

**CHARTER TOWNSHIP OF HAMPTON
REGULAR MEETING MINUTES
June 27, 2022**

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

PRESENT: Kenniston, Wright, Benchley, Wisniewski, Samyn, DeWyse, Close

ABSENT: None

ALSO PRESENT: Franz, Worden, Johnson, Mary Smith, and Jordyn Leyba

APPROVAL OF MINUTES:

Motion by Wisniewski, supported by Wright, to approve the June 13, 2022 regular meeting minutes and the reading waived.

Motion carried.

COMMUNICATIONS:

None

AUDITORS REPORT:

Motion by Benchley, seconded by Wisniewski, the following warrants be approved for payment:

#49807-#49851	General Fund	\$ 71,534.74
#4439-#4442	Sewer Fund	\$ 4,997.55
#1988-#1990	Water Fund	\$ 40,612.95
#1877-#1880	Trust & Agency	\$ 873.00
		<u>\$ 118,018.24</u>

AYES: Benchley, Wisniewski, Wright, Kenniston, DeWyse, Samyn, Close

NAYS: None

ABSENT: None

Motion carried.

OPEN TO THE PUBLIC:

No one addressed the Board.

OLD BUSINESS:

Motion by Wisniewski, supported by Benchley, to adopt the following Solicitors, Peddlers, and Transient Merchants Ordinance #40-2:

An Ordinance to provide for the exercise of certain municipal powers of the Charter Township of Hampton and for the health, safety and welfare of persons and property in the Charter Township of Hampton and to provide penalties for the violation of the provisions thereof and in particular to provide for the licensing of solicitors, peddlers and transient merchants, to regulate their conduct, to regulate the conduct of said occupations within the Township, to prohibit same in certain parts of the Township and to provide for the general welfare, health and safety of persons and property within the Township.

1) PERMIT REQUIRED

It shall be unlawful for any solicitor or peddler or transient merchant as defined in section 2 of this Ordinance to engage in such business within the corporate limits of the Charter Township of Hampton without first obtaining a permit therefore in compliance with the provisions of this Chapter.

2) DEFINITIONS

a) Solicitor A solicitor is any person traveling either by foot, motor vehicle or any other type of conveyance, from place to place, seeking to obtain orders for the purchase of goods or services for future delivery or performance.

b) Peddler A peddler is any person, who travels by foot, motor vehicle or any other type of

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- c) conveyance, from place to place, selling or offering for sale goods or services,
- d) Transient Merchant A transient merchant is any person who sells or offers for sale goods or services from a motor vehicle or other portable structure from a non-permanent location.

3) **APPLICATION**

Applicants must submit the completed Township application to the Township for approval, and provide the following information:

- a) State permit, ID card, or other picture identification.
- b) Permanent home address and local address, if different.
- c) A brief description of the nature of the business and the goods to be sold.
- d) If employed, the name and address of the employer.

4) **GROUP PERMIT**

Whenever more than one (1) person is involved in soliciting or peddling on behalf of the same individual, business, organization or group, such person may apply for a group permit in lieu of individual permits. Each solicitor or peddler will be required to obtain an individual permit and, accordingly, must supply the Township Clerk with the information required under section.

5) **ISSUANCE OF PERMIT**

The Township Clerk, upon payment of the prescribed permit fee, shall deliver to the applicant his/her permit. Such permit shall contain the signature of the issuing officer and shall show the name, address of said permit, the type of permit issued and the kind of goods or services to be sold thereunder and the date of issuance. Before any permit will be issued to an applicant who proposes to solicit for sale or peddle any food or product for human consumption, certification must be received from the County Health Officer.

6) **SHOWING OF PERMIT**

Solicitors and peddlers are required to exhibit their permit upon request.

7) **PROHIBITED CONDUCT**

The following conduct, in addition to any other penalties imposed herein, shall be punishable as a violation of this Ordinance:

- a) Entering a private residence under pretenses other than for soliciting or peddling,
- b) Remaining in a private residence or on the premises thereof after the owner or occupant there has requested any such person to leave,
- c) Going in and upon the premises of a private residence by such person to solicit or peddle when the owner or occupant thereof has displayed a "no soliciting" or "no peddling" sign on such premises,
- d) Except by prior invitation, soliciting at a private residence for the purpose of obtaining orders for the sale of goods,
- e) Soliciting or peddling at a private residence prior to 10:00 a.m. and after official sunset time, or at any time on a Sunday or on a State or national holiday,
- f) Soliciting or peddling on a street or within an area which has been closed by the Hampton Township Board for an art fair, street fair, or other special event, except where special permits are issued in accordance with standards established by the Hampton Township Board,
- g) Remaining or keeping a vehicle stand or any form of conveyance at one location on a street or other public property for selling or offering for sale goods or services for more than 5 minutes at a time.

8) **FEES**

A fee shall be charged for each permit as shall be determined by the Township Board from time to time by resolution.

9) **PERMIT VALIDITY**

The Township Board may determine by resolution that on certain dates congestion in the Township or a part of the Township will be too great to permit peddling and soliciting, Following the adoption of such a resolution, all permits shall contain a notice that they are invalid for the times and places stated in the Township Board Resolution. No person shall engage in peddling or soliciting at a time or location for which the Township Board has determined that permits are invalid. If the permit issued to a person does not contain notice which would inform the person that it is not valid for a time or place in question, the person shall be first warned prior to initiation of prosecution under this section.

10) **PENALTY**

Any person who violates this Ordinance is responsible for a municipal civil infraction and may be ordered to pay a civil fine, as those fines shall be determined from time to time, pursuant to Ordinance 64, which is the Municipal Civil Infractions Ordinance for the Charter Township of Hampton. Violation of this Ordinance shall be deemed to be a Class 2 violation, pursuant to Sec. 7 of Ordinance 64.

11) **TERM OF PERMIT**

The permit shall be valid for a period of no longer than 30 days.

12) **PENALTY**

Any person who shall violate any of the provisions of this Ordinance shall be subject to a fine of not more than One Hundred (\$100.00) Dollars or imprisonment in the County Jail not to exceed ninety (90) days or both such fine and imprisonment in the discretion of the Court.

13) **SEPARABILITY**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

14) **ORDINANCE REPEALED**

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

15) **CHARITABLE ORGANIZATIONS**

The Charter Township of Hampton policy for solicitations within the township by a recognized charitable organization (defined as an entity organized as a non-profit organization under recognizable state law) shall follow the safe guidelines as set forth in this policy:

- a) Soliciting shall take place only in areas approved by the property owner or their representative.
- b) It shall not interfere with vehicle traffic or pedestrian traffic.
- c) It shall not take place within a roadway.
- d) The township assumes no responsibility for the actions of the solicitors.

16. **EFFECTIVE DATE**

This Ordinance shall take effect immediately upon publication thereof.

AYES: Wisniewski, Benchley, Wright, Kenniston, DeWyse, Samyn, Close

NAYS: None

ABSENT: None

Motion carried.

NEW BUSINESS:

Motion by Wisniewski, supported by Wright, the following resolution be adopted:

WHEREAS, the Township Clerk is responsible for conducting elections in Hampton Township; and

WHEREAS, MCL 168.662, provides the Election Commission of a city, township or village shall, by resolution, is responsible for determining the location of polling places in the jurisdiction, and

WHEREAS, the Bay City Public School District at the January 21, 2021 public hearing, with Election Coordinator, Bay County Clerk, Cynthia A. Luczak, Arenac County Clerk, Nancy Selle, Superintendent of the Bay Arenac Intermediate School District and the Local Clerks within the counties of Bay and Arenac, Michigan, with agreement by all, that the Public-School Facilities should no longer be used as polling locations in consideration of the safety and security of students;

WHEREAS, polling locations shall be as follows, Precincts 1 and 3 will remain at the Hampton Township Hall, 801 W. Center Avenue, Essexville; Precincts 2 and 5 will move to Hampton Township Fire Station, 949 N. Wagner Road, Essexville; and Precinct 4 will move to the Hampton Township Senior Center, 802-1/2 W. Center Avenue, Essexville.

NOW THEREFORE, BE IT RESOLVED:

The Hampton Township Board authorizes the change of the voting locations as described above.

Yes: Wisniewski, Wright, Benchley, Kenniston, DeWyse, Samyn, Close

No: None

Absent: None

Motion by Kenniston, seconded by DeWyse, the following resolution be adopted:

RESOLVED WHEREAS, the Township of Hampton hereinafter referred to as the "MUNICIPALITY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utilities or other facilities, or to conduct other activities, on, over, and under State Highway Right of Way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the MUNICIPALITY agrees that:

1. Each party to this Resolution shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Resolution, as provided by law. This Resolution is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.
2. If any of the work performed for the MUNICIPALITY is performed by a contractor, the MUNICIPALITY shall require its contractor to hold harmless, indemnify and defend in litigation, the State of Michigan, the DEPARTMENT and their agents and employee's, against any claims for damages to public or private property and for injuries to person arising out of the performance of the work, except for claims that result from the sole negligence or willful acts of the DEPARTMENT, until the contractor achieves final acceptance of the MUNICIPALITY Failure of the MUNICIPALITY to require

its contractor to indemnify the DEPARTMENT, as set forth above, shall be considered a breach of its duties to the DEPARTMENT.

3. Any work performed for the MUNICIPALITY by a contractor or subcontractor will be solely as a contractor for the MUNICIPALITY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the MUNICIPALITY, or their subcontractors or any other person not a party to the PERMIT without the DEPARTMENT'S specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims by any contractor or subcontractor will be the sole responsibility of the MUNICIPALITY.
4. The MUNICIPALITY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.
5. The MUNICIPALITY will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State Highway Right of Way resulting from the installation construction, operation and/or maintenance of the MUNICIPALITY'S facilities according to a PERMIT issued by the DEPARTMENT.
6. With respect to any activities authorized by a PERMIT, when the MUNICIPALITY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.
7. The incorporation by the DEPARTMENT of this *Resolution* as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.
8. This *Resolution* shall continue in force from this date until cancelled by the MUNICIPALITY or the DEPARTMENT with no less than thirty (30) days prior written notice provided to the other party. It will not be cancelled or otherwise terminated by the MUNICIPALITY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED that the Spicer Engineering is authorized to apply to the DEPARTMENT for the necessary permit to work within State Highway Right of Way on behalf of the MUNICIPALITY.

AYES: Kenniston, DeWyse, Wisniewski, Wright, Benchley, Samyn, Close

NAYS: None

ABSENT: None

Motion carried.

ATTORNEY REPORT: Not in attendance.

STANDING COMMITTEE REPORTS: Motion by Benchley, supported by Wisniewski, to receive the May 12, 2022 Planning Commission meeting minutes and the reading be waived.
Motion carried.

OFFICER/TRUSTEE/DEPT. HEAD/COMMISSIONER REPORTS:

CLERK: KCI Printing sent out 2,584 Absentee Applications to our Permanent AV voters. The total bill from the printer totaled the postage we would have had to pay because they receive bulk rates. Deputy Clerk Franz attended a 2-day Clerking 101 seminar last week at the Michigan Assoc. of Municipal Clerks educational seminar. I then attended 2 days of the seminar after she returned. We have received the ballots for the August Primary election, we will be testing them and then mailing them out as soon as we can.

TREASURER: Reported Bay County has set aside \$1,000,000 for assistance with delinquent property tax, rent and utilities for Bay County residents. Application needs to be made thru Bay County.

TRUSTEES: Wisniewski spoke about brush chipping and siding needing to be installed on the Sr. Citizen building.

SUPERVISOR: Reported the Porta-Johns at the end of Jones Road have been destroyed and a Constant Contact will be going out this week.

PUBLIC WORKS SUPERINTENDENT WORDEN: Had 13 loads of chips in 6 days from recent storm, Phillip and Cal have been attending water certification classes, all the grass along the roads has been cut and they are working on cutting the Nature Trail, cut grass and trees for 2 blighted properties, repaired 2 more catch basins, dug the ditch along a portion of Hampton Road, issues continuing at the Alpine lift station, and had electrical issues at 4 pump stations after the storm.

PUBLIC SAFETY DIRECTOR BENCHLEY: Bryan is at the Chief's convention but Supervisor Close gave his report. Receiving pagers thru a Homeland Security grant, Whitman attended a sudden-death class and will pass along information to other officers. Had 196 calls, 23 traffic stops, 9 vehicle crashes, 4 tickets issued, 7 arrests, and 18 medical calls since last meeting.

COUNTY COMMISSIONER JOHNSON: There is a link on the Bay County website to apply for the hardship grant, posted a part-time job for Financial Analyst, appointed Weston Prince the new Bay County Treasurer, Animal Control and the Bay County Humane Society held a vaccine event which was well attended, posting an emergency opening in the Clerk's office, collective bargaining agreements with 6 units have been completed, and the position to the Bay County DHHS Board has been delayed.

OPEN TO THE PUBLIC: Mary Smith addressed the work on the Nature Trail. Tara Franz spoke about letting the public know we require a peddler's permit especially with all the food trucks.

ADJOURNMENT: Motion by Wisniewski, supported by Benchley, to adjourn the meeting at 7:30 p.m.
Motion carried.

Respectfully submitted:

Approved by:

Frances DeWyse, Clerk

Terri Close, Supervisor