

CHARTER TOWNSHIP OF WATERFORD
5200 CIVIC CENTER DRIVE
WATERFORD, MI 48329
July 26, 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 the Clerk's office, 248-674-6266. Thank you.

AWARDS & PRESENTATIONS:

1. Employee of the Month for July 2010, Shelly Booth of the 51st District Court

REPORTS:

1. Treasurer Department, June 2010
2. Library Department, May-June 2010

OLD BUSINESS:

1. Ordinance to Defer land Use Decisions Related to Medical Marijuana

NEW BUSINESS:

1. Canterbury-on-the-Lake 5K Fun/walk to benefit the Eden Fund
2. 2010 West Nile Virus Mosquito Management Program Resolution
3. Whispering Oaks Subdivision Block Party

EXECUTIVE SESSION:

1. Contract Negotiations

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 26, 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
Heather M. Coats, Trustee
David Kramer, Trustee
David Maloney, Trustee
Bette O'Shea, Trustee

BOARD MEMBERS ABSENT:

Margaret Birch, Treasurer

OTHERS PRESENT:

| | | |
|-------------------|--------------------|-----------------|
| Thomas S. Kane | Angie Reid | Rob Seeterlin |
| Shelley Kane | Mike Geverniz | Fred Schaller |
| Mary E LaClair | Nancy Loviska | Paul Tylenda |
| Mike Fanning | Korey Tinis | P. Tannian |
| JoAnn Fanning | Gersh Avery | Dan Reyes |
| Bob Robar | Anthony Bartolotta | Jason Mitchell |
| Kimberly Worden | Brian Kohlmeyer | Eric Krupic |
| Geoff Fugate | Steven Posigian | Heather Krupic |
| Dordi Meitz | Rick Gladstone | Nance Tenjeras |
| Doug Orton | Michelle Susalla | Eric Schroder |
| Jeff Stirling | Heather Halls | Cara Schroeder |
| Rich Adkins | Susan Sands | Shannon Kennedy |
| Donna Kelly | Stan Kurzman | William Titman |
| Michael Heishbege | John A Tenseras | Chris Gault |
| Daniel T McCaw | Thomas Pittman | Brandy Zink |
| Shelly Booth | Donna Wall | Kari Vlaeminck |
| Kris Bly | Gary Wall | |

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 Kramer, RESOLVED, to approve the July 26, 2010 Agenda as printed.

Motion carried unanimously.

Moved by Coats,
Supported by Maloney, RESOLVED, to approve the July 12, 2010 minutes as printed.

Motion carried unanimously.

Moved by O'Shea,
Supported by Kramer, RESOLVED, to approve the payment of the bills for July 26, 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. The Clerk's Office would like to ask Voters to return their absentee voters ballot as soon as possible.

The Awards Committee selected Shelly Booth of the 51st District Court as the Employee of the Month for July 2010. Judge McMillen commented on Shelly's outstanding service and commitment to the 51st District Court. Supervisor Solden presented Shelly with her award and offered congratulations on this fine achievement.

Moved by Fortino,
Supported by O'Shea, RESOLVED, to recognize Shelly Booth of the 51st District Court as the July 2010 Employee of the Month and congratulate her on her award.

Motion carried unanimously

The following reports were presented:

1. Treasurers Department, June 2010
2. Library Department, May-June 2010

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

Motion carried unanimously.

The Ordinance to Defer Land Use Decisions Related to Medical Marijuana was adopted for First Introduction at the July 12, 2010 Board meeting and was on the agenda for Final Action.

STATE OF MICHIGAN
COUNTY OF OAKLAND
CHARTER TOWNSHIP OF WATERFORD

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 Marihuana 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.
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

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

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;
- 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.

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

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.
 - 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.

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

Supervisor Solden asked for comments from the audience regarding the Ordinance to Defer Land Use Decisions Related to Medical Marijuana. A lengthy discussion followed by the audience and comments were made by the Board Members.

Moved by O'Shea,
Supported by Maloney, RESOLVED, to approve the Ordinance to Defer Land Use Decisions Related to Medical Marijuana.

Motion carried unanimously

Clerk Fortino received a request from Canterbury-on-the-Lake to hold a 5K Fun/walk to benefit the Eden Fund.

Moved by O'Shea,
Supported by Coats, RESOLVED, to approve the Canterbury-on-the-Lake 5K Fun/Walk to benefit the Eden Fund to be held on September 19, 2010.

Motion carried unanimously.

The following memo was received from Environmental Coordinator Stacy St. James regarding the 2010 West Nile Virus Program

As with previous years, the Oakland County Board of Commissioners has provided funding, this year in the amount of \$300,000.00, to the cities, villages and townships within Oakland County to help combat West Nile Virus. Waterford Township has been allocated \$16,692.08 to assist in our efforts to minimizing the risk of Township residents contracting WNV. This is a 40% reduction in funding, compared to previous years. Additionally, qualifying expenditures have been changed to only include: mosquito trapping/testing, larvicide (product only), individual insect repellent and residential larvicide distribution (pre-packaged only), and local newsletter publication (limited to the portion of the newsletter cost related to mosquito borne disease education). Due to these program changes, Waterford Township will not be contracting application services as has been done in previous years. In an effort to maximize the monies allocated to the Township, we will be purchasing larvicide and staff will be applying the product, as necessary, to appropriate locations throughout the Township. Also, any remaining monies will be utilized to purchase individual insect repellent and/or in a manner identified as a qualifying expenditure per the County requirements.

Please see the attached resolution authorizing the implementation of an environmental mosquito management program as described above.

RESOLUTION AUTHORIZING IMPLEMENTATION OF AN ENVIRONMENTAL MOSQUITO MANAGEMENT PROGRAM

WHEREAS, the Oakland County Board of Commissioners has allocated funds to help combat West Nile Virus; and

WHEREAS, the Township has been allocated \$16,692.08 by the aforementioned allocation; and

WHEREAS, the Township desires to implement a Environmental Mosquito Management Program to decrease the potential of residents contracting West Nile Virus; and

NOW, THEREFORE, BE IT RESOLVED that all costs will be submitted for reimbursement to the Oakland County Board of Commissioners in accordance with their Miscellaneous Resolution.

Moved by O'Shea,

Supported by Maloney, to approve the Resolution Authorizing Implementation of an Environmental Mosquito Management Program.

Motion carried unanimously.

Clerk Fortino received a block party request from Whispering Oaks Subdivision.

Moved by O'Shea,

Supported by Coats, to approve the Whispering Oaks Subdivision Block party on August 14, 2010 with the condition of providing emergency lane access in the street for emergency vehicles.

Motion carried unanimously.

Moved by Maloney,

Supported by Kramer, RESOLVED, to adjourn to Executive Session for Contract Negotiations at 7:35PM. Roll call was taken.

Motion carried unanimously.

Betty Fortino, Clerk

Carl W. Solden, Supervisor