

Waverly Township Regular Meeting
42114 M-43 Hwy.; Paw Paw, MI
September 3, 2009 7:00 p.m.

At 7:04 p.m., Supervisor Tomlinson opened the meeting and invited the Board Members and 5 members of the audience to join in the Pledge of Allegiance. Board members introduced themselves, Clerk Linda Tomlinson, Treasurer Marcy Dorr, Trustee Tony Millek, Supervisor Paul Tomlinson, Trustee Larry Chase and Attorney Harold Schuitmaker.

Sherriff's Department:

Reserve Deputy Robert Deloof introduced himself and reported the following: The police report dated 08/01/09 – 08/31/09 recorded: Dispatches 64, Assaults-10, B&Es-3, Larceny-1, M.D.O.P–2, Obstructing Justice-1, Public Peace-1, Hit&Run Accident-3, O.U.I.L.-1, Health & Safety-3, Invasion of Privacy -1, Accident-4, Alarm Activation-6, Suspicious Situation-2, Lost/Found Property-1, General Assistance-11, Attempted Pick Up-2, Be on the Lookout- 10, Traffic stop-2 . Deputy Deloof also stated that he will try to get the State Police reports for Waverly starting in 2010.

Agenda:

Supervisor asked for further clarification about Attorney Knotek's remarks at the August meeting regarding deputy clerk position. The Attorney stated that the Clerk has copies of the Attorney and Michigan Township Association opinions. Millek asked for amendment to the agenda by adding #2 under New Business "Clarification of Duties for Deputy Clerk." **Motion** by Chase to approve agenda as amended for September 3, 2009. Second by Millek. Voice vote, all yes. Motion carried.

Minutes:

Millek would like an amendment to the minutes of August 6, 2009, under Unfinished Business & Attorney Report to say, "*Attorney Knotek informed the board that the Deputy Clerk can serve both on the Planning & Zoning Board and as Deputy Clerk if he didn't have any other non-clerk duties. It is a fine line and could give the appearance that the Township Board was putting too many Township Board representatives on the Planning and Zoning Commission.*" **Motion** by Millek to accept the minutes of August 6, 2009, as amended. Second by P.Tomlinson. Roll call vote. Chase, yes. P.Tomlinson, yes. Millek, yes. Dorr, yes, L.Tomlinson, yes. Motion carried.

Zoning Ordinance:

Fay Dorr, Chairperson of Planning & Zoning Commission, addressed the Board regarding Zoning Ordinance #6. The Van Buren County Planning Commission approved the waterfront and agricultural district accessory building side yard setbacks changes to the Zoning Ordinance. Dorr researched previous minutes to ensure other amendments to the Zoning Ordinance have accurate dates of adoption and effective dates. The Township Board previously adopted everything except Reference #6, which is the waterfront and AG setbacks. Dorr asked the Board to do two things: 1) Adopt the changes the Planning & Zoning Commission approved after the public hearing on 8/10/09 and 2) List of amendments, that have been previously adopted, to re-adopt the changes on the page XIV-1 handout.

The Township Board has fifteen days to legally publish the adopted amendments to Zoning Ordinance #6. Once adopted, the document will be uploaded to the Township's website. Attorney Schuitmaker will research the legal posting for the current zoning map. Audience member asked who is responsible for the process as described by Dorr and recommended a policy regarding who is responsible for the amendment process. Attorney Schuitmaker read the Resolution on Amendment to Adopt Zoning Ordinance. (see attachment) **Motion** by Millek to adopt resolution as read. Second by P.Tomlinson. Roll call vote: L.Tomlinson, yes. Dorr, yes. Millek, yes. P.Tomlinson, yes. Chase, yes. Motion carried. **Motion** by P.Tomlinson to publish Zoning Map, if necessary. Second by Chase. Voice vote, all yes. Motion carried.

Paw Paw Fire District Annual Equipment Payment:

Motion by Treasurer Dorr to pay \$10,000 as per the Paw Paw Area Fire District annual contract. Second by P.Tomlinson. Roll call: L.Tomlinson, yes. Dorr, yes. Millek, yes. P.Tomlinson, yes. Chase, yes. Motion carried.

Amend the Fire Fund Budget:

Clerk explained an amendment to the budget in the Fire Fund is necessary. The Township Board budgeted \$ 92,215 in revenue in the 2010 Fire budget. Budgeted expenses were \$ 56,513; however, actual expenses came to \$ 56,991.54. **Motion** by Clerk Tomlinson to amend Fire Fund budget by moving an additional \$500 into the Fire Fund 2010 expenses from the budgeted Fire Fund revenue of \$92,215. Second by Dorr. Roll Call: L.Tomlinson, yes. Dorr, yes. Millek, yes. P.Tomlinson, yes. Chase, yes. Motion carried.

Presentation of Bills:

Motion by Clerk Tomlinson to approve the payment of bills. General Fund checks #10258 to #10285 for \$ 117,514.38. Sewer fund check #546 and #547 for \$ 3,259.24 plus sewer payroll checks #1040 and #1041 for the amount of \$ 42.52 for a total of \$ 3,301.76. General Payroll Checks #10497 to #10506 plus FICA for the amount of \$ 5,048.60 for a grand total of \$ 126,864.74. Second by P.Tomlinson. Roll call vote: L.Tomlinson, yes. Dorr, yes. Millek, yes. P.Tomlinson, yes. Chase, yes. Motion carried.

Supervisor Report:

The Clerk and Supervisor went to the Irwins property on Lake Brownwood to inspect their water connections (double hook up). The Supervisor and Clerk determined everything is in one outlet. Additionally, documentation from the plumber also states this information. **Motion** by P.Tomlinson to delete monthly charges for the second hook up that is nonfunctional and the Irwins will pay a monthly fee for a single hook up. Second by Millek. Roll Call: Chase, yes. P.Tomlinson, yes. Millek, yes. Dorr, yes. L.Tomlinson, yes. Motion carried. Attorney also mentioned that according to our recent Audit Report, the Township is in good standing in operating expenses on the sewer account but perhaps in 5-6 years, the Township should consider increasing charges. Supervisor explained the costs for the guardrails on CR665 near Fisk Lake Road will use County funds and not Township funds. A suggestion was brought to Board Members about having a fall clean-up for the township residents. The Supervisor will present a plan for October's meeting.

Clerk Report:

The Clerk reminded the Board and audience that the Township Meeting in October will begin at 8:00 p.m. (not 7:00 p.m.) due to the Paw Paw Fire Department Annual Dinner.

Treasurer Report:

Tax Season is going well. The Treasurer will be at the Hall on September 14th from 9:00 a.m. to 5:00 p.m. to collect Summer Taxes for 2009.

Trustee Reports: None**Planning Commission:**

Millek reported that Fay Dorr and the Attorney covered everything that happened at the Planning & Zoning Commission including the water side changes and the accessory building side yard set back in Agricultural from 40 to 20 feet. Also, the P&Z meeting was changed to Tuesday, September 8th due to Monday being a holiday.

Unfinished Business and Attorney Report:

Discussion between Board Members regarding the Deputy Clerk being hired as Office Assistant vs Deputy Clerk and being on the Planning & Zoning Board. Comment was made that having the Deputy Clerk serve both on the Planning & Zoning Board and as Deputy Clerk may have the appearance that the Township Board was putting too many Township Board representatives on the Planning and Zoning Commission. Michigan Township Association (MTA) said that a Deputy Clerk is a public officer, not an elected public officer, nothing disqualifies them to be on the Planning & Zoning Commission. A misconception on the original intent to hire an office assistant with the motion of hiring a deputy clerk in May. Suggestions from Attorney were that if the current Deputy Clerk was hired as a Deputy Clerk, the Board doesn't have much say over the duties. Regarding Office Assistant, other options could be to leave it as it is or vote as a Board regarding the pay. The Deputy Clerk has the option of either taking the Office Assistant position and work for the whole Board or keep the Deputy Clerk position (without pay). Millek's initial concern when the township agreed to hiring an office assistant was that the person could be a deputy clerk but specifically would work for everyone on the Board and the Planning Commission and it has evolved into only a deputy clerk position. Before Millek makes the motion, his intent is to revoke the pay as Deputy Clerk and then after this passes to hire the Deputy Clerk as the Office Assistant. The Deputy Clerk responded that he will work as a Deputy Clerk without pay and continue to be on the Planning Commission. **Motion** by Millek to revoke the pay of the Deputy Clerk. Second by Chase. Roll Call: Chase, yes. P.Tomlinson, yes. Millek, yes. Dorr, yes. L.Tomlinson, no. Motion carried, 4-1. **Motion** by Millek to offer the job to the Deputy Clerk as Office Assistant for \$ 12.00 hr. Second by Dorr. L.Tomlinson, yes. Dorr, yes. Millek, yes. P.Tomlinson, yes. Chase, yes. Motion carried. **Motion** by Millek that if we do not have the acceptance from the Deputy Clerk by September 11th, to authorize the Clerk to advertise for an Office Assistant on September 14th, if need be. Second by P.Tomlinson. Voice vote, all yes. Motion carried.

New Business:

Discussion on recording of minutes: suggestion from the Supervisor to keep minutes on CDs for up to three years. Comments were made that one of the arguments against the recordings is that recordings are not the official record of the meeting but yet it will disrupt any official record. Also, extra expenses will occur. **Motion** by Millek to keep records of Planning & Zoning and Township Board Minutes on CD for one year subject to review after one year. Second by Dorr. Chase, no. P.Tomlinson, yes. Millek, yes. Dorr, yes. L.Tomlinson, no. Motion carried 3-2.

Audience Comments:

Comment was made regarding the newly paved roads that now have potholes and cracks in it. Supervisor said he went down to the Road Commission and was informed if potholes are there, the Road Commission will patch them. Another comment was if any Board Member recently attended the meeting at Paw Paw High School regarding the Coca Cola Company. None attended. Final comment was that the Board needs to bring in results of previous items discussed, it should be brought up in Old Business in the minutes.

No additional comments. Supervisor declared the meeting adjourned at 10:17 p.m.

Note: Minutes were finalized by Supervisor Paul Tomlinson, Trustee Tony Millek, and Fay Dorr using the recording of the meeting.

Itemized attachments:

Resolution to Adopt Zoning Ordinance Amendments.

WAVERLY TOWNSHIP, VAN BUREN COUNTY, MICHIGAN

RESOLUTION TO ADOPT ZONING ORDINANCE
AS AMENDED AND COMPILED

WHEREAS, after a public hearing held by the Waverly Township Planning Commission on August 10, 2009, to consider the following amendments to the Waverly Township Zoning Ordinance:

in Section 3.04 – Schedule of District Regulations – R1 to change the text for Minimum Yard Dimensions to read:

“Minimum Yard Dimensions:
Front yard: 30 feet
Side yard: 10 feet
Rear yard: 20 feet
Corner lots: the width of the street yard shall be at least equal to the depth of the front street yard
Watersides: in compliance with Sect. 4.05
Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern in the immediate area, the Zoning Administrator may waive the requirement for the normal front yard and substitute therefore a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.”

in Section 3.05 – Schedule of District Regulations – R2 to change the text for Minimum Yard Dimensions to read:

“Minimum Yard Dimensions:
Front yard: 30 feet
Side yard: 10 feet
Rear yard: 20 feet
Corner lots: the width of the street yard shall be at least equal to the depth of the front street yard
Watersides: in compliance with Sect. 4.05”

in Section 3.06B – Schedule of District Regulations – R3 to change the text for Minimum Yard Dimensions to read:

“Minimum Yard Dimensions:
Front yard: 30 feet
Side yard: 10 feet
Rear yard: 20 feet
Corner lots: the width of the street yard shall be at least equal to the depth of the front street yard

Resolution to Adopt Zoning Ordinance as Amended and Compiled

Watersides: in compliance with Sect. 4.05"

And in Section 3.05 – Schedule of District Regulations – A to change the text for Minimum Yard Dimensions to read:

"Minimum Yard Dimensions:

Front yard: 50 feet

Side yard: 40 feet

Rear yard: 40 feet

Watersides: in compliance with Sect. 4.05"

TO AMEND ARTICLE IV SUPPLEMENTARY DISTRICT REGULATION, AS FOLLOWS:

In Section 4.02 – Accessory Structures and Buildings sub-section 3 to amend the text to read:

- *3. Accessory structures and buildings shall be located in the side yard or rear yard. An accessory structure or building shall not be closer than ten (10) feet to the principal building, and shall meet all setback requirements of the district in which it is to be erected, moved, altered or used, except in the A (Agricultural) district the side setbacks shall be 20 feet. No building shall be built closer to a front lot line than the required front setback line of the principal dwelling."

And add a new sub-section 4 to read:

- *4. Accessory buildings erected, moved, altered on waterside lots shall also be in compliance with Section 4.05."

Sub-sections 1 through 8 shall be re-numbered 5 through 9.

Change the title of Section 4.05 to Section 4.05 – Waterside Lot Yard Requirements and amend Part B and a new Part C to read:

- *B. All lots or parcels of land abutting an inland lake on the Paw Paw River shall be subject to the following special requirements.
1. The waterside yards of all lake lots shall be determined by the distance from the legally established ordinary high water mark. If it has not been established then the measurement would begin from the waters edge to the

Resolution to Adopt Zoning Ordinance as Amended and Compiled

- nearest surface or point of the building or structure to be erected upon the lot.
2. On all waterside lots, no building or structure shall be constructed or erected with a waterside setback less than the front yard requirement of the district in which it is located or the average setback of existing similar buildings or structures within 200 feet on each side of the property.
 3. In no event shall any building or structure be constructed or erected so as to obstruct the waterside view of the occupants of adjacent existing dwellings facing the waterside.
- C. Accessory Buildings
1. Any structure in the water shall follow state law.
 2. Shall have a waterside setback of 30 feet, side setback of 10 feet, street front setback of 20 feet.

TO AMEND ARTICLE X DEFINITIONS, AS FOLLOWS:

In Section 10.12 – ("L")

Amend the definition for Lot Frontage to read:

"Lot Frontage - The front of a lot generally shall be construed to be the portion nearest the street."

And add a definition for Lot Double Frontage to read:

"Lot Double Frontage (through lot) - In the case of a row of double frontage lots, all sides of said lots adjacent to the road shall be considered frontage and front yards shall be provided as required."

In Section 10.24 – ("Y"), *delete the existing definition and replace it with the following text:*

"Yard, Front - A yard extending between side lot lines across the front of and adjoining a public road or private street. For waterside lots, the yard fronting on the street and the yard facing the water will both be considered front yards. For corner lots, both sides facing the street will be considered front yards."

"Yard, Waterside" - Shall be part of the yard that abuts the waters edge

Resolution to Adopt Zoning Ordinance as Amended and Compiled

And,
WHEREAS, the Waverly Township Board has considered these recommended revisions,

THEREFORE, BE IT RESOLVED that the Waverly Township Board adopts the Waverly Township Zoning Ordinance as amended and compiled.

FURTHER BE IT RESOLVED that the Waverly Township Board adopts the Zoning Map dated March 6, 2008, as its official Zoning Map.

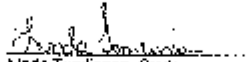
Motion made by Milek, seconded by P. Tomlinson to adopt the foregoing Resolution

Roll call vote:
P. Tomlinson: Yes
L. Tomlinson: Yes
Dorf: Yes
Chase: Yes
Milek: Yes

The Supervisor declared the motion carries and the Resolution duly adopted

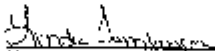
Dated: September 3, 2009

TOWNSHIP OF WAVERLY


Linda Tomlinson, Clerk

CERTIFICATE

The undersigned, the duly elected and acting Clerk of the Township of Waverly, hereby certifies that the foregoing Resolution was adopted by the Board of said Township at a regular meeting of said Board held on September 3, 2009, at which meeting a quorum was present, by a roll call vote said members as hereinbefore set forth, and that said Resolution was ordered to take immediate effect.


Linda Tomlinson, Clerk

Waverly 20090903 Res to Adopt Zoning Ord