

CHARTER TOWNSHIP OF HAMPTON  
REGULAR MEETING  
SEPTEMBER 18, 2017

The regular meeting of the Charter Township of Hampton Board of Trustees was called to order at 7:00 p.m. by the Supervisor in the Boardroom of the Hampton Township Administrative Offices.

The pledge of allegiance was given to the flag.

The invocation was read and a moment of silence observed.

PRESENT: Hugo, Close, DeWyse, Samyn, Wright, Klass, Foret

ABSENT: None

ALSO PRESENT: Benchley, Rybak, Sheppard, Weiler, Wedding, DeWyse & 6 in audience

Motion by Hugo seconded by DeWyse that the minutes of the September 5, 2017 regular meeting be approved as printed and that the reading of the minutes be waived. Motion carried.

COMMUNICATIONS:

Motion by Klass seconded by Hugo that the communication from Thomas Warzecha regarding Finn Road Park; the Fire Report for August 2017; the Police Report for August 2017 and the DPW Report for August 2017 be received. Motion carried.

AUDITOR'S REPORT:

Motion by Klass seconded by Foret that the following warrants be approved for payment:

#43648- #43702	General Fund	\$ 65,749.84
#3026 - #3027	Building Fund	4,613.83
#3615 - #3621	Sewer Fund	20,718.59
#2440 - #2458	Public Safety Fund	29,087.08
#1427 - #1429	Water Fund	<u>1,488.97</u>
		\$ 121,658.31

AYES: Klass, Foret, DeWyse, Hugo, Samyn, Wright, Close

NAYS: None

Motion carried.

OPEN TO THE PUBLIC:

No one addressed the Board.

UNFINISHED BUSINESS:

There was no unfinished business.

NEW BUSINESS:

Motion by Hugo seconded by DeWyse that the purchase of an auger from Lingle Equipment at a cost of \$3,024.00 be approved.

AYES: Hugo, DeWyse, Foret, Klass, Samyn, Wright, Close

NAYS: None

Motion carried.

Public Hearing on Ordinance #64, Civil Infractions Ordinance, was held. No one addressed the Board.

Motion by DeWyse seconded by Foret that Ordinance No. 64, Civil Infractions Ordinance, be adopted as follows:

MUNICIPAL CIVIL INFRACTIONS ENFORCEMENT  
TOWNSHIP OF HAMPTON  
BAY COUNTY, MICHIGAN  
ORDINANCE #64

An ordinance to establish a system for enforcement of municipal infractions; to provide definitions and procedures and to provide for civil penalties for the violation of such municipal civil infractions, including the taxation of municipal costs upon individuals found responsible for violations thereof.

THE TOWNSHIP OF HAMPTON, BAY COUNTY, MICHIGAN, HEREBY ORDAINS:

Section 1      DEFINITIONS.

“Act” means Act No. 236 of Public Acts of 1961, as amended.

“Authorized Township Official” means the Township Supervisor, Township Building Inspector, Zoning Administrator, Ordinance Enforcement Officer, Hampton Township Police Officer, or any other Township employee specially designated in writing by the Supervisor, to issue municipal civil infraction citations.

“Municipal civil infraction action” means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.

“Municipal civil infraction citation” means a written complaint or notice prepared by an authorized Township official directing a person to appear in court regarding the occurrence or existence of one or more municipal civil infraction violations by the person cited.

Section 2. MUNICIPAL CIVIL INFRACTIONS ACTION; COMMENCEMENT.

A municipal civil infraction action may be commenced upon the issuance of a civil infraction citation by an authorized Township official, with respect to an ordinance violation designated as a civil infraction or a municipal civil infraction citation directing the alleged violator to appear in court.

Section 3. MUNICIPAL CIVIL INFRACTIONS OF CITATIONS ISSUANCE AND SERVICE.

Municipal civil infraction citations shall be issued and served by authorized Township officials as follows:

- A) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- B) The place for appearance specified in a citation shall be either the Municipal Ordinance Violations Bureau or the 74<sup>th</sup> District Court.
- C) Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the Township and issued to the alleged violator as provided by the Act.
- D) A citation for municipal civil infraction signed by an authorized Township official shall be treated as made under oath, if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: “I declare under penalties of perjury that the statements above are true to the best of my information, knowledge, and belief”.

- E) An authorized Township official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible, and as completely as possible, an original and required copies of a citation.
- F) An authorized Township official may issue a citation to a person after the township attorney for the political subdivision employing the authorized local official approves in writing the issuance of the citation if:
  - 3. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
  - 4. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction.
- G) Municipal civil infraction citations shall be served by an authorized Township official as follows:
  - 3. Except as provided by Section 3(g)(2), an authorized Township official shall personally serve a copy of the citation upon the alleged violator.
  - 4. If the municipal civil infraction action involves the use of occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon the owner or occupant of the land, building or structure by posting the copy of the land or attaching a copy to the building or structure. In addition, a copy of citation shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address.

#### Section 4. MUNICIPAL CIVIL INFRACTION CITATIONS; CONTESTS

- A) A municipal civil infraction citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- B) Further, the citation shall inform the alleged violator that he or she may do one of the following:
  - 4. Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
  - 5. Admit responsibility for the municipal civil infraction "with explanation" by mail, by the time specified for appearance, or in person, or by representation.

6. Deny responsibility for the municipal civil infraction by doing any of the following.
    - a). Indicate so where specified in the citation, and return to the location appearing on the front of the citation.
    - b). Appearing in person for an informal hearing before a judge or district court magistrate, without opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the Township.
    - c). Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- C) The citation shall also inform the alleged violator of all of the following:
1. Admit responsibility and pay appropriate fine to the party as indicated on the front of the citation.
  2. That if the alleged violator desired to admit responsibility “with explanation” in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance, and obtain a scheduled date and time for an appearance.
  3. That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing unless a hearing date is specified on the citation.
  4. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or by the Township.
  5. That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
  6. That at a formal hearing, the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
- D) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear with the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in the entry of a default judgement against the alleged violator on the municipal civil infraction.

Section 5. PENALTIES

- A) If a defendant is determined to be responsible for a municipal civil infraction, the judge or district court magistrate making the determination of responsibility may order the defendant to pay a civil fine as provided for by the applicable ordinance, and if applicable, in addition to the civil fine, the judge or magistrate may order the payment of damages and expenses incurred as authorized by Section 8727 of the Act.
- B) If a defendant is ordered to pay a civil fine, the judge or magistrate shall summarily determine the Township's cost of the action and assess such costs. The Township's costs shall not necessarily be limited to the costs assessed in ordinary civil actions and may include all expenses, direct and indirect, to which the Township has incurred in connection with the municipal civil infraction, up to the entry of the judgment. Costs of not less than Nine (\$9.00) dollars or more than Five Hundred (\$500.00) dollars shall be ordered.
- C) In addition to the imposition of civil fines and costs set forth in subsection A and B above, the district court judge may exercise its equitable jurisdiction as proved by Section 8302 for the Act and issue and enforce injunctive orders, order the rescission or reformation of a contract and/or issue and enforce any judgement, writ, or order necessary to enforce the ordinance violated, and to issue any such orders necessary to abate nuisances.
- D) In the Order of Judgment finding defendant responsible for the violation of a municipal civil infraction, the judge or district court magistrate may grant a defendant permission to pay the civil fine, costs, damages and/or expenses imposed within a specified period of time or in specified installments. In the event no period of time is specified and no specified installments are set forth in the Judgment, all of such fines, costs, damages, and expenses are due immediately.
- E) A failure to pay a civil fine, costs, damages, and/or expenses may result in the Township's obtaining a lien against the land, building, or structure involved in the violation in accordance with Section 8731 of the Act, and may subsequently be enforced and discharged as provided. Additionally, a failure to pay a civil fine, costs, damages, and/or expenses may further result in the court's issuance of an Order to Show Cause requiring the defendant to show cause why the defendant should not be held in civil contempt; or the court's issuance of a bench warrant of arrest for the defendant's appearance.
- F) A defendant who fails to answer a citation for municipal civil infraction is guilty of a misdemeanor punishable by a fine not to exceed Five Hundred (\$500.00) dollars, or by imprisonment in the Bay County Jail for a term not to exceed ninety (90) days, or by both fine and imprisonment.

Section 6 MUNICIPAL ORDINANCE VIOLATIONS BUREAU

- A) The Township hereby establishes the Municipal Ordinance Violations Bureau (“Bureau”) as authorized under Section 8396 of the Act to accept admissions of responsibility for a municipal civil infraction in response to municipal ordinance violation notices issued and served by authorized township officials, and to collect and retain civil fines and costs as prescribed by this ordinance or any other civil infraction ordinance.
- B) The Bureau shall be located at Hampton Township Hall and shall be under the supervision and control of the township Treasurer. The township Treasurer, subject to the approval of the township Board, shall adopt rules for the operation of the Bureau and appoint any necessary qualified township employees to collect civil infraction fines on behalf of the Bureau.
- C) The Bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction citation has been issued. The fact that a fine has been scheduled for a particular violation shall not entitle any person to dispose of the violation at the Bureau. Nothing in this chapter shall prevent or restrict the township from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the Bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of and person to dispose of any violation at the Bureau shall not prejudice the person, or in any way diminish the person’s rights, privileges, and protection accorded by law.
- D) The scope of the Bureau’s authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions.
- E) Municipal civil infraction citations shall be issued and served by authorized township officials under the same circumstances and upon the same persons as provided for citations as provided in preceding sections 2, 3, and 4. In addition to any other information required in this ordinance, the municipal civil infraction citation shall indicate the time by which the alleged violator must appear at the Bureau, the methods by which an appearance may be made, the address and telephone number of the Bureau, the hours during which the Bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

- F) An alleged violator receiving a municipal civil infraction citation shall appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal ordinance violation notice. An appearance may be made by mail, in person, or by representation.
- G) If an authorized township official issues and serves a municipal civil infraction citation, and if an admission of responsibility is not made and the civil fine and cost, if any, prescribed by the schedule of fines for the violation are not paid at the Bureau, a municipal civil infraction citation may be filed with the 74th District Court, and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations by sections 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal civil infraction citation and shall fairly inform the alleged violator how to respond to the citation.

#### Section 7 CIVIL PENALTIES

This section pertains only to fines paid at the Bureau referenced in section 6. A schedule of civil fines payable to the Bureau for admissions of responsibility by persons served with a municipal ordinance violation is hereby established. The fines for the classes of municipal civil infraction actions are as follows:

- Class 1 - \$50.00
- Class 2 - \$100.00
- Class 3 - \$500.00
- Class 4 – as otherwise included in the ordinance being violated

A copy of the schedule, as amended from time to time, shall be posted at the Bureau. A separate offense shall be deemed committed each day during or on which a violation or non-compliance occurs or continues, unless otherwise provided.

#### Section 8 SEVERABILITY

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, selection, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

#### Section 9 PUBLICATION

This Ordinance shall be published in the Valley Farmer, Bay County, Michigan.

Section 10 EFFECTIVE DATE

This Ordinance shall become effective immediately after the last required publication following adoption. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

AYES: DeWyse, Foret, Hugo, Klass, Samyn, Wright, Close  
NAYS: None  
Motion carried.

Motion by Hugo seconded by Foret that Phillip Campau be moved to Classification "B" within the DPW Labor Contract effective September 18, 2017.

AYES: Hugo, Foret, Klass, DeWyse, Samyn, Wright, Close  
NAYS: None  
Motion carried.

Motion by Hugo seconded by DeWyse to approve the purchase of materials to build a dump truck box at a cost of \$4,287.97 from Alro Steel Corporation.

AYES: Hugo, DeWyse, Klass, Foret, Samyn, Wright, Close  
NAYS: None  
Motion carried.

Motion by Foret seconded by DeWyse to approve the option "C" Medicare Advantage Plan to become effective January 1, 2018 with positive confirmation from Labor Counsel.

AYES: Foret, DeWyse, Klass, Hugo, Samyn, Wright, Close  
NAYS: None  
Motion carried.

Motion by Hugo seconded by Foret to approve the materials to roof the bath house at Finn Road Park at a cost of \$2,431.23 from Wimsatt.

AYES: Hugo, Foret, Klass, DeWyse, Samyn, Wright, Close  
NAYS: None  
Motion carried.

ATTORNEY REPORT:

Sheppard addressed with the passing of the Civil Infractions Ordinance the township should review all ordinances and decide which ones to change from misdemeanors to civil infraction penalties.

ENGINEER REPORT:

Bartow was not present.

STANDING COMMITTEE REPORTS:

Motion by Hugo seconded by Wright that the Planning Commission minutes of August 10, 2017 be received. Motion carried.

OFFICER/TRUSTEE REPORTS:

TREASURERER -	9/04/17 – 9/08/17	Water Fund	\$	2,459.70
		Building Fund		870.00
		General Fund		119,736.22
		Tax Fund		<u>6,580,968.06</u>
			\$	6,704,033.98
	9/11/17 – 9/15/17	Water Fund	\$	5,006.10
		Building Fund		6,260.00
		General Fund		14,696.92
		Tax Fund		2,242,478.48
		Overpayment		<u>4,015.98</u>
			\$	2,272,457.48

TRUSTEE REPORTS:

Foret addressed water transmission meetings; special one next week.

SUPERVISOR - Addressed the water transmission meeting and that we have been awarded the SAW Grant in the amount of \$1,635,767.00.

OPEN TO THE PUBLIC:

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Faye Barcia, Jones Road, addressed the new street signs throughout the township.

Foret, asked if Nebobish would be paved this year.

Mike Wedding, thanked the Board for allowing their Department a trial period for 12 hour shifts.

Robert Querback, 627 Borton Road, addressed the Board on allowing 2<sup>nd</sup> stories in detached garages.

Becky Friday, 851 S. Powell, addressed the Board on neighbor feeding wildlife in his back yard.

Public portion of the meeting was closed.

Motion by DeWyse seconded by Hugo that the meeting adjourn. Motion carried. The meeting adjourned at 8:21 p.m..

Respectfully submitted:

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Pamela J. Wright, Clerk

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Teresa Close, Supervisor