

CHARTER TOWNSHIP OF EAST CHINA
OFFICIAL PROCEEDINGS

APRIL 19, 2010

CALL TO ORDER – Supervisor Randolph called the meeting to order at 7:30 p.m., in the Township Hall with Clerk Arnold, Treasurer Beaudua, and Trustees Simons, Bober, Patsalis, and Horn.

Two in the audience.

PLEDGE OF ALLEGIANCE

APPROVE MINUTES – Trustee Bober, supported by Trustee Horn, moved to approve the Minutes of April 5, 2010. Carried.

CONSENT AGENDA – Trustee Patsalis, supported by Trustee Bober, moved to accept the Consent Agenda as follows: Marine City fire report for March 2010, Beautification Committee Minutes of March 4, 2010, Historical Commission Minutes of April 7, 2010, and the St. Clair fire report for March 2010. Carried.

DISBURSEMENTS - Treasurer Beaudua, supported by Trustee Simons, moved to approve payment of the bills in the amount of \$104,843.85, payroll in the amount of \$15,702.02, ACH payments in the amount of \$35,621.30, and tax account in the amount of \$525.48. Roll call vote: Yea: Beaudua, Simons, Bober, Patsalis, Horn, Randolph, and Arnold. Nay: None. Carried.

MEMBER REPORTS – Treasurer Beaudua reported on the April 7, 2010 Historical Commission meeting. The Blue Water Visitors Center used a picture from our website of the Red Brick School. There are three classes scheduled to visit Red Brick School this month. They held their election of officers and are looking for more volunteers.

Trustee Bober reported on the April 13, 2010 Planning Commission meeting. The accessory structures and garage ordinance is being reviewed. A revised site plan and master plan for another building on the St. Clair Nursery property was approved and they suggested moving one of the buildings to concur with the Master Plan.

Trustee Simons reported on the April 14, 2010 Park Commission meeting. Several areas in the main park are being considered to install a small dog park. The disc golf course is pending at this time and the “Michigan Works” program will be utilized to clear dead trees in the park this summer.

NEW BUSINESS – Received the Annual Investment Report prepared by Deputy Treasurer, Theresa Ranshaw.

Trustee Bober, supported by Trustee Simons, moved to reappoint A. Samuel Carey to the Zoning Board of Appeals with a term expiring May 7, 2013. Carried.

Received a tentative agenda for a Water and Sewer Plant workshop on April 27, 2010 at 5:30 p.m.

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Trustee Horn, supported by Trustee Simons, moved to approve the Marine City Fire Advisory Board Agreement. Carried.

Trustee Simons, supported by Treasurer Beaudua, moved to approve an Agreement with the Council on Aging in the amount of \$500 for the year 2010. Roll call vote: Yea: Simons, Beaudua, Bober, Patsalis, Horn, Arnold, and Randolph. Nay: None. Carried.

Received Supervisor Randolph's memo about financing improvements for the private portion of Orchard Drive. A public hearing will be set up with the affected residents to discuss the options because a special assessment district will need to be set up to finance the project.

RESOLUTIONS – Supervisor Randolph, supported by Trustee Horn, moved to adopt Resolution 10-04, to Manage Floodplain Development for the National Flood Insurance Program. Carried.

**RESOLUTION 10-04
RESOLUTION TO MANAGE FLOODPLAIN DEVELOPMENT
FOR THE NATIONAL FLOOD INSURANCE PROGRAM**

WHEREAS, the Charter Township of East China currently participates in the Federal Emergency Management Agency's (FEMAs) National Flood Insurance Program (NFIP) by complying with the program's applicable statutory and regulatory requirements for the purposes of significantly reducing flood hazards to persons, reducing property damage, and reducing public expenditures, and providing for the availability of flood insurance and federal funds or loans within its community, and

WHEREAS, the NFIP requires that floodplain management regulations must be present and enforced in participating communities, and utilize the following definitions which also apply for the purposes of this resolution:

1. Flood or Flooding means:
 - a. A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters, 2) the unusual and rapid accumulation or runoff of surface waters from any source, 3) mudflows, and
 - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph (a)(1) of this definition.
2. Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the FEMA, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M, and/or E. (This is to be included only if the FEMA has issued a FHBM for the community).

3. Floodplain means any land area susceptible to being inundated by water from any source (see definition of flooding).
4. Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
5. Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.
6. Structure means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home or manufactured unit.

WHEREAS, the Stille-Derossett-Hale Single State Construction Code Act”, Act No. 230 of the Public Acts of 1972, as amended (construction code act), along with its authorization of the state construction code composed of the Michigan Residential Code and the Michigan Building Code [and its Appendices (specifically Appendix G if adopted by the community)] contains floodplain development and management regulations that comply with the FEMA NFIP minimum floodplain management criteria for flood prone areas, as detailed in Title 44 of the Code of Federal Regulations (44 CFR), Section 60.3, and

WHEREAS, by an ordinance adoption action dated May 3, 2010 the community accepted the responsibility to administer, apply, and enforce the provisions of the construction code act and the state construction code, specifically the Michigan Residential Code and the Michigan Building Code, to all construction within its community boundaries, and

NOW THEREFORE, to maintain eligibility and continued participation in the NFIP,

1. The community directs its designated enforcing agent for the construction code act, the Building Inspector, to administer, apply, and enforce the floodplain management regulations as contained in the state construction code (including Appendix G, if adopted) and to be consistent with those regulations by:
 - a. Obtaining, reviewing, and reasonably utilizing flood elevation data available from federal, state, or other sources pending receipt of data from the FEMA to identify the flood hazard area and areas with potential flooding.
 - b. Ensuring that all permits necessary for development in floodplain areas have been issued, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under the floodplain regulatory provisions of Part 31, "Water Resources Protection," of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
 - c. Reviewing all permit applications to determine whether the proposed building sites will be reasonably safe from flooding. Where it is determined that a proposed building will be located in a flood hazard area or special flood hazard area, the construction code act enforcing agent shall implement the following applicable codes according to their terms:

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1. Floodplain management regulation portions and referenced codes and standards of the current Michigan Residential Code.
 2. Floodplain management regulation portions and referenced codes and standards of the current Michigan Building Code.
 3. Appendix G of the current Michigan Building Code, if adopted.
- d. Reviewing all proposed subdivisions to determine whether such proposals are reasonably safe from flooding and to ensure compliance with all applicable floodplain management regulations.
 - e. Assisting in the delineation of flood hazard areas; providing information concerning uses and occupancy of the floodplain or flood-related erosion areas, maintaining floodproofing and lowest floor construction records, cooperating with other officials, agencies, and persons for floodplain management.
 - f. Advising FEMA of any changes in community boundaries, including appropriate maps.
 - g. Maintaining records of new structures and substantially improved structures concerning any certificates of floodproofing, lowest floor elevation, basements, floodproofing, and elevations to which structures have been floodproofed.
2. The community assures the Federal Insurance Administrator (Administrator) that it intends to review, on an ongoing basis, all amended and revised FHBMs and Flood Insurance Rate Maps (FIRMs) and related supporting data and revisions thereof and revisions of 44 CFR, Part 60, Criteria for Land Management and Use, and to make such revisions in its floodplain management regulations as may be necessary to continue to participate in the program.
 3. The community further assures the Administrator that it will adopt the current effective FEMA Flood Insurance Study (FIS), FHBMs, and/or the FIRMs by reference within its Floodplain Management Map Adoption Ordinance or similarly binding ordinance documentation.

All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

RESOLUTION DECLARED ADOPTED.

Supervisor Randolph, supported by Treasurer Beaudua, moved to adopt Resolution 10-05, Authorizing and Installment Purchase Agreement with Seaway Bank to finance improvements at the Water Plant. Carried.

**RESOLUTION 10-05
AUTHORIZING INSTALLMENT PURCHASE AGREEMENT**

WHEREAS, an Installment Purchase Agreement (the “Agreement”) between the Charter Township of East China (the “Township”), GE Water & Process Technologies Canada o/a ZENON Environmental Corporation (the “Vendor”), and Seaway Community Bank, Michigan (the “Bank”), for the purchase and acquisition of certain water filtration equipment described in the specifications of the Vendor dated as of March 15, 2010 (the “Equipment”) has been prepared; and

WHEREAS, the Township shall purchase the Equipment for a purchase price of \$259,757 (the “Purchase Price”) through execution of the Agreement; and

WHEREAS, the outstanding balance of all purchases by the Township under Act 99, exclusive of interest, shall not exceed one and one quarter percent (1-1/4%) of the taxable value of the real and personal property in the Township at the date of such contract or agreement; and

WHEREAS, purchase of the Equipment pursuant to the Agreement will not result in the outstanding balance of all such purchases in excess of the limitation contained within Act 99 as set forth above; and

WHEREAS, pursuant to the Agreement, the Purchase Price will be paid by the Township in five (5) annual installment payments of principal on May 1st of each year, commencing May 1, 2011, through May 1, 2015, inclusive, with interest on the unpaid principal balance payable on November 1, 2010, and semi-annually thereafter at the rate of 4.95% per annum; and

WHEREAS, the Agreement is to be assigned to the Bank; and

WHEREAS, it is necessary to approve the Agreement and authorize the Supervisor and Township Clerk to execute the Agreement and authorize Township officials to execute certain other documentation relative thereto.

NOW, THEREFORE, BE IT RESOLVED, THAT:

1. The Agreement is hereby approved substantially in the form attached hereto at Exhibit A. The Township shall incur the debt described in the Agreement through execution of the Agreement by the officers authorized below which debt shall consist of the Purchase Price of \$259,757 which shall be payable in five (5) annual installment payments of principal due May 1st of each year with the first payment due May 1, 2011, through and including May 1, 2015, with interest on the unpaid principal first payable on November 1, 2010 and semi-annually thereafter at a rate equal to 4.95% per annum.

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2. The Supervisor and Township Clerk are hereby authorized and directed to execute the Agreement and deliver it to the Vendor, substantially in the form attached hereto with such additions, changes and modifications as shall be approved by the Township's Bond Council.

3. The useful life of the Equipment is hereby determined to be not less than five (5) years.

4. The Supervisor, Township Clerk and Township Treasurer are each hereby directed and authorized to execute such additional documentation and open such accounts as shall be necessary to effectuate the closing of the Agreement and the assignment thereof.

5. The assignment of the Agreement by Vendor to the Bank is hereby approved.

6. The Township hereby agrees to include in its budget for each year commencing with the current fiscal year, a sum which will be sufficient to pay the principal of interest on the Agreement coming due before the next fiscal year. In addition, the Township hereby pledges to levy ad valorem taxes on all taxable Equipment in the Township each year in an amount necessary to make its debt service payments under the Agreement, subject to applicable constitutional and statutory tax rate limitations.

7. The Township hereby covenants that, to the extent permitted by law, it shall take all actions within its control necessary to maintain the exemption of the interest on the obligations under the Agreement from general federal income taxation (as opposed to alternative minimum or other indirect taxation) under the Internal Revenue Code of 1986, as amended, including but not limited to, actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of proceeds of the Agreement and moneys deemed to be proceeds.

8. The Township hereby declares that its obligations under the Agreement shall be designated as "qualified tax-exempt obligations" for purposes of deduction of interest expense by financial institutions under the provisions of the Internal Revenue Code of 1986, as amended.

All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

RESOLUTION DECLARED ADOPTED.

ORDINANCE – After the second reading, Trustee Bober, supported by Treasurer Beaudua, moved to adopt Ordinance 303 – To affirm the Building Inspector as having the responsibility enforce floodplain management. Carried.

ORDINANCE NO. 303

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES TO AFFIRM THE BUILDING INSPECTOR AS HAVING THE RESPONSIBILITY WITHIN THE CHARTER TOWNSHIP OF EAST CHINA LOCATED IN ST. CLAIR COUNTY TO ENFORCE THE FLOODPLAIN MANAGEMENT AND TO DESIGNATE REGULATED FLOOD HAZARD AREAS UNDER THE PROVISIONS OF THE STATE CONSTRUCTION CODE ACT, ACT NO. 230 OF THE PUBLIC ACTS OF 1972, AS AMENDED.

THE CHARTER TOWNSHIP OF EAST CHINA ORDAINS:

SECTION 1. AMENDMENTS.

The Code of Ordinances is hereby amended by deleting Section 253-11 and replaced with the following:

§ 253-11. Enforcement authority; Official Map.

- A. Enforcement Designated. Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of the Charter Township of East China is hereby designated as the enforcing agency to discharge the responsibility of the Charter Township of East China under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The Charter Township of East China assumes responsibility for the administration and enforcement of said Act through out the corporate limits of the community adopting this ordinance.
- B. Code Appendix Enforced. Pursuant to the provisions of the State Construction Code, in accordance with Section 8(b)6 of Act 230, of Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the Charter Township of East China.
- C. Designation of Regulated Flood Prone Hazard Areas. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled St. Clair County, Michigan, (All Jurisdictions) and dated May 3, 2010 and the Flood Insurance Rate Maps (FIRMS) panel numbers 26147C; 0434D, 0442D, 0444D, 0461D, 0463D, 0464D, 0510D, and 0526D and dated May 3, 2010 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

SECTION 2. SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, rule, regulation, section or subsection is declared void or inoperable for any reason by any Court, it shall not affect any other part or portion thereof, other than the part declared void or inoperable.

SECTION 3. REPEAL.

All Ordinances in conflict herewith are hereby repealed.

SECTION 4. PENALTY.

All violations of this Code shall be civil infractions, and upon conviction thereof, shall be punishable by a fine of not more than Five Hundred (\$500.00) Dollars.

- .01 No Exemption From Compliance. The imposition of any sentence shall not exempt an offender from compliance with the provisions of this Ordinance.
- .02 Other Appropriate Relief. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.
- .03 Each Day A Separate Offense. A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.
- .04 Rights and Remedies are Cumulative. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall become effective May 3, 2010 after publication and adoption.

SECTION 6. INSPECTION OF ORDINANCE.

A copy of this Ordinance may be inspected or purchased at the Township Hall, 5111 River Road, East China, Michigan 48054, during regular posted office hours.

BOARD MEMBER COMMENTS – Supervisor Randolph encouraged members to attend the workshop April 27, 2010 at 5:30 p.m.

ADJOURN – Trustee Simons, supported by Trustee Horn, moved to adjourn at 8:25 p.m. Carried.

Gary J. Arnold, Clerk

John A. Randolph, Supervisor

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