

VIENNA TOWNSHIP BOARD MEETING
MONDAY, MARCH 2, 2015
CYNTHIA J. BRYAN, CLERK

Roll Call: Present: Taylor, Bryan, Fuller, Lemieux, Belill, Thomas
Absent: Cain

Previous Minutes: February 2, 2015. Moved by Bryan, seconded by Thomas to approve the minutes of February 2, 2015 with any changes and corrections. All in favor

February 26, 2015. Moved by Bryan, seconded by Thomas to approve the minutes of February 26, 2015 with any changes and corrections. All in favor

Bills: Bills in the amount of \$ 13,324.26 were presented. Moved by Belill, seconded by Bryan to approve the bills in the amount of \$ 13,324.26.
ROLL CALL: Yeas – Bryan, Fuller, Lemieux, Thomas, Belill, Taylor
Nays – None Motion carried

Treasurer's Report: Bryan presented the January 2015 Treasurers Report.

Building Report: Taylor presented the January 2015 Building Report.

Library Report: Thomas reported that a light in the men's restroom and another in the parking lot were restored to working order and that the last book sale totaled sales in the amount \$1,1815.00. Thomas stated that the funds would be used to replace the front counter and for shelving in the events room.

Senior Center Report: None

Fire Authority Report: Bryan reported that discussions are still going on with the Authority regarding procuring a new vehicle as well as replacement of future trucks. Bryan stated that the roofing issue has been placed on the back burner due to weather and will be revisited when the weather breaks a little bit.

BDA Report: Belill stated that the BDA approved \$40,000 in matching funds for the Elf Kurafeh Shriners grant application to complete a feasibility study on Wilson Road.

Supervisor's Report: Taylor stated he has had discussions on the signs, has received pricing through the County, has made several calls to other companies for comparable quotes and that

he would have them in place by the time the frost is off. Taylor stated that he received disappointing news from the Road Commission that some of the improvements will require chip seal instead of crack seal costing \$22,000 per mile rather than \$2,000 per mile. Taylor stated that he has been in discussion with Bob Slattery and that the Board would have to reprioritize because they can't afford it all.

Additions/Changes: Add Correspondence - Elf Kurafeh Shriner
7. Tabled – Election Commission Appointments

Correspondence: Elf Kurafeh Shriner Letter

Public Comment: Stella DeWarr, 1040 West Hollywood Blvd, questioned what the Township policy is on closing the Senior Center. She stated that the Director says that if Clio Schools are closed, the Senior Center would also close. Dewarr stated that there were issues in the past with the center closing, but that it had been changed. She stated that she understood closing the center when safety officials asked people to stay off the roads, but could not understand why it would close due to cold weather. DeWarr questioned why the center was opened Friday night for a concert and Sunday for a rental, when it was closed Wednesday, Thursday and Friday and whether these closings would affect the county millage funding. Bryan stated that on the days in question, every other area senior center was closed and that the wind chills can be dangerous for elderly people. Bryan stated that she is not aware of a policy for closing and that last she remembered the Senior Board was supposed to create a policy and report back to the Township Board. DeWarr stated that the Center doesn't open until 8:30AM and most of the time the temperatures have improved by then. Taylor stated that it was left in the hands of the Director and the Senior Center Board, so as to not micromanage, but if it is something that needs to be looked into they can do that. DeWarr stated that she would take it back to the Board. Belill stated that a policy should be put into place and Bryan agreed but stated that record lows this year have provided unusual circumstances.

Unfinished Business:

1. 2015 Board Appointments. Taylor stated that he spoke with Cain and Bryan, evaluated all of the applicants and had suggestions for the appointments that he is hopeful the Board will agree with. Taylor stated that Chilson was up for appointment on the Planning Commission, but that a member from the Planning Commission would also need to serve on the Zoning Board of Appeals and he felt Jeff Ferweda could serve in that capacity. Moved by Taylor, seconded by Bryan to appoint Jeff Ferweda to the Planning Commission.

ROLL CALL: Yeas – Fuller, Lemieux, Thomas, Taylor, Bryan
Nays – Belill motion carried

Moved by Taylor, seconded by Fuller to appoint Doug Fillmore to the Zoning Board of Appeals.

ROLL CALL: Yeas – Lemieux, Thomas, Belill, Taylor, Bryan, Fuller
Nays – None motion carried

Moved by Taylor, seconded by Bryan to appoint Greg Carrier to the Zoning Board of Appeals.

ROLL CALL: Yeas – Thomas, Taylor, Bryan, Fuller, Lemieux
Nays – Belill motion carried

Moved by Taylor, seconded by Fuller to appoint Bill Vigus to the Zoning Board of Appeals.

ROLL CALL: Yeas – Belill, Taylor, Bryan, Fuller, Lemieux, Thomas
Nays – None motion carried

Moved by Taylor, seconded by Bryan to appoint JoAnn Arnold to the Library Board.

ROLL CALL: Yeas – Taylor, Bryan, Fuller, Lemieux, Belill
Nays – Thomas motion carried

Moved by Taylor, seconded by Lemieux to appoint Jim Kiser to the Business Development Authority Board.

ROLL CALL: Yeas – Bryan, Fuller, Lemieux, Thomas, Belill, Taylor
Nays – None motion carried

Taylor stated that he would ask the Board for leniency in re-appointing Ron Ignash to the Business Development Authority Board to give him the opportunity to finish some of the work he has recently started and give him a chance to really dig in because he has only been on the Board a year. Moved by Taylor, seconded by Belill to appoint Ron Ignash to the Business Development Authority Board.

ROLL CALL: Yeas – Belill, Taylor
Nays – Fuller, Lemieux, Thomas, Bryan motion denied

Moved by Taylor, seconded by Fuller to appoint Brian Smith to the Business Development Authority Board.

ROLL CALL: Yeas – Lemieux, Fuller, Thomas, Bryan, Taylor
Nays – Belill motion carried

2. Assessor Employment Status. Taylor stated that everyone has had the chance to look at the contract and asked if Beach wanted it to be discussed in open session, Beach stated that he would like it to be discussed openly. Taylor stated that there were things that were assumed at the time such as Beach having prior commitments on Monday and it was understood that he would work 35 hours on Tuesday, Wednesday, Thursday and some Fridays as needed. Taylor questioned the former Treasurer, who was in the audience, if he recollected that as being the agreement. Luttenbacher stated that he did. Taylor stated that the verbal agreement was made between himself, Luttenbacher and Beach. Fuller questioned if the issue was if he worked 3 or 4 days. Taylor stated that he would

work the days necessary to get the hours in. Lemieux stated that he was informed by Canterbury that when the previous assessor was in the position, she worked the same proposed hours for 13 plus years. Bryan stated that it is her understanding that there were 5 full time employees on that side of the building during that time and the current employee situation, with a part time building official, would leave the office short-handed. Bryan questioned 11.3 in the Employment Agreement, stating that the agreement aggregates and takes the place of all prior employment agreements and or understandings that may have been made by the employer. Bryan stated that if it was agreed upon, why wasn't the contract changed to reflect it. Bryan informed the Board that she has been made aware that Beach was hired as the Assessor in Gaines Township since the approval at the February 4, 2015 Board Meeting and that she has been told that he is in the offices of Gaines Township on almost a daily basis. Bryan questioned how Beach could be present at their offices when he is employed to be at Vienna. Bryan stated that it is clear violation of the Employment Contract and Personnel Policies and Procedures, which provides that an employee must notify the Township of their intent prior to accepting the position. Bryan questioned why Vienna Township has to pay the price. Bryan stated that there have been more and more calls on Monday and that there are many properties that need to be looked at and questioned whether it could be done. Bryan stated that she felt 4 days per week is fair and there is a contract in place that should be followed. Bryan stated that she has a problem agreeing to the 3 day week, knowing what she knows of his most recent employment. Fuller stated that he had a contract faxed from Peter Doerr's office with the days hand written to be Tuesday through Thursday and Friday as needed. Fuller said that the one he was given in last week's meeting is different from the one that was placed in this week's packet. Bryan stated that she isn't sure where the contract came from, but the one provided this week was in the file under contracts. Fuller questioned how contracts are expected to be so binding when they aren't done correctly. Bryan stated that is was just going off the contract in the Township files and had never seen the one with handwriting on it. Bryan questioned how the Supervisor had the authority to verbally amend the contract without the consent of the Board. Bryan stated that there was a clear violation of the contract by the employee when he took outside employment without consent of the Board and that he has been going to Gaines Township during hours that he has been paid to be at Vienna Township. Fuller questioned Bryan on whether Beach was at the office every day. Bryan stated that he is there, but also leaves at various times during the day. Belill stated that the contract Fuller was questioning is not a complete contract because there is not a dollar amount listed on it. Taylor stated that he did not recall making written changes to the contract and only recalled a verbal agreement. Bryan stated that she understood it that the Monday concession was made because he resided up north. Taylor asked Beach if he was currently

employed at Gaines Township, Beach stated he was. Taylor stated that he was not aware of his other employment. Belill stated that she remembered the beginning negotiations were to accommodate his travel back and forth because he didn't live locally. Bryan stated that's what she understood, but that he has since moved into the area. Taylor stated that he was not happy about the additional employment and is disappointed that he wasn't aware. Fuller stated that the issue needed to be put to rest tonight and not be dragged out more. Lemieux questioned what his work schedule was in Gaines. Beach stated that he did not have any specific days, that he started to help them out and then accepted a contract and still has the two townships up north. Beach stated that he had done his work well for the last two years at 3 days a week and then Cindy wanted him to work four days and he questioned why he should be at Vienna Township for four days if he can do the work in three. Bryan stated that no one had said that he didn't do his job well, but as stated before there is a necessity for him to work four days because of the increasing number of phone calls received from the public wanting to speak with the assessor, there is an issue with additional days taken when a holiday falls on a Monday. Bryan stated considering the salary and benefits package given to Beach she doesn't think it is too much to ask that he be available to the Township and its residents four days per week. Beach stated that he would agree to lose out on holiday pay when it falls on a Monday, so that he is available three days per week regardless. Taylor asked Fuller if they had to make a decision tonight, Fuller stated that it had been going on for two or three meetings and felt it needed to be decided. Taylor stated that he needed to go with the original contract, written and verbal, which stated Tuesday through Friday, if needed. Bryan stated that the Township is closed on Friday and it didn't make sense for him to be there when the Township is closed. Taylor asked the Board to allow him to work with Beach directly and make the decision on when he would be working to get his 35 hours in. Lemieux stated that this was fair as long as section 42-11A of Public Act 359 was not violated, which gives the Supervisor the authority to set hours and stated that Beach would report directly to the Supervisor. Bryan stated that it is perfectly fine, but that he still needs to follow the rules set forth in his contract and in the employee manual. Lemieux stated that he had never seen the employee manual because it had never been published to the Board. Fuller asked that he receive a copy as well. Bryan stated that the entire board would soon be receiving a revised version for adoption by the Board, but there haven't been any changes to the portion in question. Bryan stated that she didn't have a problem with Beach reporting to the Supervisor, she had a problem with the fact that we should be here to serve the public and making the assessor only available to the public three days a week is not serving the public. Lemieux questioned what the difference between the last thirteen years when the assessor worked three days per week and now. Falardeau stated that during those thirteen years there was

an assistant assessor on staff. Bryan stated that there were five employees at that time. Fuller questioned whether there was waste during that time, since it appears the work is getting done with three. Taylor stated that he asked that the Board allow him to work with Beach and make a decision at his discretion. Belill questioned the second portion of the request regarding the \$1500.00. Taylor stated it would be negated, because the \$1500 pay increase per employee was voted in two weeks after Beach was hired and they had just negotiated his salary. Taylor stated that the pay increases were for the employees who had been there for the year and he had only been there two weeks. Taylor asked Luttenbacher if he agreed, he stated he did. Lemieux stated that he felt the confusion came in because the minutes read all full time employees and there were no exclusions listed. Taylor agreed and stated that if Falardeau were doing the minutes at the time of this increase there would have been an exclusion. Taylor stated that he knows for certain that he was not intended to receive the raise and it should not be discussed. Lemieux stated that it could go one more meeting if he was willing to socialize it with the Board during this time. Belill stated that she didn't think that was necessary because the contract clearly states that the Supervisor sets his schedule. Belill stated that the only thing that needed to be discussed was the \$1500 and she said in the past all pay increases for contract employees have always been voted on individually. Lemieux stated that the two gentlemen that work under contract needed to be handled differently than the other employees. Lemieux questioned whether the contract needed to be amended. Fuller questioned if the contract is open ended, Bryan stated that it was. Fuller stated that there needed to be an amendment that includes an expiration date at the end of the year. Bryan stated that they could also get rid of the contract. Bryan stated that the Building Official and Senior Center Director were also contract employees with an expiration date at one year. Bryan felt that this was done so that at the end of the year the employee could be looked at and it could be decided whether to renew for another year, end contract or make them an employee. Fuller stated that Beach is essentially an employee under the contract anyway. Falardeau stated that there are differences with the contract, such as Beach getting an hour lunch and the rest of the employees getting a half an hour. Lemieux stated that Beach didn't always take an hour because he goes to lunch with him. Bryan stated that there have been times when he takes an hour. Falardeau questioned whether Taylor would be open to allowing the rest of the employees in the office to work their 35 hours in three days. Taylor stated that the employees are not Brad and it is a whole different situation. Falardeau asked if the employees should submit their request in writing. Taylor stated that the employees could do whatever they want, but it wasn't going to happen. Bryan questioned why it was different. Taylor stated because it was all discussed when they hired him, and that it wasn't in writing but it was understood. Bryan stated that Taylor was opening a can of worms with his stance on it. Taylor stated that

he hoped it didn't, but from here on out he would allow the Board to tell him what to do. Belill suggested that they get rid of all contracts and Bryan agreed. Taylor asked for a motion, Belill stated that there didn't need to be a motion. Moved by Belill, seconded by Bryan that Vienna Township do away with all employment contracts and make the employees either full time or part time abiding by all the same rules. Fuller questioned whether this would be at the expiration date. Belill stated that it would be at the expiration date for those with expiration and immediately for those that are open ended. Belill stated that the contract makes no difference because Michigan is an at-will employment state. Lemieux asked for the motion again. Belill restated her motion. Dewarr questioned how the Senior Center Director is affected with the Friday pay. Bryan stated that she is a 40-hour per week employee.

ROLL CALL: Yeas – Bryan, Belill, Thomas
 Nays – Fuller, Lemieux, Taylor motion denied

Bryan stated that Taylor could negotiate his hours, but any changes to the contract would need to come back to the Board for approval. Fuller asked that the contract be changed to expire at the end of 2015 and all contracts should then be looked at. Taylor stated that as of that point, Beach had not been paid for holidays and Bryan said that was incorrect. While he had not been paid, he had taken an extra day off from the week for holidays that fell on a Monday. Taylor replied that he was unaware. Taylor stated that he would work with Beach on the hours and bring back changes to the contract to the Board. Lemieux questioned whether the changes needed to be run through the attorney and what the target date for getting them done would be. Bryan stated that it depended on what changes were being made. Taylor stated that they would be complete by the end of the week.

3. 1196 W. Vienna Road – Nonconforming Structure. Bryan stated that this item was a carryover from the last meeting because there was action that was not taken but recommended by Doerr. Bryan stated that Doerr made the recommendation that either the resident or the Board direct the Zoning Board of Appeals to conduct a public hearing to make a written finding on whether it is non-conforming structure was a Class A or Class B non-conforming Structure. Moved by Bryan, seconded by Belill to direct the Zoning Board of Appeals to conduct a Public Hearing to determine whether the building is a Class A or Class B structure.

ROLL CALL: Yeas – Thomas, Bryan, Taylor, Bryan, Fuller, Lemieux
 Nays – None motion carried

New Business:

1. American Legion Sign Approval. Lemieux stated that he and Roy Brown sat down and created the proposal presented with detailed pictures. Belill questioned

Nays – None

Motion carried

- 6. Knights of Columbus, Tootsie Roll Drive. Moved by Bryan, seconded by Belill to approve the Clio Council of the Knights of Columbus to solicit their M.I. Drive on March 27th, 28th and 29th at two intersections within the Township.

All in favor

- 7. Election Commission Appointments. Tabled until March 16, 2015.

Public Comment: None

Board Comment: Belill stated that she feels everyone on the Board should be made aware, the Board has spent a great deal of money and has not finished in the process against the current Supervisor, and that they may want to look into whether it will be the responsibility of the Township to pay for his attorney. Bryan stated that she had already been made aware of that.

Bryan stated that she will contact each member that was appointed to Boards at the meeting to set up a time to administer oaths and will be doing them as they come up. Taylor stated that he would contact those members who were not reappointed and make them aware.

Moved to adjourn at 6:50PM

Cynthia J. Bryan
Clerk

CERTIFICATION:
STATE OF MICHIGAN
COUNTY OF GENESEE

I, the undersigned, do hereby certify that the foregoing is a true and complete copy of the minutes of the regular meeting of the Township Board of the Charter Township of Vienna, Genesee County, Michigan, held on the 2nd day of March, 2015.

Randy Taylor
Supervisor

Cynthia J. Bryan
Clerk