

**FRUITLAND TOWNSHIP BOARD  
REGULAR MEETING  
AUGUST 13, 2008  
MINUTES**

**PRESENT:** Supervisor Gregory R Boughton, Treasurer Debbie Boyer, Trustee Mary Ann Bard, Trustee Mary Eley, Trustee Norma Binns, Trustee Gary Bole, and Clerk Janell Beard

**ALSO PRESENT:** Ken Hulka, Managing Director Muskegon County Road Commission, Laurie Peterson, Director of Maintenance Muskegon County Road Commission, Township Attorney Robert Eklund, and 13 interested parties.

**CALL TO ORDER:** Supervisor Boughton called the Wednesday, August 13, 2008 regular meeting of the Fruitland Township Board to order at a special posted time of 2:10 p.m.

**ORDER OF BUSINESS:**

**1. Improvement to 1200' Lakewood Road, east of South Shore Drive and Nestrom / Lakewood Roads intersection –**

Motion by Clerk Beard, second from Treasurer Boyer, **ADOPTED**, to suspend the rules and allow public comment on proposal presented by Ken Hulka, Managing Director Muskegon County Road Commission for proposed improvements to 1200' of Lakewood Road, east of South Shore Drive and Nestrom / Lakewood Roads intersection.

*Upon Voice Vote:* **7 AYES.**

- a. Jeff Goss, 5327 Lakewood Road, Whitehall, MI 49461 stated the shoulders of the 1200' of Lakewood Road, east of South Shore Drive and Nestrom / Lakewood Roads intersection have failed, and the road consists of patch upon patch; the road which serves as a major west to east thoroughfare is in need of proper repair; emergency services, White Lake Fire Authority and White Lake Ambulance Authority, utilize this route instead of following South Shore Drive around the lake.
- b. Charles Bourdon, 5385 Lakewood Road, Whitehall, MI 49461 stated the 1200' of Lakewood Road, east of South Shore Drive and Nestrom / Lakewood Roads intersection was graveled in 1932; 1963 and 1964 the road was primed and sealed twice, is the history of road construction for Lakewood Road, 1200' east of South Shore Drive and Nestrom / Lakewood Roads intersection.; the depth of the asphalt material needed can be determined by taking a sample of the existing road.
- c. Bill Raffaele, 5382 Lakewood Road, Whitehall, MI 49461 stated that during his service on the White Lake Fire Authority, as a firefighter, Lakewood Road is the route emergency calls are responded to, but due to the condition of Lakewood Road, South Shore Drive is becoming the route of response.

**DISCUSSION:**

Ken Hulka, Managing Director Muskegon County Road Commission stated funding for roads is predicated on classification of road; major rehabilitation of roads is responsibility of others according to Public Act 51; the State of Michigan wants to see a 2:1 ratio of Local to Primary roads; funding responsibility generally falls to townships that utilize General Fund or levied millage monies for road improvements; there are no matching

Muskegon County Road Commission funds to put forth into local roads; due to rising cost of petroleum product, participation funds are eliminated. Director Hulka presented recommendation for proposed repair of 1200' of Lakewood Road, east of South Shore Drive and Nestrom / Lakewood Roads intersection with average 1 3/4 overlay, reestablish crown and shoulder, and dip on Lakewood, east of Orshal Road as follows:

|                                      |                  |                                    |
|--------------------------------------|------------------|------------------------------------|
| Hot Mix Asphalt                      | 14,011.20        | 252 tons                           |
| Berm Removal / Swale Ditching        | 1,030.00         |                                    |
| Traffic Control                      | 750.00           |                                    |
| Shoulder Gravel                      | 625.00           | 22A Modified Material 65 ton       |
| Labor – General                      | 420.00           |                                    |
| Distortion (dip) east of Orshal Road | 3,300.00         | 22 ton asphalt, 55 tons new gravel |
|                                      | <b>20,136.20</b> | <b>Total Current Year Repair</b>   |

Following year to diminish maintenance  
 Follow-up with chip and seal **31,500.00**

To add 5 – 7 years to life of road  
**TOTAL OVERALL COST TO REPAIR  
 LAKEWOOD ROAD PROPERLY 51,636.00**

*Place as an agenda item for Monday, August 18, 2008 Regular Meeting*

**2. Proposed Policies and Procedures Manual Review –**

The following changes were put forward:

- a. Section 2.4 (b) Meeting Agenda page 2
  - i. *strike 6* insert **three (3) business** at the end of the second sentence.
  - Section 2.4 (b) Meeting Agenda page 3
  - ii. Agenda order: **item 3. Public Comment**, strike “Roll Call Vote”
- b. Section 2.4 (d) Public Participation page 3  
 “no more than ~~three (3)~~ **five (5) minutes** on any item that is no on the agenda, **or Supervisors discretion.**”
- c. Section 2.4 (g) Litigation page 4  
*Strike the first three paragraphs*, and insert “**The Fruitland Township Attorney will only be directed to initiate legal action, after diligent research by the Fruitland Township Board. A majority of the entire Board (4 votes) shall be required through a roll call vote, before said action is initiated, and / or terminated.**”
- Section 2.4 (g) Litigation page 4  
 Last sentence of section, *strike “approval”* and insert “**must meet requirements of O M A (Open Meetings Act).**”
- d. Section 2.4 (h) Direction and Control of Day-to-Day Administration page 5  
*strike all references to department head(s)*
- e. Section 3.1 (b) Personnel Officer’s Duties *strike reference to department head(s)*  
 Section 3.2 (a) Personnel Records page 7  
 Addition of items:
  - 9. Drug Test
  - 10. Employment Physical
  - 11. Pay Rate Changes
- f. Section 3.4 Employee Safety page 7  
 4<sup>th</sup> sentence *strike “any”* insert “**all**” to read “ The safety officer shall report to the township board **all** unsafe conditions that will require a modification of any board

- adopted policy or procedure or the expenditure of funds exceeding \$500 to eliminate that condition.”
- g. Section 3.4 (c) Complaint Procedures for Harassment page 8  
Re-word section – yet to be determined
- h. Section 3.8 Employee Evaluation page 9  
Last sentence insert “**or**” to read All non-orientation employees will be evaluated at one year intervals, within one month of the employee’s anniversary date “**by the personnel officer and / or Supervisor.**”
- i. Section 9 Employee Discipline page 10  
*strike Administrator* insert “**Officer**”
- j. Section 4.11 Audits page 29  
add item: 20. Compliance with all State statutes
- k. Section 5.5 (c) Phone Calls page 31  
First sentence *strike* “*without the permission of an authorized official, but the*” insert “**at township expense.**”
- l. Section 5.5 (e) Bulletin Boards page 31  
Insert first word of first sentence “**Residents and,**” last two words of sentence insert “**or Supervisor.**”
- m. Section 5.6 (6) Fees page 32  
insert at end of sentence “**in accordance with fee schedule adopted by the township board.**”
- n. Section 5.7 (b) Emergency Repairs page 33  
First sentence *strike* “*is*” insert “**are**”, *strike* “*\$3,000*” insert “**\$1,500**”
- o. Section 5.8 page 33  
TITLE CORRECTION *strike* “*Distance*” insert “**Disaster**”  
Addition at end of last sentence insert “**by computer administrator.**”
- p. Section 6.1 (b) Complaints and Problems  
third paragraph *strike* “*clerk*” insert “**Supervisor**” where referenced  
Addition to end of last sentence insert “**and advise board accordingly.**”
- q. Section 6.6 Outgoing Mail page 36  
*Strike* “*Clerk and Department Head*” where referenced, insert “**Supervisor**”

**3. Correspondence –**

- a. Request to purchase Township Parcel –**  
Kathryn Duncan, 5380 W River Road, Muskegon, MI 49445 request to purchase parcel at Nestrom/Scenic/River from Fruitland Township.  
Motion by Trustee Eley, second from Trustee Bard, **ADOPTED**, to direct Supervisor Boughton to write a letter to Kathryn Duncan in acknowledgement of request to purchase property and that the Board is taking request under advisement and Attorney Eklund and Supervisor Boughton to check with assessor regarding State Equalized Value and fair market value and report to Board at the Wednesday, September 10, 2008 meeting.  
*Upon Voice Vote:* **7 AYES.**

- b. Letter of Resignation, Ordinance Enforcer –**

Supervisor Boughton presented a letter received from Donald Carrier citing his intent to resign from the Ordinance Enforcer position effective November 15, 2008, but would like to remain the liquor control inspector.

*Place as an agenda item for Monday, August 18, 2008 Regular Meeting*

**4. 2000 Tax Tribunal Settlement Consumers Power –**

Motion by Trustee Eley, second from Clerk Beard, **ADOPTED**, to direct Supervisor Boughton and Assessor Bowen to sign settlement agreement for the 2000 Consumers Energy appeal to the Michigan Tax Tribunal, as presented by Township Attorney Eklund.

*Upon Voice Vote: 7 AYES.*

**5. Municipal Civil Infraction Seminar and Handbook –**

Motion by Clerk Beard, second from Treasurer Boyer, **ADOPTED**, to order 2- Municipal Civil Infraction Manuals from Michigan Township's Association and approve Supervisor's designee to attend the Municipal Civil Infraction Seminar on Thursday, August 21, 2008 at the Holiday Inn, in Big Rapids, Michigan.

*Upon Voice Vote: 7 AYES.*

**6. Resolution Supporting Michigan Small Harbor Coalition –**

Tom Thompson, 5564 South Shore Drive, Whitehall, MI 49461 requested participation of Fruitland Township in supporting coalition for Michigan small harbors; and stated the U.S. Army Corp of Engineers is currently dredging the White Lake Channel; small harbors are special appropriations, and not a Federal budget item as large harbors; Onekema, Portage Lake, is grass roots effort to establish small harbor coalition to speak with one voice for the needs of small harbors; 50 Federal identified as small harbors; 100.00 – 200.00 membership, per harbor fee; Fruitland Township and White River Township have been approached to support the small harbor coalition for White Lake Channel so that the needs of small harbors are identified during budget deliberations;

*Place as an agenda item for Monday, August 18, 2008 Regular Meeting*

**7. McMillan Road End Committee Report –**

Trustee Eley presented a report from Nancy Johnson and Norma Binns, McMillan Road End Committee Co-Chairs proposing:

1. Immediate ordinance adoption by the Fruitland Township Board with language that specifies non-permitted activities at the site, which are subject to enforcement by Civil Infraction;
2. Immediate designation of funds by the Fruitland Township Board for ordinance enforcement at the site to facilitate random "spot checks" to ensure ordinance compliance. The township ordinance enforcement officer shall be empowered to issue civil infraction tickets with appropriate fines.
3. Perform a cost/benefit analysis to determine whether the township should pursue Civil Infractions through District Court or create a Municipal Ordinance Violations Bureau by ordinance (MCL 600.8396); implement the appropriate strategy.
4. Create a fund that would match, dollar for dollar (subject to a cap determined by the board), private and grant funds raised to implement the following:

- Posting of ordinance (rules) signage, as necessary to direct and inform visitors regarding appropriate activities and finable offences.
  - Installation of trash receptacles.
  - Installation of secure fences on the north and south property boundaries.
  - Construction of a natural walking path from Scenic Drive to the bluff.
  - Construction of a scenic overlook deck at the bluff.
  - Construction of a stairway from the deck to the beach.
  - Posting of signage and temporary fencing, as necessary, at the beach to identify public property boundaries for visitors.
5. Establish a maintenance fund for continued property upkeep.
  6. Assign a township staff member to assist the McMillan Road End Committee as needed, i.e. minutes, action item follow up, etc.

This project would be executed in phases over a period of three to five years, depending on the availability of funding and site conditions. All construction will be performed under the guidance of the Muskegon Conservation District to ensure environmental appropriateness. The property would remain under the jurisdiction of the Fruitland Township Board, which would act as fiduciary and final arbiter of decisions and disputes.

#### DISCUSSION:

Clerk Beard stated the three to five year time frame cited in the document was too long, as the dune has been stabilized as determined by Jeff Auch, Muskegon Conservation District, and the public has been prohibited from access for far too long; cited concerns of cost and liability regarding the creation of a Municipal Ordinance Violations Bureau.

Treasurer Boyer stated the language in the proposed ordinance needs to be revised, and not ready for immediate adoption.

Trustee Eley stated she would make revisions to address the concerns cited by members of the Fruitland Township Board for presentation to the Board on Monday, August 18, 2008.

#### 8. **Bids for Tree Work McMillan Road End Recommendation –**

Motion by Trustee Eley, second from Trustee Bard, **ADOPTED**, to approve expenditure of 500.00 for tree trimming at McMillan Road End as advised by Jeff Auch, Muskegon Conservation District and Trustee Eley.

*Upon Voice Vote:* **7 AYES.**

#### 9. **Proposed McMillan Road End Ordinance –**

*Place as an agenda item for Wednesday, September 10, 2008 regular meeting.*

#### 10. **Nord Road Maintenance –**

*Place as an agenda item for Wednesday, September 10, 2008 regular meeting.*

#### 11. **Roads Committee Report –**

July 15, 2008 report from the Fruitland Township Roads Committee, a committee created after a citizens meeting by residents. After numerous meetings, surveys, and public input, this committee recommended that the voters of Fruitland Township be asked to approve a 1 mill levy for six years to fund road improvements from a prioritized list. After a public meeting, the board chose to not seek the millage vote. In 2007, the Fruitland Township Board paid \$47,000.00 to match \$47,000.00 from the Muskegon County Road Commission to chip seal one mile of Green Creek Road and one mile of Lorenson Road. Spot wedging was done to sections of Bard,

Lakewood and all of Lamos Road. In 2008, the Fruitland Township Board voted to commit \$345,349.70 for the improvement of Orshal Road from River to Duck Lake Road. The Berry Junction Rail Trail Commission added paved shoulders to their Phase II Plan for South Shore Drive, and Zellar Road. It is resolved by this committee that: The Fruitland Township Board should be commended for it’s commitment to adding \$100,000.00 to its road fund each year. Primary Roads are the full responsibility of the Muskegon County Road Commission. Fruitland Township needs to lobby for the replacement of Scenic Drive, to which this committee is strongly and adamantly committed.

Secondary Roads are also the full responsibility of the Muskegon County Road Commission. The Township should help fund improvement to paved roads as it can from its road fund and help to fund improvement to non paved roads with gravel, slag, or other material recommended by the Muskegon County Road Commission, with an ultimate goal of a paved roads. It is the recommendation of this committee that the following roads receive “double prime and seal,” as they have already received a slag base:

- Lorenson Road from Duck Lake Road to Michillinda Road
- Todd Road from Weber Road to Simonelli Road
- Simonelli Road from Berquist Road to Michillinda Road

It is the opinion of this committee that the decision for future paving projects be the responsibility of the Fruitland Township Board, with recommendation from the roads committee. The Board should be open to other sources of funding for road improvement and make their decisions based on all factors at that time. It is the opinion of the committee that until the economy improves and road construction costs come down, road paving projects will be extremely limited and should be made with careful Board and Committee deliberation.

*Place as an agenda item for Monday, August 18, 2008 Regular Meeting*

**12. Planning Commission –  
Recommendation for Ordinance Amendment Open Space SECTION 9.02a  
DEFINITIONS**

For purposes of this section, a “subdivision” means any parcel or contiguous parcels of land proposed to be divided, into 10 or more lots, site condominium lots or recorded platted lots, for the purpose of sale, transfer or building construction and which is proposed to be served by an approved private or public road.

**For the purposes of this section, “Open Space” means any parcel or area of land that is set aside, dedicated, designated or reserved for public or private use or enjoyment. Such areas may contain, but are not limited to, forests, farmland, fallow fields, floodplains, wetlands, and shorelands. Open Space can also encompass scenic vistas, recreational areas, historic sites, and common space dedicated as a permanent recorded easement.**

*Place as an agenda item for Monday, August 18, 2008 Regular Meeting*

**13. Adjournment –**

Motion by Clerk Beard, second from Trustee Eley, **ADOPTED**, to adjourn the Wednesday, August 13, 2008 regular meeting of the Fruitland Township Board.

*Upon Voice Vote:* **7 AYES.**

Respectfully Submitted,

Janell Beard, Clerk, CMC  
Township of Fruitland

ENROLLED