

ESSEX TOWNSHIP
Clinton County, Michigan

ESSEX TOWNSHIP
Regular Meeting
June 09, 2011

Lynn Ferguson, Supervisor, called the regular meeting of Essex Township to order on Thursday, June 09, 2011 at 7:30 PM in the Maple Rapids Community Center. Ferguson began the meeting with the Pledge of Allegiance.

Present: Lynn Ferguson, Rex Ferguson, Zamarron, Warnke, and Benson

Absent: none

Guests present: Terry and Connie Maniez, Pete and Maggie Maniez

MINUTES

The reading of the minutes from the previous meeting of April 14, 2011 was waived. R. Ferguson moved we approve the minutes. Zamarron seconded it and the motion carried.

VISITOR CONCERNS AND STATEMENTS

Terry Maniez and Pete Maniez requested the Board's approval for an extension of the existing special use permit they are currently operating under. The Maniez family cited personal hardships, the current economy and equipment failures as reasons they have not been able to complete the pond on time. Warnke moved the Board approve the application, Case PC-16-11 SLU, for an extension on the existing limited mining extraction operation on the properties of Pete Maniez and Terry Maniez located at 6266 and 6400 W. Mead Road. Rex Ferguson seconded the motion and the motion passed.

TRUSTEE REPORT

Rex Ferguson reported on the Clinton County Township Officers April meeting. Clinton County Transit Authority is starting an individualized unit that can deliver certain medical cases directly to a clinic without having to transfer to another bus because of boundary lines. The new unit will be manned by volunteers. Other reports included the 9-1-1 election, the "No Burn" band has been rejected, GIS maps are available for view in the drain commissioner's office, acquiring the second phase of the Motz Park, report on DNR Rails to Trails progress and Kate Neese has replaced Cara Chlor as DWM director.

TREASURER'S REPORT

The Treasurer reported there is a balance of \$ 139,095.07 in the General Fund. Zamarron moved the report be approved and R Ferguson seconded it. (MPC)

The treasurer will be sending a newsletter in August.

CLERK'S REPORT

The clerk reported on expenditures 4669 to 4708.

R. Ferguson moved to approve the Clerk's report, Warnke seconded. (MPC)

The clerk reported the MDEQ notified the Township that we have been enrolled in the FEMA NFIP program.

SUPERVISORS REPORT

The Supervisor reported the Ambulance Authority is doing well. Collections are still a problem, but the Authority is financially sound. Chloride is scheduled to be applied on June 15th. Gravel has been placed on Bauer Rd. The Anderson Rd. Bridge has been completed. The Rural Recycling Advisory Council will be meeting June 29, 2011 at 5:30 PM at the Mid-Michigan District Health Dept. The mystery lawnmower from Lowe Cemetery shed may be offered to the Lawn Mower Racers association.

OLD BUSINESS

Warnke moved we adopt the following policy for the Clerk's office. Rex Ferguson seconded the motion and the motion passed.

ESSEX TOWNSHIP RECORDS MANAGEMENT POLICY

1.1 Applicability

This records management policy shall apply to all officials, appointees, employees, agents, contractors and volunteers of the township. Each individual who creates, sends or receives official records is responsible for retaining those records in accordance with this policy.

1.2 Records Management Responsibilities

The clerk shall be responsible for coordinating all records management procedures and activities for township offices, departments or services. Duties include the:

- Distribution of approved general record retention schedules
- Distribution of policies, guidelines and standards published by the State of Michigan, the township and other parties
- Coordinating all litigation holds to prevent the destruction of records that are relevant to a Freedom of Information Act request, investigation or litigation

1.3 Responsibility to Enforce

The clerk shall ensure that township officials, appointees and employees are aware of and implement the township's record management policies. They shall ensure that the township has the most updated record retention schedules that cover all records (regardless of form or format) that are created and used by the township.

The clerk shall ensure that the digital files and e-mail (and other records) of former officials, appointees, employees, volunteers and consultants are retained in accordance with approved record retention schedules.

1.4 Separation from Township

Township officials, appointees, employees, volunteers and consultants/contractors shall not take public records with them when they terminate office, employment or contract with the township, and they shall not destroy records that have not yet fulfilled their

approved retention period. The clerk is responsible for ensuring that the records, including e-mail and other digital records, of employees who are separating from the township are retained in accordance with the township's record retention policies.

1.5 Failure to Adhere to This Records Management Policy

Failure to adhere to the township's records management policies may result in applicable discipline, up to and including discharge from employment, termination of the contractor status, or termination of the volunteer relationship.

1.6 Records Are Maintained and Stored to Ensure Township Compliance with Law

Township officials, appointees, employees, volunteers and consultants/contractors shall create, develop, organize, maintain, retain and store all township records to accommodate public inspection, FOIA compliance, record retention requirements, and minimize the township's exposure to litigation and risk.

The clerk shall develop procedures to accommodate access for the purpose of public inspection of records, FOIA requests, and discovery or other litigation-related requests, when:

- Specific records are required by law or township policy to have limited access
- Specific records contain information exempt from disclosure
- Township records are kept or used in home offices

1.7 Record Retention Schedules

All township records shall be retained in accordance with an approved record retention schedule. Records not listed on an approved record retention schedule are considered permanent records and may not be disposed of until a schedule is approved.

1.8 Litigation, Investigations and Freedom of Information Act Requests

The FOIA coordinator shall keep a copy of all written requests for public records on file for no less than one year.

No records that are the subject of litigation, a pending investigation request or a pending FOIA request shall be destroyed until the legal action or activity has ended, even if the records are otherwise scheduled for destruction pursuant to a relevant record retention schedule.

Any individual with knowledge of pending litigation, a pending investigation or a FOIA request shall immediately inform the FOIA coordinator. In consultation with the township attorney, the FOIA coordinator shall direct all relevant individuals to immediately cease disposal of all records relevant to the pending litigation, pending investigation or FOIA request. If the relevant records are in electronic form (including e-mail), the FOIA coordinator shall retrieve these records.

If questions arise as to what records are relevant to a pending litigation, pending investigation, or FOIA request, the FOIA coordinator shall direct the immediate cessation of the disposal of *all* records. The moratorium on the disposal of all records relevant to the pending litigation, pending investigation or FOIA request shall remain in effect for the duration of the litigation or investigation, or until the FOIA request has been fully processed.

Inspection of Records

1.9 Public Inspection of Records

Upon receiving a verbal request to inspect township records, the township shall furnish the requesting person with a reasonable opportunity and reasonable facilities for inspection and examination of its public records.

A person shall be allowed to inspect public records during usual business hours, not less than four hours per day. The public does not have unlimited access to township offices or facilities, and a person may be required to inspect records at a specified counter or table, and in view of township personnel.

In coordination with the official responsible for the records, the FOIA coordinator shall determine on a case-by-case basis when the township will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection.

The clerk is responsible for identifying if records or information requested by the public is stored in digital files or e-mail, even if the public does not specifically request a digital file or e-mail.

A person cannot remove books, records or files from the place the township has provided for the inspection.

No documents shall be removed from the office of the custodian of those documents without permission of that custodian, except by court order, subpoena or for audit purposes. The official shall be given a receipt listing the records being removed. Documents may be removed from the office of the custodian of those documents with permission of that custodian to accommodate public inspection of those documents.

1.10 Copies May Be Required to Enable Public Inspection of Records

In coordination with the official responsible for the records, the FOIA coordinator will determine on a case by case basis when the township will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection.

A fee will be charged for copies made to enable public inspection of records, according to the township's FOIA policy.

1.11 Record Fees

In all cases, township personnel shall use the most economical means available to make copies of public records, including digital copies of documents or recordings. E-mail may be used to distribute or mail records.

“Actual, incremental cost” means the cost to the township over and above the cost to the township if the request had not been made. Overhead costs shall not be included in an “actual, incremental cost.”

The township shall charge the actual, incremental copying cost to make a copy subject to a FOIA request for a copy or made to accommodate a request to inspect. The township shall charge a labor cost to make the copy, which shall be set from time to time by the Essex Township Board.

Fees for Copying Records or Notices for FOIA or Open Meetings Act Subscriptions:

The Township shall charge the actual, incremental cost to make the copy.

Mailing Fees: The Township shall charge actual postage or shipping costs and the actual cost of the envelope or mailer.

Fees for Separating Exempt from Non-Exempt Information: A fee shall not be charged for the cost to search, examine, review, and delete, separate or redact exempt from non-exempt information unless failure to charge a fee would result in unreasonably high costs to the township because of the nature of the specific request.

The FOIA coordinator shall determine if a fee will be charged under this section.

When the FOIA coordinator determines that a fee will be charged under this section, the FOIA coordinator shall specifically identify the nature of the unreasonably high costs of the specific request on the written response to the FOIA request.

The township shall charge a labor cost to search, examine, review, and delete, separate or redact exempt from non-exempt information, which the Essex Township Board will set from time to time.

1.12 Costs Waived Due to Indigence of Person Making FOIA Request

A public record search shall be made and a copy of a public record shall be furnished without charge for the first \$20 of the fee for each request to a person who is entitled to information under the FOIA and who submits an affidavit stating that, at the time the request is submitted, the person is either receiving public assistance or is unable to pay the cost because of indigence.

“Indigence” is determined by the township’s poverty guidelines annually adopted for property tax poverty exemption applications (or “the federal poverty thresholds annually compiled and published by the Bureau of the Census prior to December 31 of each year”).

1.13 Fifty-Percent Good Faith Deposit for Costs Over \$50

If the costs estimated for a specific FOIA request exceed \$50, the person requesting the record(s) shall make a good faith deposit before the township will process the request. The deposit shall not exceed one-half (50%) of the total fee.

1.14 Unpaid FOIA Requests Are Not Considered When Responding to a Subsequent FOIA Request for Different Records

The unpaid balance of a previous FOIA request shall not be deducted from separate or later FOIA requests for different records submitted by the same person. The unpaid balance of a previous FOIA request shall not be deducted from any other fees, taxes, charges or other bills paid to the township by that person.

Digital Files and E-mail Retention

1.15 E-mail Defined

Electronic mail (e-mail) is a means of exchanging messages and documents using telecommunications equipment and computers. A complete e-mail message not only includes the contents of the communication, but also the transactional information (dates and times that messages were sent, received, opened, deleted, etc., as well as aliases and names of members of groups), and any attachments.

1.16 Digital Files and E-mail Messages May Be Public Records

A digital file or e-mail message is a public record if it is prepared, owned, used, in the possession of or retained by a public body in the performance of an official function; from the time it is created.

1.17 Digital Files and E-mail Messages Are Public Property

All digital files and e-mail messages that are created, received or stored by the township are the property of the township. They are not the property of the township officials, appointees, employees, volunteers, consultants/contractors, vendors or customers. E-mail accounts are provided to township staff for conducting public business. No one should have an expectation of privacy when using the township's computer resources.

1.18 Digital Files and E-mail Retention and Disposal Schedules

Digital files and e-mail shall be retained according to the applicable record retention schedule for the type of record the digital file or e-mail represents. Individuals or Board members shall determine which e-mails or digital files are relevant and necessary to their office and retain these only.

Individual employees or Board members are responsible for deleting digital files and e-mail messages in accordance with the appropriate record retention schedule.

1.19 Digital Files and E-mail Storage and Maintenance

Individuals or Board members shall retain relevant digital files and e-mail by storing digital files or e-mail on hard drives or in folders, or in e-mail online systems or by filing paper copies in a manual filing system.

RECORD STORAGE AND MAINTENANCE

1.20 Record Storage

Township officials, appointees, employees, volunteers, consultants/contractors and departments shall organize records to promote fast and efficient retrieval of information. Appropriate and cost-effective office equipment, indexes and tools shall be used to maintain records.

The township clerk shall periodically evaluate and make recommendations to the township board on the method(s) to be used to maintain and store records for their minimum retention periods. Records that will be retained for more than 10 years shall be stored in an environment that facilitates the security and stability of the storage media. The township may utilize low-cost storage facilities for inactive records that have not fulfilled their retention requirements.

The clerk shall work to determine the most cost-effective and reliable method of maintaining digital and electronic records for their full retention period, so technology changes do not render them inaccessible and unusable.

When reproducing township records for storage purposes, the township shall comply with the applicable State of Michigan standards and best practices for record reproduction, as authorized by the Records Reproduction Act, MCL 24.401, *and et seq.*

Records containing sensitive or confidential information shall be protected against unauthorized access, especially records that are protected by state or federal laws, records containing private information, financial information, background checks, medical information and Social Security numbers. Individuals and offices shall employ appropriate locks, passwords and other devices to protect the privacy of this information.

1.21 Record Disposal

Public records that have reached their minimum retention period, and which are no longer required for the efficient operation of the township, may be disposed of. All township offices shall routinely review all records (regardless of format) to identify those that have fulfilled their retention requirements.

Disposal shall be made by a method that is guaranteed to ensure the privacy of sensitive or confidential information. Records that contain confidential information will be disposed of in a manner that ensures they cannot be reconstructed.

- The township shall destroy open records by recycling or regular trash disposal.

Some records possess permanent or historical value. These records may be designated for eventual transfer to the Archives of Michigan for permanent preservation. The township shall follow the Archives' procedures for transferring records.

1.22 Disaster Prevention and Recovery

Township records, books and papers shall not be kept where they will be exposed to an unusual hazard of fire or theft or other damage.

In the event of damage to township records, township personnel, at the direction of the clerk, shall

- Contact the township's risk manager and insurance agent
- Determine the type of damage to records (fire, smoke, chemical, clean water, dirty water, heat, humidity)
- Determine which records have been damaged
- Determine the types of materials that have been damaged (paper, film/microfiche, computer files, CDs/DVDs, etc.)
- Begin salvage according to applicable State of Michigan standards and best practices for document salvage

NEW BUSINESS

We briefly discussed the clerk retiring sometime next winter. A new clerk will need to be appointed and furniture moved to a new location.

MTA is offering a class about writing resolutions and ordinances. Warnke moved we pay a \$ 70 stipend to the deputy clerk for attending the class. R. Ferguson seconded it and the motion passed.

Rex Ferguson composed a letter regarding the cost savings and consolidations we utilize in Essex Township. He will place information from the letter on the township web site. We discussed the price of opening and closing fees for the cemeteries. It was a consensus we needed to leave the price as it is to help with the expense of taking care of the cemeteries.

A new water spigot has been installed at Sowle Cemetery with monies from the Pauline Lowe Memorial. We wish to thank Dan Lowe for coordinating the project.

The meeting adjourned at 9:30 PM

Respectfully submitted,
Florence Benson
Essex Township Clerk