

CHARTER TOWNSHIP OF WATERFORD
5200 CIVIC CENTER DRIVE
WATERFORD, MI 48329
July 12, 2010
6:30 PM
- A G E N D A -

APPROVE AGENDA -
APPROVE MINUTES -
APPROVE BILL PAYMENT -

ANNOUNCEMENTS:

1. The Clerk's Office will be open Saturday, July 31, 2010 from 8:00 AM until 2PM. This is the last opportunity to pick up an absentee ballot for the August 3, 2010 Primary Election. You may take the absentee ballot home or vote in the building. The Clerk's office is located at 5200 Civic Center Drive. Please use the REAR ENTERANCE ONLY. If you have questions, please feel free to call this office, 248-674-6266. Thank you.
2. Attention Military and Overseas Civilian Voters! Under the new laws, military and overseas civilian voters can now receive an absentee voter's ballot by e-mail, or fax to speed the voting process! The voted ballot must be returned by mail for security purposes. Please contact the Clerk's office at 248-674-6266 for more information.

REPORTS:

1. Department of Public Works, March – May 2010
2. Clerk's Office, May 2010

FIRST INTRODUCTION

1. Adopt Ordinance to Defer Land Use Decisions Related to Medical Marijuana

OLD BUSINESS:

1. Rezoning Case No. 10-06-01
2. Interim Rental Certification Ordinance

NEW BUSINESS:

1. Lourdes Senior Community recognized as a non-profit
2. Appoint Mr. Howard Kramer to Hess Hathaway Advisory Board
3. Resolution Adopting License Fee for Second Hand Dealers and Junk Dealers Ordinance

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 July 12, 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:

C. Trescone	John A. Tenseras	JoAnn Fanning
William Teichman	Dalia Cotter	Mike Fanning
Teri Vinsant	Kelly Putt	Tom Newcombe
Rob T.	Patty Geverink	Susan Sands
Daniel Reyes	Alex George	Daniel T. McCaw
Les Braun	Mike Geverink	Andrea Levine
Eric Schroder	Heather Halls	Brian Pilkey
Sue Camilleri	Mac Renolds	Dave Jessiki
Frank Camilleri	Anthony Bartolotta	Eric Kimber
Jamie Lowell	Gary Wall	John Fergusis
Kimberly Worden	Donna Wall	

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

Moved by Maloney,
Supported by O'Shea, RESOLVED, to approve the July 12, 2010 Agenda deleting item No. 1 Rezoning Case No. 10-06-01 under Old Business.

Motion carried unanimously.

Moved by O'Shea,
Supported by Birch, RESOLVED, to approve the June 28, 2010 minutes as printed.

Motion carried unanimously.

Moved by Maloney,
Supported by Kramer, RESOLVED, to approve the payment of the bills for July 12, 2010, as presented. A list of the bills is attached to these minutes.

Motion carried unanimously.

Supervisor Solden made the following announcements:

1. The Clerk's Office will be open Saturday, July 31, 2010 from 8:00 AM until 2PM. This is the last opportunity to pick up an absentee ballot for the August 3, 2010 Primary Election. You may take the absentee ballot home or vote in the building. The Clerk's office is located at 5200 Civic Center Drive. Please use the REAR ENTERANCE ONLY. If you have questions, please feel free to call this office, 248-674-6266. Thank you.
2. Attention Military and Overseas Civilian Voters! Under the new laws, military and overseas civilian voters can now receive an absentee voter's ballot by e-mail, or fax to speed the voting process! The voted ballot must be returned by mail for security purposes. Please contact the Clerk's office at 248-674-6266 for more information.

The following reports were presented:

1. Department of Public Works, March- May 2010
2. Clerk's Office, May 2010

Moved by Kramer,
Supported by O'Shea, RESOLVED, to receive the foregoing reports.

Motion carried unanimously.

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

Recently, it has come to the Township's attention that the voter-approved Michigan Medical Marihuana Act (MMMA) has resulted in the development of land uses specifically related to medical marijuana. This has created a level of uncertainty in applying the Township's Zoning Ordinance since the MMMA statute does not address the fact that federal law makes it a crime to manufacture, cultivate, or distribute marijuana and the MMMA 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. Furthermore, Section 2-300 of the Township's Zoning Ordinance appears to prohibit medical marijuana land uses as being in violation of federal law, although such land uses are not specifically mentioned in the ordinance.

Vallina memo continued.

In order to provide for honest, fair, and objective evaluation of this issue as well as to clear up any uncertainty in the Zoning Ordinance regarding this matter and ascertain the most appropriate and safest path for the Township to address the MMMA in order to protect the public health, safety, and welfare of Waterford citizens, attached please find for your consideration an ordinance drafted by Township Attorney Steve Joppich that will establish a six month deferral on land use decisions regarding medical marijuana uses. This ordinance is intended to enable the Township to clear up any uncertainty in its Zoning Ordinance regarding this matter and ascertain the most appropriate and safest path for the Township to address the MMMA in order to protect the public health, safety, and welfare of Waterford’s citizens.

If the Board decides to adopt this ordinance, I will work with the Township Attorney to bring this matter to the Planning Commission at their next scheduled meeting on August 24th and initiate the process of undertaking the review, consideration and public discussion of the various aspects of this issue as it relates to land use. We will work with the Planning Commission on completing this review process, before the end of the deferral period, with a recommendation to the Township Board of possible amendments to the Zoning Ordinance to address this issue.

If you have any questions regarding the proposed ordinance, please do not hesitate to contact me at (248) 618-7443.

Ordinance to Defer Land Use Decisions Related to Medical Marijuana

STATE OF MICHIGAN
COUNTY OF OAKLAND
CHARTER TOWNSHIP OF WATERFORD

ORDINANCE NO. _____

AN ORDINANCE TO REGULATE AND DEFER DECISIONS REGARDING LAND USES INVOLVING THE DISTRIBUTION, GROWING, MANUFACTURING OF MEDICAL MARIJUANA, AS WELL AS CLUBS, EDUCATIONAL FACILITIES AND OTHER LAND USES INVOLVING MEDICAL MARIJUANA PENDING COMPLETION OF THE ZONING ORDINANCE AMENDMENT PROCESS CONCERNING SUCH USES.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS AS FOLLOWS:

Section 1. Findings.

1. On November 4, 2008, Michigan voters approved a statewide legislative initiative to create the Michigan Medical Marijuana Act (“MMMA”), which has been codified at MCL 333.26421, *et seq*, and allows the possession, use, and cultivation of marijuana for the treatment of certain illnesses or conditions under certain circumstances and pursuant to certain regulations.
2. 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 manufacture, cultivate, or distribute marijuana.

Ordinance to Defer Land Use Decisions Related to Medical Marijuana continued.

3. The MMMA also doesn't 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.
4. 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."
5. Based on Section 2-300 of the Township's Zoning Ordinance, it appears that medical marijuana land uses would be prohibited as being in violation of federal law, although such land uses are not specifically mentioned in the ordinance.
6. The Township Board desires to clear-up any uncertainty in its Zoning Ordinance regarding this matter and ascertain the most appropriate and safest path for the Township to address the MMMA in order to protect the public health, safety, and welfare.
7. In connection with the foregoing, the Township Board determines that it is desirable to forbid the sale, dispensing, cultivation and manufacturing of medical marijuana, as well as the establishment of clubs, educational facilities and other land uses related to medical marijuana, and temporarily defers any consideration or action taken by a Township entity, official, and/or agent regarding rezoning, special land use, site plan, change of use and other proposals and submissions pertaining to medical marijuana land uses for the following reasons:
 - a. It is of major importance, for the future overall development of the Township, to ensure that reasonable land uses are authorized and that compatible development is required in connection with land uses in the Township;
 - b. Medical marijuana land uses in the Township are likely to have a significant impact on the character of the areas of the Township in which they are located and on the Township as a whole, as well as an impact on property values and quality of life, and on the general public health, safety and welfare of the Township and its residents;
 - c. To promote development of the Township over the long term in a manner that would complement the rest of the Township, not undermine the overall character and planning of the Township, and remain consistent with the purpose, goals and objectives of the Master Plan that is implemented by the Zoning Ordinance;
 - d. To ensure consistent, cohesive and sensible development and land uses in Waterford Township;
 - e. To clear-up any uncertainty in the Township's Zoning Ordinance and other ordinances regarding medical marijuana land uses and ascertain the most appropriate and safest path for the Township to address the MMMA in order to protect the public health, safety, and welfare;

Ordinance to Defer Land Use Decisions Related to Medical Marijuana continued.

- f. The consideration of rezoning, special land use, site plan, change of use or other proposals relating to medical marijuana land uses during the process of considering whether and how to amend the Township's Zoning Ordinance to address such new uses in the community would be counter-productive and undermine the Township's efforts to accomplish the above community-wide planning and zoning objectives and to provide for the health, safety and welfare of the Township and its residents; and
- g. 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.

Section 2. Regulations; Deferral.

1. For the reasons and based on the findings set forth above, the Township Board hereby forbids the sale, dispensing, cultivation and manufacturing of medical marijuana, as well as the establishment of clubs, educational facilities and other land uses related to medical marijuana, and temporarily defers any consideration or action taken by a Township entity, official, and/or agent regarding rezoning, special land use, site plan, change of use and other proposals and submissions pertaining to medical marijuana land uses for a period of six (6) months from the effective date of this Ordinance. During said six (6) month period, the Township shall review and consider whether and how to amend the Township's Zoning Ordinance to address such new medical marijuana land uses in the community, and shall proceed with the preparation and adoption of amendments to the Township Zoning Ordinance and a permitting process, if any such ordinance amendments or permitting processes are deemed appropriate and necessary in the Township.
2. The Township Board also recognizes that deferring rezoning, special land use, site plan and change of use submissions and proposals on land within the Township could result in inconvenience for some property owners and occupants, and that some property owners may claim an interference with legitimate rights. On this basis, the Township Board has determined that it is necessary to expedite the actions contemplated and necessary for the review, consideration and possible ordinance amendments contemplated in this Ordinance (without compromising the quality and integrity of the results of such efforts). Accordingly, the Township officials and Planning Commission engaged in the process of undertaking the review, consideration and possible ordinance amendments contemplated in this Ordinance are directed to proceed with such efforts without delay.
3. As used in this Ordinance
 - a. The term "marijuana" shall have the meaning ascribed to it in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.
 - b. The term "medical marijuana" shall mean marijuana that is used for a medical use.
 - c. The term "medical marijuana land uses" shall mean and include the sale, dispensing, cultivation and manufacturing of medical marijuana, as well as the establishment of clubs, educational facilities and other land uses related to medical marijuana.

Ordinance to Defer Land Use Decisions Related to Medical Marijuana continued.

- d. The term “medical use” shall have the meaning ascribed to it in Section 3(e) of the MMMA, MCL 333.26423(e).

Section 3. Savings.

All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force when they were commenced. Any currently pending Township enforcement proceedings involving medical marijuana land uses are saved and shall be stayed, without prejudice, during the period of the deferral set forth in this ordinance; provided the medical marijuana land use at issue is otherwise in compliance with applicable state laws and Township ordinances and is not expanded, intensified or changed in any material way.

Section 4. Severability.

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Section 5. Effective.

This ordinance shall be effective on the date provided by applicable law following publication.

Section 6. Enactment.

This ordinance is declared to have been enacted by the Township Board of the Charter Township of Waterford at a meeting called and held on the 12th day of July 2010, and ordered to be given publication in the manner prescribed by law.

Supervisor Solden asked for comments from the audience and a lengthy discussion followed. O’Shea restated her original motion adding “First Introduction”.

Moved by O’Shea,
Supported by Maloney, RESOLVED, to approve the Ordinance to Defer Land Use Decisions Related to Medical Marijuana for First Introduction and to place the Ordinance to Defer Land Use Decisions Related to Medical Marijuana on the July 26, 2010 agenda for final action.

Motion carried unanimously

The following memo was received from Building and Engineering Director Douglas W. Bradley, P.E: Interim Rental Certification Ordinance

During 2008 staff from the Building and Engineering Department reviewed the information available in the Township's GIS for the purpose of estimating the number of rental housing units in Waterford. Based on this review we identified approximately 50 separate apartment developments containing a total of approximately 400 individual buildings and a total of approximately 5,100 individual rental housing units. In addition this review identified approximately 2,400 individual single family homes that are not occupied by the owner of the home, the majority of these homes we suspect are rented and would be subject to inspection under the proposed Interim Rental Certification Ordinance.

The proposed Interim Rental Certification Ordinance requires that all buildings containing residential rental units be registered with the Township and provides for a Registration Fee to be paid to the Township. In addition the proposed Interim Rental Certification Ordinance requires that all residential rental buildings/units be inspected on a periodic basis and provides for an Annual Operating Fee to be paid to the Township to cover the Township's cost for performing these periodic inspections.

REGISTRATION FEE

The Registration Fee is intended to provide funding for establishing a data base containing the location; owner identification and contact information; and responsible local agent identification and contact information, for each building that contains residential rental units. The Registration Fee is only collected when a property is initially registered with the Township or when the ownership of the property changes. Because of the wide variety of buildings that contain residential rental units, varying from single family homes to a single building containing 200 individual dwelling units, the Registration Fee should be based on two factors, first a nominal fee for each individual building and second a nominal fee for each individual rental unit contained in the building. I am recommending that the Township Board establish the Registration Fee associated with the proposed Interim Rental Certification Ordinance as \$ 10.00 per building plus an additional \$ 2.00 for each individual rental unit within that building. Using this graduated scale the Registration Fee for a single family home would \$ 12.00 and the Registration Fee for the 200 unit apartment building would be \$ 410.00.

The payment of the Registration Fee for existing rental buildings/units is established in the proposed Interim Rental Certification Ordinance as between August 1, 2010 and October 1, 2010. The Registration Fee for buildings/units that become rentals after adoption of the proposed Interim Rental Certification Ordinance is required to be paid with 30 days of date that the building/unit becomes a residential rental.

ANNUAL OPERATING FEE

The Annual Operating Fee is intended to cover the cost of the various Inspectors from the Building and Engineering Department performing the on site verification that the residential rental units comply with the Minimum Standards adopted for use with the proposed Interim Rental Certification Ordinance. Based on my experience I believe it will take approximately one hour for each Inspector (Building, Electrical and

Bradley memo continued.

Plumbing/Mechanical) to perform the on site verification that the Minimum Standards are being adhered to on a single family home. The current cost for Township Inspection staff is approximately \$ 46.00 per hour (including all benefits) and therefore the inspection cost for a single family home would be \$ 138.00, in addition there will be some clerical time required as well as transportation costs. Therefore I am estimating that the cost to inspect a single family home for compliance with the Minimum Standards

of the proposed Interim Rental Certification Ordinance will be \$ 150.00. Because these inspections are generally required to be performed every three years the annual cost would be \$ 50.00. Obviously there should be some reduction in this cost if multiple rental units are contained in a single building therefore I am recommending that the Township Board adopt the following graduated scale for the Annual Operating Fee associated with the proposed Interim Rental Certification Ordinance:

1 to 4 Rental Units per Building	\$ 50.00 per Rental Unit
5 to 10 Rental Units per Building	\$ 40.00 per Rental Unit
10 or more Rental Units per Building	\$ 25.00 per Rental Unit

Using this graduated scale the Annual Operating Fee for a single family would be \$ 50.00 and the Annual Operating Fee for the 200 unit apartment building would be \$ 5000.00.

The other issue that needs to be considered by the Township Board relative to the Annual Operating Fee is when payment of the Fee is due. The proposed Interim Rental Certification Ordinance provides the owner of rental properties a 90 grace period after the due date for payment of the Annual Operating Fee. The proposed Interim Rental Certification Ordinance also allows any unpaid Annual Operating Fee to be posted as lien against the property taxes. In order to post these fees as a lien against the property taxes the Assessor and the Treasurer must be notified prior to September 1, considering the 90 day grace period and some operational float time, it is my recommendation that the Township Board establish April 1 of each year as the due date for the Annual Operating Fee associated with the proposed Interim Rental Certification Ordinance.

If you have any questions or require additional information please contact me via telephone at (248) 674-6231 or via e-mail at dbradley@twp.waterford.mi.us

Moved by Coats,

Supported by O'Shea, RESOLVED, to approve the Interim Rental Certificate Ordinance for final adoption and direct Clerk to publish a summary of the Interim Rental Certification Ordinance to become effective on August 18, 2010.

Motion carried unanimously

The following resolution is necessary to implement the Interim Rental Certification Ordinance:

RESOLUTION SETTING FEES FOR RENTAL CERTIFICATION ORDINANCE

WHEREAS, the Township has enacted an Ordinance to provide for the general health, safety and welfare of citizens who reside in residential rental buildings by establishing standards for the maintenance of sanitary and safe rental; and
WHEREAS, the Township Ordinance requires the owners of all existing residential rental units to register those residential rental units with the Township between August 1, 2010 and October 1, 2010; and
WHEREAS, the Township Ordinance requires that a Registration Fee to be paid when a residential rental unit is registered; and
WHEREAS, the Township Ordinance provides for the Registration Fee to be set by Resolution of the Township Board; and
WHEREAS, the Township Ordinance requires that periodic inspections of all residential rental units shall be performed by representatives of the Building and Engineering Department; and
WHEREAS, the Township Ordinance requires that the owner of a residential rental unit to pay an Annual Operating Fee to cover the costs of performing these inspections; and
WHEREAS, the Township Ordinance provides for the Annual Operating Fee to be set by Resolution of the Township Board;
NOW, THEREFORE, BE IT RESOLVED that effective August 1, 2010 the Fees associated with the Rental Certification Ordinance shall be:

Registration Fee

\$ 10.00 per building plus \$ 2.00 for each dwelling unit within the building.
The Registration Fee is to be paid between August 1, 2010 and October 1, 2010 for all existing residential units or within 30 days of establishment of any new residential rental unit.

Annual Operating Fee

\$ 50.00 per Rental Unit in Buildings Containing 1 to 4 Rental Units.
\$ 40.00 per Rental Unit in Buildings Containing 5 to 10 Rental Units.
\$ 25.00 per Rental Unit in Buildings Containing 11 or more Rental Units.

The Annual Operating Fee is due on April 1 of each year. If the Annual Operating Fee is not paid before July 1 it shall be posted as a lien against the property taxes.

Moved by Fortino,
Supported by Kramer, to adopt the Resolution Setting Fees for Rental Certification Ordinance.

Motion carried unanimously.

The following is necessary to implement the Interim Rental Certification Ordinance:

RESOLUTION TO ADOPT MINIMUM STANDARDS FOR RESIDENTIAL RENTAL HOUSING

WHEREAS, the Township has enacted an Ordinance to provide for the general health, safety and welfare of citizens who reside in residential rental buildings by establishing standards for the maintenance of sanitary and safe rental; and
WHEREAS, the Township Ordinance requires that all residential rental units are inspected to verify they comply with certain Minimum Standards for Rental Housing; and
WHEREAS, the Township Ordinance allows the Township Board to adopt the Minimum Standards for Rental Housing by Resolution; and
WHEREAS, the Building and Engineering Department has prepared a document titled CHARTER TOWNSHIP OF WATERFORD MINIMUM STANDARDS FOR EXISTING RENTAL HOUSING, which is based on the requirements contained in the International Property Maintenance Code that has been adopted for use in Michigan through Public Act 230 of 1972;
NOW, THEREFORE, BE IT RESOLVED that the CHARTER TOWNSHIP OF WATERFORD MINIMUM STANDARDS FOR EXISTING RENTAL HOUSING shall be approved as the inspection criteria to be used in association with the Rental Certification Ordinance adopted by the Township Board on July 12, 2010.

Moved by O'Shea,
Supported by Coats, to approve the Resolution to Adopt Minimum Standards for Residential Rental Housing.

Motion carried unanimously.

Clerk Fortino received a request from Lourdes Senior Community, for a non-profit Status designation.

Moved by Fortino,
Supported by Birch, RESOLVED, to ask that the Lourdes Senior Community be recognized as a nonprofit organization.

Motion carried unanimously.

The following memo was received by Supervisor Solden:

Recently Jan Meagher was assigned to the Waterford Historical Society which then created an opening on the Hess Hathaway Advisory Board.

This request is for the approval of Mr. Howard A. Kramer who resides at 7840 Academy Court East, Waterford, MI 48329 to fill the existing position on the Hess Hathaway Advisory Board.

Solden memo continued.

Parks and Recreation Director Tom Newcombe and Supervisor Lori Soma interviewed Mr. Kramer and are excited with what Mr. Kramer can bring to the Board if appointed. Mr. Kramer has employment experience at Sears/K-Mart Corporation and is enthused to serve.

I am in agreement with the appointment of Mr. Kramer to the Hess Hathaway Advisory Board and respectfully ask the Township Board for its approval.

Thank you for your consideration.

Moved by Fortino,
Supported by O'Shea, RESOLVED, to appoint Howard Kramer to the Hess Hathaway Advisory Board, term ending 7/12/2013.

Motion carried unanimously.

The following memo was received from Attorney Peter Donlin:

**CHARTER TOWNSHIP OF WATERFORD
SECOND HAND DEALERS AND JUNK DEALERS ORDINANCE
RESOLUTION ADOPTING LICENSE FEE**

WHEREAS, the Township Board has adopted the "SECOND HAND DEALERS AND JUNK DEALERS ORDINANCE" on the 29th day of July, 2010, and

WHEREAS, Sec. 10-442 of the Ordinance requires an annual license, and requires the Township Board to establish a license fee to be paid to the Clerk, and

WHEREAS, it is the desire of the Township Board to establish a fee commensurate with license fees of similar regulated businesses, and

WHEREAS, the Township Board has determined that establishing the annual license fee at \$250.00 is appropriate,

THEREFORE, it is hereby resolved that the annual license fee for licenses under the "SECOND HAND DEALERS AND JUNK DEALERS ORDINANCE" is set at Two Hundred Fifty (\$250.00) Dollars.

Moved by O'Shea,
Supported by Kramer, RESOLVED, to approve the Resolution Adopting License Fee for the Second Hand Dealers and Junk Dealers Ordinance.

Motion carried unanimously.

Moved by Maloney,
Supported by Kramer, RESOLVED, to adjourn at 8:43PM.

Motion carried unanimously.

Betty Fortino, Clerk

Carl W. Solden, Supervisor