

CHARTER TOWNSHIP OF EAST CHINA
OFFICIAL PROCEEDINGS

MAY 7, 2007

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

PLEDGE OF ALLEGIANCE

Three in the audience.

APPROVE MINUTES – Trustee Bober, supported by Trustee Simons, moved to approve the Minutes of April 16, 2007, with changes as follows. Carried.

Treasurer Beaudua reported on the Historical Commission meeting of April 4, 2007. The Red Brick School is listed in the Times Herald almanac under various attractions in the area. A Historical Conference will be held in New Hampshire in June. Three classes are scheduled for May. Outside maintenance is needed for the shrubs, bluebird houses and grounds. Officers were elected. Commissioner Baker is serving on the St. Clair *Sesquicentennial* Committee and she will see if they would like to include the Red Brick School in their festivities. Discussed old tax record books stored in basement that could be used for genealogy.

BID OPENING FOR DEMOLITION OF OLD WATER PLANT – Received seven bids for the demolition of the old water plant. Pinnacle Contracting \$40,870, S.A. Torello \$42,900, Reliable Demolition \$69,675, T.K. Associates \$82,500, Blue Star \$88,800, General Industries \$89,700, and Ahern Contracting \$109,000. The bid will be awarded at the May 21, 2007 Township Board meeting.

CONSENT AGENDA – Treasurer Beaudua, supported by Trustee Patsalis, moved to accept the consent agenda as follows: St. Clair Fire report for March 2007, Planning Commission minutes for April 10, 2007, Marine City Fire report for April 2007, and Building Department report for April 2007. Carried.

Treasurer Beaudua mentioned Inspector Kern's request to determine site lines, in particular when a dwelling is removed and rebuilt in a different location. Trustee Knotts commented that the Building Inspector must send all exceptions to the Z.B.A. for determinations or variances.

DISBURSEMENTS – Treasurer Beaudua, supported by Trustee Knotts, moved to approve payment of the bills in the amount of \$177,538.41, payroll in the amount of \$30,212.99 and ACH payments in the amount of \$27,814.12. Roll call vote: Yea: Beaudua, Knotts, Randolph, Patsalis, Simons, Bober, and Arnold. Nay: None. Carried.

MEMBER REPORTS – Treasurer Beaudua reported on the Historical Commission meeting held May 2, 2007. Commissioner Griffor has invited the Port Huron area school district to use the Red Brick School for classroom visits. Commissioner Baker will be posting articles in the newspaper to encourage use of the Red Brick School. Members requested that DPW staff move an old barrel down to the basement for display purposes. They plan to move a display cabinet from their office to the museum area to display old tax record books. There are five classes scheduled to visit the Red Brick School.

Treasurer Beaudua reported on the April 17, 2007, St. Clair River Sewer and Water Authority meeting. They received two quotes for liability insurance coverage from June 1, 2007 until June 1, 2008. Nickel & Saph quoted \$28,669, and Burnham & Flower quoted \$20,891. The Authority awarded the insurance coverage to Burnham & Flower. The 2007 Water Authority proposed budget is stated as \$693,550, the Sewer Authority Replacement Fund balance as of March 31, 2007 is \$355,180.15, the Water Replacement Fund balance is \$74,206.06, and the Water Module Replacement Fund balance is \$81,250.03. The Water Plant impeller was replaced. The lab has been inspected by the State of Michigan and has been re-certified. The cover at the sewer plant digester may need replacing soon at a cost of about \$160,000. John Warwick and Dion Pike will be taking the State Certification Exam for the B-License.

Trustee Simons reported on the April 25, 2007 Watershed meeting. The group will be meeting quarterly and the Health Department plans to monitor streams in the area. River Day is scheduled for June 9, 2007 and a native plant sale will be held June 16, 2007. The Earth Day celebration at Goodles Park was a great success with over 2,000 people attending. There are storm water drain signs available for \$80 per sign for advertising in the township.

NEW BUSINESS – Trustee Patsalis, supported by Trustee Bober, moved to approve \$1,000 to the St. Clair County Council on Aging, who provide services to East China residents. Roll call vote: Yea: Patsalis, Bober, Knotts, Beaudua, Simons, Randolph, and Arnold. Nay: None. Carried.

Treasurer Beaudua, supported by Trustee Patsalis, moved to table a request to create an Industrial Development District. Carried. Members would like a representative from K & K Screw Products to attend the next meeting to clarify their information.

Treasurer Beaudua collected information regarding K & K Screw's request for an Industrial Development District. He asked if they are adding employees from the community, if K & K owns the building or leasing, since they pay the property taxes and the personal property taxes for their location, are they adding new machines, adding on a building addition? In June 1988, there was an abatement granted for that site.

Trustee Knotts, supported by Trustee Bober, moved to approve a MERS (Municipal Employee Retirement System) Health Care Savings Program, as a voluntary plan for employee pre-tax contributions. Roll call vote: Yea: Knotts, Bober, Simons, Patsalis, Beaudua, Randolph, and Arnold. Nay: None. Carried.

Trustee Knotts, supported by Treasurer Beaudua, moved to accept the January 2007 Revenue/Expenditure Report. Carried. Members discussed the ongoing delay of the Revenue/Exp Reports and decided that the amount of the Bookkeeper's workload and duties must be reduced. The Office Manager will be reviewing options.

RESOLUTION – Supervisor Randolph, supported by Trustee Bober, moved to adopt the following MERS Resolution to allow a voluntary Health Savings Account for Township Employees. Carried.

**UNIFORM RESOLUTION ADOPTING THE MERS
HEALTH CARE SAVINGS PROGRAM**
(Excluding Plans Governed by Internal Revenue Code Section 401 (k))

WHEREAS, the Municipal Employees' Retirement System ("MERS") Plan Document of 1996, effective October 1, 1996, authorized the Municipal Employees' Retirement Board ("Board") to establish additional programs including but not limited to defined benefit and defined contribution program (MERS Plan Document Section 36(2Xa)); MCL 38.1536(2Xa));

WHEREAS, the Board has authorized MERS establishment of the health care savings program ("HCSP" or "Program"), which a participating municipality or court, or another eligible public employer that is a political subdivision of the State which constitutes a "municipality" under MERS Plan Document Section 2B(4); MCL 38.1502b(2) ("Eligible Employer"), may adopt for its Eligible Employees;

WHEREAS, MERS has been determined by the Internal Revenue Service to be a tax-qualified "governmental plan" and trust under section 401(a) of the Internal Revenue Code of 1986, and all trust assets within MERS reserves are therefore exempt from taxation under Code section 501(a) (IRS Letter of Favorable Determination dated June 15, 2005.)

WHEREAS, the Board has established a governmental trust (the "Trust Fund") to hold the assets of the HCSP, which Trust Fund shall be administered under the discretion of the Board as fiduciary, directly by (or through a combination of) MERS or MERS duly appointed Program Administrator,

WHEREAS, 1999 PA 149, the Public Employee Health Care Fund Investment Act MCL 38.1211 et seq. ("PA 149") provides for the creation by a public corporation of a public employee health care fund, and its administration, investment, and management, in order to accumulate funds to provide for the funding of health benefits for retirees and beneficiaries;

WHEREAS, a separate MERS health care trust fund created under PA 149 also constitutes a governmental trust established by a public corporation ("municipality") as an Eligible Employer, provided that all such employers shall be the State of Michigan, its political subdivisions, and any public entity the income of which is excluded from gross income under Section 115 of the Internal Revenue Code; provided further, that the PA 149 trust shall not accept assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code;

WHEREAS, the Board acts as investment fiduciary for the pooled assets of each MERS participating municipality and court enrolled in MERS defined benefit programs. Health Care Savings Program, the Retiree Health Funding Vehicle, and the Investment Services Pool Program, on whose behalf MERS performs all plan administration and investment functions, and such participating municipalities and courts have full membership, representation and voting rights at the Annual Meeting as provided under Plan Section 45; MCL 38.1545.

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WHEREAS, the Board also acts as investment fiduciary for those participating employers who are non-MERS participating municipalities and courts that have adopted the MERS Health Care Savings Program, Retiree Health Funding Vehicle, or Investment Service Pool Program, and such entities are not accorded membership, representation or voting rights provided to MERS participating municipalities and courts at the Annual meeting under Plan Section 45; MCL 38.1545.

WHEREAS, adoption of this Uniform Resolution and Participation Agreement (the "Uniform Resolution") by each Eligible Employer is necessary and required in order that the benefits available under the MERS HCSP may be extended;

- It is expressly agreed and understood as an integral and nonseverable part of extension or continuation of coverage under this HCSP Resolution that Section 43B of the MERS Plan Document shall not apply to this Uniform Resolution Adopting MERS HCSP, the Participation Agreement, the Trust Plan Document, the Trust Agreement, and their administration or interpretation.
- In the event any alteration of the language, terms or conditions stated in this Uniform Resolution Adopting MERS HCSP is made or occurs, under MERS Plan Document Section 43B or other plan provision or other law, it is expressly recognized that MERS and the Board, as fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the Trust; or to continue administration by the Program Administrator or by MERS directly.

WHEREAS, concurrent with this HCSP Uniform Resolution, and as a continuing obligation, this governing body has completed, approved, and submitted to MERS documents necessary for participation in and implementation of the HCSP. This obligation applies to any documents deemed necessary to the operation of the Trust by the Program Administrator;

NOW, THEREFORE, BE IT RESOLVED that the governing body adopts (or readopts) the MERS HCSP as provided below.

SECTION 1. HCSP PARTICIPATION

EFFECTIVE May 7, 2007, the MERS HCSP is hereby adopted by the Charter Township of East China.

CONTRIBUTIONS. Basic Employer contributions, Mandatory Salary Reduction Contributions, Mandatory Leave Conversion Contributions, and Post-tax Employee Contributions, shall be remitted pursuant to MERS by the Eligible Employer, and credited to the Eligible Employer's separate fund within the MERS Trust Fund. Employer contributions may be made as a percentage of salary and/or by a specified dollar amount.

INVESTMENT of funds accumulated and held in the Health Care Savings Program Trust Fund shall be held in a separate reserve and invested on a pooled basis by MERS subject to the Public Employee Retirement System Investment Act ("PERSIA"), 1965 PA 314, as provided by MERS Plan Document Section 39; MCL 38.1539, and PA 149.

THE ELIGIBLE EMPLOYER shall abide by the terms of the HCSP, including all investment, administration, and service agreements, and all applicable provisions of the Code and other law. It is affirmed that no assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code shall be transferred to, or accepted by, MERS.

SECTION 2. IMPLEMENTATION DIRECTIONS FOR MERS AS HCSP INVESTMENT FIDUCIARY AND TRUSTEE

- (A) The governing body of this Eligible Employer desires that all assets placed in its MERS HCSP Trust Fund (as a sub-fund within all pooled HCSP trust funds with MERS) be administered by MERS, which shall act as investment fiduciary with all powers provided under Public Employee Retirement System Investment Act, pursuant to PA 149, all applicable provisions of the Internal Revenue Code and other relevant law.
- (B) The governing body desires, and MERS upon its approval of this Resolution agrees, that all funds accumulated and held in fee MERS HCSP Trust Fund shall be invested and managed by MERS within the collective and commingled investment of all HCSP funds held in trust for all Eligible Employers.
- (C) All monies in the MERS HCSP Trust Fund (and any earnings thereon, positive or negative) shall be held and invested for the sole purpose of paying health care benefits for the exclusive benefit of "Eligible Employees" who shall constitute "qualified persons" who have retired or separated from employment with the Eligible Employer, and for any expenses of administration, and shall not be used for any other purpose, and shall not be distributed to the State.
- (D) The Eligible Employer will fund on a defined contribution, individual account, basis its MERS HCSP Trust sub-fund to provide funds for health care benefits for "Eligible Employees" who shall constitute "qualified persons." Participation in and any coverage under HCSP shall not constitute nor be construed to constitute an "accrued financial benefit" under Article 9 Section 24 of the Michigan Constitution of 1963.
- (E) The Eligible Employer designates and incorporates as "Eligible Employees" who shall constitute "qualified persons" under this HCSP Resolution those who are "Eligible Employees as defined in the HCSP Participation Agreement under this HCSP.
- (F) Office Manager shall be the Eligible Employer's HCSP Coordinator, shall designate in writing the "qualified persons" on whose behalf trust fund monies shall be made available under any MERS (or non-MERS) retiree health care benefit program, including, but not limited to, MERS HCSP, or MERS Premier Health; receive necessary reports, notices, etc.; shall act on behalf of the Eligible Employer, and may delegate any administrative duties relating to the Fund to appropriate departments.

- (G) Fees and Expenses for the MERS HCSP are contained in Addendum A to this Resolution.

SECTION 3. EFFECTIVENESS OF THIS HCSP UNIFORM RESOLUTION

This Resolution shall have no legal effect until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under MERS Plan Document Section 36(2)(a), 1999 PA 149 and other relevant laws, and this Resolution have been met. Upon MERS determination that all necessary documents have been submitted, MERS shall record its formal approval upon this Resolution, and return a copy to the Eligible Employer's HCSP Coordinator as identified above.

In the event an amendatory resolution or other action by the Eligible Employer is required by MERS, such Resolution or action shall be deemed effective as of the date of the initial Resolution or action where concurred in by this governing body and MERS (and the Program Administrator if necessary). Section 54 of the MERS Plan Document shall apply to this Resolution and all acts performed under its authority. The terms and conditions of this Resolution supersede and stand in place of any prior resolution, and its terms are controlling.

I, Gary J. Arnold, Clerk, hereby certify that the above is a true copy of the Uniform Resolution Adopting the MERS Health Care Savings Program, adopted at the official meeting held by the governing body of this municipality on May 7, 2007.

ANNOUNCEMENTS – The Township will be closed Monday, May 28, 2007 for Memorial Day. The East China School District Election will be held May 8, 2007, from 7 a.m. until 8 p.m. at the Township Hall. Curbside Chipping is May 16 and 17, 2007.

Office Manager Smith was present to review information for a Township sponsored Red Cross blood drive to be held the first or second week in June at the Township Hall. Forty-five signatures must be collected on the interest form before the Red Cross will schedule a date.

Treasurer Beaudua mentioned that the Water Fund is in better shape now to start repaying the Sewer Fund. He asked about attendance at Fire Authority meetings and for a monthly update after those meetings.

Trustee Patsalis stated that the streetlight at Belle River Woods subdivision is not working. He asked about an upcoming Public Hearing that will be held by the Planning Commission to rezone property owned by Dr. Hosey and a letter where Hosey's attorney makes reference that the property is zoned B-1, rather than R-1 and B-1.

Trustee Knotts commented that the For Sale sign at the corner of Bree and M-29 does not say "commercial property". He thanked the DPW for installing new steel basketball nets at Manor Park. He received a copy of a letter from Comcast to a resident on Lavelly Lane. Comcast states that the resident must pay \$3,600 for service to be extended to their address. Trustee Knotts went to the site and observed that the Comcast service was not far from the requested location and the fee of \$3,600 appears inflated. He asked Supervisor Randolph to follow up to see what the Township can do about this situation.

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Trustee Simons stated that the curbing and water drainage to the catch basins is a mess along Francis Street. Supervisor Randolph will follow-up with the Road Commission to fix the area.

ADJOURN – Trustee Simons, supported by Treasurer Beaudua, moved to adjourn at 8:38 p.m. Carried.

John A. Randolph, Supervisor

Gary J. Arnold, Clerk

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