are allowed by the owner, lessor or other person in control of the premises to congregate or patronize in order to engage in the smoking, ingestion, growing, cultivating, processing, manufacturing, selling or dispensing of medical marijuana. The term medical marijuana land uses does not include those activities interpreted in this Resolution as not constituting land uses under the Township's Zoning Ordinance.
5. The term "medical use" shall have the meaning ascribed to it in Section 3(e) of the MMMA, MCL 333.26423(e).

Moved by Kramer,

Supported by Maloney, RESOLVED, to receive resolution and not act on it.

Maloney withdrew second motion.

Motion failed.

Moved by Maloney,

Supported by Bartolotta, RESOLVED, to adopt resolution as prepared adding paragraph on front page.

Maloney and Bartolotta withdrew motion.

Motion failed.

Moved by Maloney,

Supported by Birch, RESOLVED, to table action on Medical Marijuana Use until the March 28, 2011 Board Meeting.

Motion carried unanimously.

Clerk Fortino received a request from the VFM Post 1008 for a permit for their annual Memorial Day Parade. All requirements have been met.

Moved by Doc,

Supported by Birch, RESOLVED, to approve a Parade License for VFW Post 1008 to hold a Memorial Day Parade on May 30, 2011 on Dixie Hwy with Waterford Township Police monitoring. Further, to direct the Clerk to apply to the Michigan Department of Transportation for the necessary permit.

Motion carried unanimously.

Clerk Fortino also received a request from the Waterford Senior Center for a Banner Permit to promote their up coming Law Day and annual Health Fair. All requirements have been met.

Moved by Kramer,

Supported by Birch, RESOLVED, to approve a Banner Permit for the Waterford Township Senior Center from May 16 through May 25, 2011 and October 31, 2011 through November 9, 2011 at the following pedestrian overpass location: Pontiac Lake Road near Waterford Senior Center. Further, to direct the Clerk to apply for the necessary permits from the county.

Motion carried unanimously.

The following memo was received from Bob Vallina, Community Planning and Development Director:

Attached please find the list of energy improvement projects that DiClemente Siegel Design, Inc. identified through the energy audits it conducted in accordance with the contract for energy audit services awarded by the Board on November 8, 2010 and funded through the Township's EECBG. The estimated cost for completing all of the energy improvement projects on the list is \$648,500. However, there is only \$180,860 in EECBG funds for engineering design fees, contingencies, project installation costs, and clean-up costs. Therefore, staff asked DiClemente to rate all of the projects on both the savings per year and the simple payback in years.

Based on these ratings, the Township will realize the biggest bang for their EECBG bucks by replacing the existing boilers in Township Hall and the 51st District Court buildings. Funding both of these projects as estimated will only leave \$50,806 in grant funds. If either or both of these two projects exceeds the estimated cost due to unforeseen installation problems, the amount of grant funds remaining will be less. If the reverse is true, the amount remaining will increase. Since the Township must obligate these funds as quickly as possible in order to comply with the grant requirements, staff has concluded that the third EECBG energy improvement project should contain multiple units. This will provide flexibility through the bid process to select more or less of such units based upon the final cost of the boiler installation. Based on these criteria, staff is recommending the replacement of the down lights in the Township Hall lobbies. In summary, we are recommending that the Board approve the following three projects as the Township's EECBG High Priority Township Building Energy Improvement Projects:

- **Town Hall - Replace Existing Boilers**
- **51st District Courthouse – Replace Existing Boilers**
- **Town Hall - Replace Down Lights in Lobbies**

In accordance with the November 8, 2010 Board resolution, DiClemente Siegel Design has submitted a proposed contract addendum of \$19,800 (*a copy of which is attached*) to complete the design work and bid documents for these three projects; as with the original \$15,000 contract for the energy audits, the cost of the addendum will be paid for with EECBG funds. We recommend that the Board authorize CPD and DPW staff to execute the contract addendum with DiClemente Siegel Design and proceed with the development of bid documents for the projects to be funded with EECBG funds.

Please call me at 618-7443, if you have any questions regarding this proposed EECBG application prior to Monday night's meeting.

Moved by Kramer,

Supported by Birch, RESOLVED, to approve the Township Hall boiler replacement, 51st District courthouse boiler replacement, and Township Hall lobby down lights replacement as the three building energy improvement projects to be funded with EECBG funds and to authorize CPD and DPW staff to execute the contract addendum with DiClemente Siegel Design and proceed with the development of bid documents for the projects to be funded with EECBG funds. DiClemente Siegel Design proposed contract addendum is attached to these minutes.

Motion carried unanimously.

The following memo was received from Robert J. Seeterlin, Fiscal & Human Resource Director:

Attached is a proposed contract with Battle Creek Health Systems, dba HelpNet Employee Assistance Program. HelpNet is in the process of assuming control of Oakland Family Services Employee Assistance Program in Pontiac; the Township's current Employee Assistance provider. Waterford has utilized Oakland Family Services since 2006 as the provider of employee assistance to our employees and their families.

Under this new agreement, the Township employees and their families will have access to the largest EAP program based in Michigan. Kim McAuliffe, the account manager for EAP services will continue to be our main contact and coordinate service. Ms. McAuliffe will continue to provide the same level of service under the same pricing program we have been under since 2006.

I am also attaching a letter from Michael Earl the President and CEO of Oakland Family Services describing the transition to HelpNet.

As a part of the HelpNet network additional resources will be available to our employees and their families. Once this new agreement is in place all employees will receive new information about these expanded services. HelpNet has a web site, helpneteap.com, that explains more about the organization and the services offered.

I respectfully request the Boards approval of this agreement.

Moved by Birch,

Supported by Maloney, RESOLVED, to approve contract with Battle Creek Health Systems, dba, HelpNet Employee Assistance Program.

Motion carried unanimously.

Moved by Kramer,
Supported by Maloney, RESOLVED, to adjourn at 7:13 PM.

Motion carried unanimously.

Betty Fortino, Clerk

Carl W. Solden, Supervisor