CHARTER TOWNSHIP OF WATERFORD
5200 CIVIC CENTER DRIVE
WATERFORD, MI 48329
August 9, 2010
6:30 PM
- A G E N D A –

APPROVE AGENDA -
APPROVE MINUTES -
APPROVE BILL PAYMENT -

ANNOUNCEMENTS:

1. Clerk Fortino would like to thank her staff, all of the township employees who helped, all of the poll workers and volunteers, most especially Carol, Charlene, Barbara and Sharon for our completing the voting process.
2. The Clerk's Office is accepting applications for Precinct Workers for the November General Election. Applications are available on line at the Clerk's web page: www.twp.waterford.mi.us/clerk/electioninformation or you may contact the Clerk's office at 248-674-6266.

AWARDS & PRESENTATIONS:
1. 25 Years of Service Award for Joan Rogers
2. 25 Years of Service Award for Robert Vallina

REPORTS:
1. CPD Department – June – July 2010

FIRST INTRODUCTION:
1. Introduction of Ordinance to Amend State Housing Development Authority Act Tax Exemption Ordinance.
2. Introduction of Ordinance to Amend Waterford Meadows Elderly Housing Tax Exemption Ordinance
3. General Employee Pension Ordinance
4. Police & Fire Pension Ordinance

NEW BUSINESS:
1. Renewal of Distressed Vehicle, Junk and Dismantling Yard Licenses
2. Waterford Township Historical Society Banner Permit
3. Waterford Youth Lacrosse Association recognized as Non-Profit

EXECUTIVE SESSION
1. Hampton v. Waterford

_____

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 August 9, 2010 at 6:30 PM in Town Hall Auditorium, 5200 Civic Center Drive, Waterford, Michigan 48329.

BOARD MEMBERS PRESENT:
Carl W. Solden, Supervisor
Betty Fortino, Clerk
Margaret Birch, Treasurer
Heather M. Coats, Trustee
David Kramer, Trustee
David Maloney, Trustee
Bette O'Shea, Trustee

OTHERS PRESENT:

Bob Vallina	Fred Thierbach	Liz Lesnau
Penny Vallina	Anthony Bartolotta	Rob Seeterlin
Joan Rogers	Daniel T McCaw	

Supervisor Carl Solden called the meeting to order at 6:30 P.M., asked for a moment of silence and then led the Pledge of Allegiance.

Moved by O'Shea,
Supported by Coats, RESOLVED, to approve the August 9, 2010 Agenda as printed.

Motion carried unanimously.

Moved by Coats,
Supported by Birch, RESOLVED, to approve the payment of the bills for August 9, 2010, as presented. A list of the bills is attached to these minutes.

Motion carried unanimously.

Moved by O'Shea,
Supported by Maloney, RESOLVED, to approve the July 26, 2010 minutes as printed.

Motion carried unanimously.

Supervisor Solden made the following announcements:

1. Clerk Fortino would like to thank her staff, all of the township employees who helped, all of the poll workers and volunteers, most especially Carol, Charlene, Barbara and Sharon for our completing the voting process.

2. The Clerk's Office is accepting applications for Precinct Workers for the November General Election. Applications are available on line at the Clerk's web page: www.twp.waterford.mi.us/clerk/electioninformation or you may contact the Clerk's office at 248-674-6266.

Supervisor Solden presented 25 Year Awards to Joan Rogers and Robert Vallina. He commended them both for their outstanding accomplishments, dedication and loyalty. The Board thanked and congratulated them.

The following reports were presented:

1. CPD Department, June-July 2010

Moved by Fortino,
Supported by O'Shea, RESOLVED, to receive the foregoing report.

Motion carried unanimously.

The following memo was received from Gary L. Dovre of Secrest & Wardle regarding a Proposed tax Exemption Ordinance Amendments to: (1) State Housing Development Authority Act Tax Exemption Ordinance and (2) Waterford Meadows Elderly Housing Ordinance No. 114.

> Enclosed with this letter are the above-referenced Ordinance Amendments that are presented for introduction at your August 9, 2010 meeting. The Ordinances being amended are also enclosed for reference. Each proposed Ordinance Amendment should be acted on by a separate motion.
>
> The reasons and purposes served by these proposed Amendments are addressed in a second, confidential, attorney-client privileged letter that is being provided to you.
>
> If these proposed Ordinance Amendments are introduced on August 9, 2010, we recommend they be scheduled for possible adoption on August 23, 2010.

Proposed Ordinance

CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 114-A
TAX EXEMPTION ORDINANCE AMENDMENT
(Waterford Meadows Elderly Housing)

An ordinance to amend Ordinance No. 114, being the State Housing Authority Tax Exemption Ordinance No. 2A, to provide for the annual service charge paid in lieu of taxes to be based on annual shelter rent without credits, amend definitions and make other changes in conformity with applicable state law.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

Section 3.00, Definitions, of Ordinance No. 114, being the State Housing Tax Exemption Ordinance No. 2A, is amended by changing subsections A, D and F and adding subsection I to read as follows:

A. "Act" means the State Housing Development Authority Act, Public Act No. 346 of 1966, as amended, specifically including MCL 125.1415a.

D. "Persons of low income" means persons and families that satisfy the requirements under the Act and of the Authority for occupancy at, and exemption from property taxes for, the Project.

F. "Elderly" means a single person who is 55 years of age or a household in which at least one member is 55 years of age or older and no other household members are under the age of 50 years.

I. "Annual shelter rent" means the total collections during a calendar/tax year that the Project has tax exempt status, from all occupants of the Project of rent or occupancy charges, excluding any collections from occupants of charges for gas, electricity, heat, water and other utilities furnished to occupants and paid for by the Owner.

Section 2 of Ordinance

Sections 6.00, 8.00 and 10.00 of Ordinance No. 114, being the State Housing Tax Exemption Ordinance No. 2A, are amended to read as follows.

Sec. 6.00 TAX EXEMPTION TO PROJECT: TERMS: This Ordinance is in recognition that the Authority has determined pursuant to Section 15a(3) of the Act, that the Project is exempt from all ad valorem property taxes imposed by the State of Michigan or by any political subdivision, public body or taxing district. During the period of such exemption the Owner shall:

A. Devote the entire Project and its rental units to the exclusive occupancy of elderly persons of low income as defined herein.

B. Allocate the full benefits of the tax exemption granted to the Project under the Act exclusively to elderly persons of low income in the form of reduced housing charges.

Ordinance continued

Sec. 8.00 ANNUAL SERVICE CHARGE IN LIEU OF TAXES: Except as otherwise provided in this Section, on or before June 1 of the year following each calendar/tax year that the Project is exempt from property taxes, the Owner shall pay the Township an annual service charge in lieu of all property taxes for that calendar/tax year in an amount equal to the following percentage of annual shelter. rent in that calendar/tax year. The percentage shall be 4 % through the 2022 tax year. Beginning with the 2023 calendar/tax year, the percentage shall be increased by 0.5 % over the prior year's percentage, with the maximum annual service charge to be 10 % of annual shelter rent. Owner's payments shall be accompanied by supporting documentation of the rent or occupancy charges collected and charges for utilities furnished to occupants and paid for by Owner, with the Township having a right to inspect Owner's records regarding the annual shelter rent upon written request. For any portion of the Project that is occupied by other than low income persons, the annual service charge shall be equal to the full amount of taxes that would be payable on that portion if the Project were not tax exempt. All annual service charges received by the Township shall be distributed as provided in Section 15a of the Act.

Sec. 10.00 PERIOD OF EFFECTIVENESS: The period that the tax exemption for the Project is effective under the Section 15a(3) of the Act, MCL 125.1415a(3), is subject to and conditioned on continuing compliance with the terms in Section 6.00 of this Ordinance, as hereby amended.

Section 3 of Ordinance

This Ordinance shall be effective immediately upon publication.

Section 4 of Ordinance

Except as hereby amended, Ordinance No. 114, shall remain in full force and effect.

Moved by O'Shea,
Supported by Kramer, RESOLVED, to adopt the ordinance to amend Ordinance No.114, being the State Housing Authority Tax Exemption Ordinance No.2A, for First Introduction and to place on the August 23, 2010 agenda for Final Action.

Motion carried unanimously.

CHARTER TOWNSHIP OF WATERFORD
STATE HOUSING DEVELOPMENT AUTHORITY ACT
TAX EXEMPTION ORDINANCE AMENDMENT

An ordinance to amend the State Housing Development Authority Act Tax Exemption Ordinance adopted December 14, 2009, to modify provisions on tax exemption commencement, the time and manner in which annual service charges in lieu of taxes are calculated and payable, and regarding what housing projects are tax exempt.

Ordinance continued

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

Sections 15.5-6, 15.5-7, 15.5-8(a) and 15.5-13 in Division 1 of Article I, In General, of Chapter 15.5, Taxation, of the Waterford Charter Township Code of Ordinances are amended to read as follows:

DIVISION 1. STATE HOUSING DEVELOPMENT AUTHORITY ACT TAX EXEMPTIONS

Sec. 15.5-6. Tax exemption commencement.

As provided in the Act, the tax exempt status for exemption of an eligible housing project from property taxes begins in the year following a timely notice to the township assessor of the Authority's approval of the exemption or exemption eligibility.

Sec. 15.5-7. Annual service charges in lieu of taxes.

(a) By separate ordinance at any time during the period that a tax exemption is in effect for an eligible housing project, the township may establish or change the annual service charge to be paid in lieu of taxes to an amount different than the service charge specified in the Act, provided that the amount established shall not exceed the property taxes that would be payable if the eligible housing project was not exempt and the amount is applied to all other eligible housing projects in the same class. A proposed ordinance under this section and written notice of the dates when it will be considered for introduction and adoption shall be provided to the Owner. If the township does not adopt such an ordinance, the annual service charge shall be as required by the Act when the tax exemption commences (10% of annual shelter rents as of December 14, 2009 when the ordinance that added this division was adopted.)

(b) Notwithstanding the annual service charge specified in the Act or by ordinance, for any portion of the eligible housing project that is occupied by other than low income persons and families with an elderly member of the household, the township may assess and require payment of an amount equal to the full amount of taxes that would be payable on that portion of the project if it were not tax exempt.

Sec. 15.5-8. Payment of annual service charge in lieu of taxes.

(a) On or before June 1 of the year following each tax year that an eligible housing project has tax exempt status as provided in section 15.5-6, the owner shall pay the township the required annual service charge in lieu of taxes. The calendar and tax year that ended on December 31 immediately preceding the date the payment is due shall be the applicable period for calculating annual shelter rents if those are a basis for the annual service charge. Owner's payment shall be accompanied by supporting documentation of the rent or occupancy charges collected and charges for utilities furnished to occupants and paid for by owner.

(b) and (c) [Unchanged]

Ordinance continued:

Sec. 15.5-13. Previously approved tax exempt eligible housing projects.

(a) The housing projects with exemption from property taxes under ordinances that remain in effect that were approved prior to the ordinance that added this division, which are now subject to the requirements of this division to the extent allowed by the Act and ordinances which approved the exemptions are: Riverside Gardens as described in Article II of this Chapter (Parcel No. 13-21-227-006), Whispering Meadows Elderly Housing (Parcel No. 13-32-301-035) and Lakeland Place Elderly Housing (Parcel No. 13-25-176-003), and the elderly housing portion of the Waterford Meadows housing project (Parcel No. 13-24-451-011) pursuant to Ordinance No. 114, as amended.

(b) As of December 14, 2009 when the ordinance that added this division was adopted, Ordinance No. 114, which approved tax exempt status for the elderly housing portion of the Waterford Meadows housing project (Parcel No. 13-24-451-011), was in effect.

(c) As of December 14, 2009 when the ordinance that added this division was adopted, the non-elderly portion of the Waterford Meadows housing project (Parcel No. 13-24-451-012) was exempt from property taxes for the 2009 tax year only pursuant to the Act. As of December 18, 2009 when the ordinance that adopted this division was published and took effect and pursuant to Section 15.5-4, commencing with the 2010 tax year, the non-elderly housing portion of the Waterford Meadows housing project (Parcel No. 13-24-451-012) is not exempt from property taxes under the Act.

Section 2 of Ordinance

Should any section, subdivision, sentence, clause or phrase of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any other parts not invalidated.

Section 3 of Ordinance

This Ordinance shall be effective immediately upon publication.

Moved by Kramer,
Supported by O'Shea, RESOLVED, to adopt the State Housing Development Authority Act Tax Exemption Ordinance for First Introduction and to place on the August 23, 2010 agenda for Final Action.

Motion carried unanimously.

The following memo was received from Margaret Birch, Treasurer.

Attached is a proposed amendment to the General Employee Pension System ordinance and a proposed amendment to the Police & Fire Pension System ordinance. These were written by the attorney for each pension system.

Birch memo continued.

These amendments will allow members who are eligible to purchase credited for service for prior active service in the armed forces of the United States and/or for periods of full-time employment with other state, local, or federal governmental agency, depending on the respective individual contract/policy, to make said purchase through a direct trustee-to-trustee transfer of assets from another retirement system or 401(a), 403(b) or 457(b) plan.
The last attachment is a form the employee will have to fill out verifying that the plan they are requesting to be used is a qualified plan:

WATERFORD CHARTER TOWNSHIP ORDINANCE AMENDMENT (GENERAL PENSION**)**

The Board of Trustees of the Waterford Charter Township Ordain:
That Division 3 shall be amended by adding the following Section 2-115:
If a member, pursuant to the terms of their collective bargaining agreement or the Management & Administrative Group Personnel Policy, is permitted to purchase additional credited service for prior active service in the armed forces of the United States or for full-time employment by another state, local, or federal governmental agency, said purchase may be effectuated by a direct trustee-to-trustee transfer of assets from a qualified plan described in Internal Revenue Code sections 401(a), 403(b) or 457(b). This section shall be subject to Section 415 of the Internal Revenue Code and purchased credited service shall not exceed 5 years.

Moved by O'Shea,
Supported by Coats, RESOLVED, to adopt the proposed amendment to the General Employee Pension System ordinance for First Introduction and to place on the August 23, 2010 agenda for Final Action.

Motion carried unanimously.

WATERFORD CHARTER TOWNSHIP ORDINANCE AMENDMENT (POLICE & FIRE)

The Board of Trustees of the Waterford Charter Township Ordains:
That Chapter 2, Article Ill, Divisions 3 and 11 shall be amended by adding the following Sections 2-115 and 2-223:
If a member, pursuant to the terms of their collective bargaining agreement or the Management and Administrative Group Personnel Policy, is permitted to purchase additional credited service for prior active service in the armed forces of the United States or for full-time employment by another state, local, or federal governmental agency, said purchase may be effectuated by a direct trustee-to-trustee transfer of assets from a qualified plan described in Internal Revenue Code sections 401(a), 403(b) or 457(b), This section shall be subject to Section 415 of the Internal Revenue Code and purchased credited service shall not exceed 5 years.

Moved by O'Shea,
Supported by Coats, RESOLVED, to adopt the proposed amendment to the Police & Fire Pension System ordinance for First Introduction and to place on the August 23, 2010 agenda for Final Action.

Motion carried unanimously.

The following memo was received from Bob Vallina, CPD.

Attached please find the August 2010 inspection reports from Lead Code Enforcement Officer Pat Ogg for the nine distressed vehicle, junk, & dismantling yard 2010 license renewal applicants. Officer Ogg has found that seven of the nine subject properties are in compliance with the Township's ordinances.

One of the two remaining applicants, Mack's Auto Supply at 2491 Dixie Highway, is awaiting conclusion of the M-1 to M-2 rezoning process that was initiated after the owner consolidated three parcels into one parcel to bring the property into closer conformity to the M-2 minimum lot area and to enable the property to continue to be licensed for the existing use. Additionally, there is an accessory building on the subject property that must be removed to be in compliance with the Zoning Ordinance. Officer Ogg and I recommend issuance of a forty-nine (49) day conditional license for this site to allow for the completion of the rezoning decision-making process as well as provide time for the property owner to remove the accessory building and bring the property into compliance. Officer Ogg will then conduct a follow-up inspection and provide a compliance report and recommendation to the Board for their consideration at the September 27, 2010 Township Board meeting.

The final applicant, Mack's Auto Supply Two at 3297 Warren Drive, is not in compliance with storage and emergency vehicle access requirements. This is the second year in a row that Officer Ogg has observed these conditions at license renewal. Last year, the Township Board issued a thirty-five day conditional license to allow the applicant to resolve these violations. The applicant subsequently resolved the violations and Officer Ogg was able to issue a recommendation for license approval. However, it is a year later and the applicant has allowed the property to slip back into the same violations. Officer Ogg and I recommend issuance of a forty-nine (49) day conditional license for this site with the requirement that the applicant comply with the storage and emergency access requirements identified by Officer Ogg. Officer Ogg will then conduct a follow-up inspection and provide a compliance report and recommendation to the Board for their consideration at the September 27, 2010 Township Board meeting. I would also recommend that the Township Board, as part of issuing a conditional license, authorize staff to convey to the property owner that a reoccurrence of the same violations in future years may result in an outright denial of the license.

Therefore, I recommend that the Board consider taking the following actions on the nine license renewals before you:

1. Simpson's, Inc., 2515 Williams Drive Recommendation: Approval
2. Acre Auto Parts & Sales, 5035 Williams Lake Road Recommendation: Approval
3. Metro Towing, 6158 Delfield Drive Recommendation: Approval
4. H & H Auto Collision – 5005 Williams Lake Road Recommendation: Approval
5. Schram's Auto & Truck Parts, Inc. – 2549 Dixie Highway Recommendation: Approval
6. Drayton Iron & Metal, Inc. – 5229 Williams Lake Road Recommendation: Approval
7. Something Comming – 2425 Williams Drive Recommendation: Approval

Vallina memo continued:

8.Macks Auto Supply, 2491 Dixie Highway Recommendation:

Forty-nine (49) day conditional license to allow the Township to complete the rezoning decision-making process and for the property owner to comply with the removal of accessory building.

8. Mack's Auto Supply Two, 3297 Warren Drive Recommendation:

Forty-nine (49) day conditional license for property owner to again comply with emergency vehicle access requirements and again eliminate vehicle storage outside the fenced area and to authorize staff to convey to the property owner that a reoccurrence of the same violations in future years may result in an outright denial of the requested license.

Moved by Fortino,
Supported by O'Shea, RESOLVED, to approve the foregoing license renewals including the two conditional licenses as recommended by Community Planning and Development Director Robert Vallina.

Motion carried unanimously.

Clerk Fortino received a request from the Waterford Township Historical Society to place a banner to promote their upcoming Christmas in October Event.

Moved by O'Shea,
Supported by Birch, RESOLVED, to direct the Clerk to apply to the Michigan Department of transportation and the Oakland County Road Commission, respectively, on behalf of the Waterford Township Historical Society for Banner Permits. The Banners will hang the week of October 4, 2010 and will be taken down the week of October 18, 2010 at the following pedestrian overpasses: Huron Street (MDOT) and Walton Boulevard (OCRC)

Motion carried unanimously.

Clerk Fortino received a request from the Waterford Youth Lacrosse Association, for a non-profit status designation.

Moved by Fortino,
Supported by Birch, RESOLVED, to recognize the Waterford Youth Lacrosse Association as a non-profit organization.

Motion carried unanimously.

Moved by Maloney,
Supported by Birch, RESOLVED, to adjourn to Executive Session for discussion of Hampton v. Waterford at 7:05 PM. Roll call was taken.

Motion carried unanimously.

_____
Betty Fortino, Clerk

_____
Carl W. Solden, Supervisor