

**EUREKA CHARTER TOWNSHIP BOARD MINUTES**  
**MONDAY, NOVEMBER 14, 2011**  
**Approved**

Supervisor Laura Shears, at the Eureka Township Hall, 9322 S. Greenville Road, Greenville, MI, called the Regular Meeting of the Eureka Charter Township Board to order on November 14, 2011, at 7:00 pm. After the Pledge of Allegiance, roll call found the following Board Members present: Supervisor Laura Shears, Clerk Linda Ruwersma, Treasurer Cindy Hanson, Trustees Rodney Roy, Marty Posekany, and Elaine Pendrick. Trustee Brian Zayler was absent. These minutes will not be approved until the December 12, 2011 Regular Board Meeting. The meeting was audio taped.

Approximately seven others were in attendance including Deputy Doug Houser, Planning Commission Members Mark Wilkin and Duane Putnam, Deputy Clerk Renee Fountain, Zoning Official Tom Faussett, ZBA Member Linda Weger, and County Commissioner Tom Lindeman.

During the First Public Comment Commissioner Lindeman informed the Board that Eureka Township will be charged by the County for election services done by the County staff beginning January 1, 2012. Mr. Wilkin mentioned that the **Toys for Tots Program** will be handled through the schools this year, and also that he is starting a donation for **Bikes for Christmas** through the Methodist Church.

Mr. Posekany moved, with a second by Mr. Roy to approve the November 14 Consent Agenda. Ayes: 6. Nays: 0. Motion carried.

Approving the Consent Agenda included accepting the October 10, 2011 Election Minutes and Board Minutes as written. It also approved the Treasurer's report submitted with an ending balance of \$540,541.74 as of October 31, 2011; and the payment of the bills in the amount of \$41,464.27 covering e-bills 162-169 and checks numbering 12290 through 12330.

Also in the consent agenda were the zoning report from Mr. Tom Faussett showing 88 hours for October and the Greenville Transit report showing 204 runs. There were 2 fire runs; 36 burning permits were issued through the Township and one building permit was issued by the County.

Deputies Kevin Germain and Doug Houser were assigned to Eureka Township for the month of October. The sheriff report showed a total of 5,349 patrol miles, with 237.5 patrol hours, 76 traffic stops, 39 traffic citations, 120 property inspections, and 6 arrests. Deputy Houser mentioned that Halloween went on without a hitch.

Mr. Posekany moved, with a second by Mr. Roy to approve Policy #0-15 Anti-fraud, Anti-theft and Anti-corruption Policy for Eureka Township. Motion carried.

Supervisor Shears handed out an updated Eureka Township Disaster Plan Manual for the Board to look over and bring back next month.

Mr. Mark Wilkin brought information to the Board from Landscape Structures, Inc. for Phase I and II of the construction of a mini playground on the outside grounds of the Township Hall. After some discussion, the Board decided to allow Mr. Wilkin to obtain more quotes for the playground and also for a pavilion.

Mrs. Pendrick moved, with a second by Mrs. Hanson to approve amending Zoning Ordinance #79 Chapter 3 General Provisions, Section 3.19 Keeping of Animals-A, changing the last sentence to read: *Kennels are only allowed with a Special Use permit.* (Omitting: *on parcels of 2 acres or more*). Ayes: 6. Nays: 0. Motion carried.

The Budget Hearing was opened at approximately 7:45pm. After a few comments and discussion about the budget the Hearing was closed at approximately 7:53pm. The Board discussed the Budget and made many changes until approximately 8:30pm. A new copy will be presented for approval at the December Meeting.

The Montcalm Townships Association Meeting/Dinner to be hosted by Montcalm and Fairplain Townships on Tuesday, November 15, 2011, at 7:00pm was cancelled.

Mrs. Hanson moved, with a second by Mrs. Pendrick to approve amending Zoning Ordinance #79 and Ordinance #80 Home-based Businesses as follows:  
**Zoning Ordinance #79 Chapter 2 Definitions, Section 2.1 Definitions-C** with the following addition to read: **COMPASSION CLUB OR MEDICAL MARIHUANA DISPENSARY** – Any business, facility, association, cooperative, location, or operation, whether fixed or mobile, where medical marihuana is made available to, sold, delivered, transmitted, dispensed, or distributed by or to one or more of the following:

1. A primary caregiver (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 *et seq.*, as amended).
2. A qualifying patient (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 *et seq.*, as amended.)
3. Members of the general public.

A medical marihuana dispensary (compassion club) shall also include any place, location, facility, or operation, whether fixed or mobile where medical marihuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marihuana, or where one or more persons are present and smoking or consuming medical marihuana and such medical marihuana smoking or consumption is occurring on the property of a business, association, cooperative, or commercial operation or facility or on a public or governmental property.

A medical marihuana dispensary, (compassion club) does not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five(5) qualifying patients (as defined by Michigan Initiated Law I of 2008, as amended (being MCL 333.26421 *et seq.* as amended), so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and is done in full compliance with not only the Eureka Charter Township.

**Zoning Ordinance #79 Chapter 3 General Provisions, Section 3.18 Home Occupations** to read as follows:

**SECTION 3.18 HOME OCCUPATIONS**

This Section has been replaced by Regulatory Ordinance 80. Note: Under Regulatory Ordinance 80, no medical marihuana dispensary (compassion club) shall be commenced, conducted, maintained, operated or utilized anywhere within Eureka Charter Township or on or from any property, land, building or structure within and from Eureka Charter Township. Furthermore, no person shall frequent, patronize or obtain or

purchase any marihuana from or through any medical marihuana dispensary within Eureka Charter Township.

And: **ORDINANCE #80**

**HOME-BASED BUSINESSES**

**SECTION 18.1 PURPOSE AND INTENT**

C. The intent of Section 18.5 of this ordinance, Medical Marihuana, is to set standards for Eureka Charter Township Residents for the growing, cultivating, and dispensing of Medical Marihuana with Eureka Township as approved by the voters under the Michigan Medical Marihuana Act (MMMA) commonly known as Public Act, Initiated Law 1, MCL 333.26421 which became effective on December 4, 2008.

**SECTION 18.2 DEFINITIONS**

**D. Compassion club or Medical Marihuana Dispensary** – Any business, facility, association, cooperative, location or operation whether fixed or mobile, where medical marihuana is made available to, sold, delivered, transmitted, dispensed, or distributed by or to one or more of the following:

1. A primary caregiver (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 333.26421 *et seq.*, as amended)
2. A qualifying patient (as defined by Michigan Initiated Law I of 2008 as amended, being MCL 33.26421 *et seq.*, as amended)
3. Members of the general public.

A medical marihuana dispensary (compassion club) shall also include any place, location, facility, or operation, whether fixed or mobile where medical marihuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marihuana, or where one or more persons are present and smoking or consuming medical marihuana and such medical marihuana smoking or consuming is occurring on the property of a business, association, cooperative, or commercial operation or facility or on a public governmental property. A medical marihuana dispensary, (compassion club) does not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualifying patients (as defined by Michigan Initiated Law I of 2008, as amended (being MCL 333.26421 *et seq.* as amended), so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and is done in full compliance with not only the Eureka Charter Township.

**F. Michigan Medical Marihuana Act. (MMMA):** Public Act 2008, Initiated Law I being MCL 333.26421 *et seq.*, as well as any and all amendments thereto and also any legislation enacted into law to implement that statute.

**G. Medical Use of Marihuana:** Is the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition as defined by the Michigan Medical Marihuana Act (MMMA).

**Section 18.5 MEDICAL USE OF MARIHUANA**

A. No medical marihuana dispensary (compassion club) shall be commenced, conducted, maintained, operated or utilized anywhere within Eureka Charter Township or on or from any property, land, building or structure within and from Eureka Charter Township. Furthermore, no person shall frequent, patronize or obtain or purchase any marihuana from or through any medical marihuana dispensary with Eureka Charter Township.

B. The primary caregiver may grow and process marihuana in compliance with the Act within the residential dwelling where the primary caregiver lives and is the primary caregiver's residence pursuant to Michigan law. No such residential dwelling of the primary caregiver shall be located with an apartment building, multi-family residential building or similar housing building or development, but rather, shall occur only within a detached lawful single-family residential dwelling.

C. No person other than the members of the immediate family of the primary caregiver residing within the residence of that primary caregiver (and no person under 18 years of age) shall be engaged or involved in the growing, processing, dispensing, delivery, or handling of the marihuana.

D. Use of the residential dwelling (which is the residence of the primary caregiver) for marihuana related purposes shall be clearly incidental and subordinate to its use for single family residential

purposes. Not more than 25% of the gross finished floor area of the dwelling shall be used for the growing, processing and handling of the marihuana. No part of an accessory building, detached garage, pole barn or similar building or structure shall be used for the growing, processing, or distribution of marihuana.

E. No qualifying patient shall visit, come to or be present at the residence of the primary caregiver to purchase, smoke, consume, obtain or receive possession of any marihuana; rather, the primary caregiver must personally deliver any medical marihuana to a qualifying patient at the residence of that qualifying patient.

F. No person shall deliver marihuana to a qualifying patient other than the primary caregiver for that qualifying patient. The primary caregiver must personally deliver the marihuana to his/her qualifying patient.

G. There shall be no visible change to the outside appearance of the primary caregiver's residence or other visible evidence of the conduct of the medical marihuana operation occurring inside the dwelling.

H. No marihuana, marihuana plants, marihuana paraphernalia or plant growing apparatus shall be visible from the exterior of the dwelling.

I. No growing, processing, smoking or use of marihuana shall occur outdoors. All medical marihuana growing, processing and handling shall occur entirely within the dwelling.

J. No sale or distribution of merchandise or products shall be conducted on, within or from the dwelling or residential premises (including the lot or parcel involved) of the primary caregiver apart from the medical marihuana itself.

K. No equipment or processing shall be used in growing, processing or handling medical marihuana which creates noise, vibration, glare, light, fumes, odors, or electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television or similar receiver off the premises or caused fluctuation of line voltage off the premises. The dwelling of the primary caregiver shall meet all building, housing, fire and local and state codes and ordinance requirements.

L. The growing, processing, distribution, sale and handling of medical marihuana shall comply at all times and all circumstances with the Act and any applicable regulations or requirements by the Michigan Department of Community Health or any other Michigan agency.

M. The residence for the primary caregiver shall be located more than 1,000 feet from any school, church or library as defined by Michigan law to ensure community compliance with federal "Drug-Free School Zone" requirements and to minimize negative impacts.

N. Not more than one (1) primary caregiver shall be permitted to grow, process or handle medical marihuana at or from a given dwelling unit.

O. All medical marihuana shall be contained within the primary caregiver's residential dwelling (except when being delivered by the primary caregiver to a qualifying patient off site) and in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver. Any person under eighteen (18) years old shall not have any access to any medical marihuana.

P. No on-site consumption or smoking of marihuana is allowed within the residence (or on the lot or parcel) of a primary caregiver except for any medical marihuana consumption by the primary caregiver himself/herself if he/she is a qualifying patient and in full compliance with the Act.

Q. No medical marihuana shall be grown, processed or handled at, from or through the residence of the primary caregiver beyond that which is needed or allowed by law (whichever is less) for the qualifying patients of that particular primary caregiver.

R. No sign identifying the dwelling as being a place where medical marihuana is grown, sold, processed, kept, or distributed shall be visible outside of the dwelling or within any of the windows of the dwelling.

## **SECTION 18.9 ENFORCEMENT AND PENALTIES**

B. In the event that alleged violations of requirements in this Chapter are reported, an investigation will be conducted. If found to be valid, the home-based business owner shall be notified in writing to cure the violation within 10 days after service of the notice upon the business. In the case of a violation of the Medical Marihuana Section 18.5, the growing, cultivating, consumption, and or smoking, shall be corrected immediately upon notice or in a case outside of the (MMMA) where a citation is delivered for illegal growing, possession, or us

(which may be considered a misdemeanor, or a Felony) such notice may be served by any law enforcement agency. Outside of Section 18.5 additional time may be granted by the enforcement officer where bona fide efforts to comply with these requirements are being made.

Ayes: 6. Nays: 0. Motion carried.

There was some discussion about a road millage renewal for Eureka Township to be put on the February 28, 2012 Election ballot. Clerk Ruwersma will bring the proposed language to next month's meeting.

Zoning Official Faussett handed out a copy of the a legal interpretation of the *Michigan Right to Farm Act/Zoning Regulations/Farm and Building Codes* provided by the Township attorney for the Board to review and discuss next month.

Mrs. Pendrick moved, with a second by Mrs. Ruwersma to approve to appoint Linda Weger to the Planning Commission for a three-year term beginning January 1, 2012, through December 31, 2014, to fill the position of Joyce Sage who has decided not to continue in the position. Ayes: 6. Nays: 0. Motion carried.

Mrs. Hanson moved, with a second by Mrs. Ruwersma to approve to re-appoint Michele Bigelow to the Planning Commission for a three-year term beginning January 1, 2012, through December 31, 2014. Ayes: 6. Nays: 0. Motion carried.

The Board decided it was not necessary for Clerk Ruwersma to abstain from voting on the appointments of the new Zoning Board of Appeals members because her son-in-law is considering one of the positions.

Mr. Roy moved, with a second by Mrs. Pendrick to approve to appoint Randy Klepper to the Zoning Board of Appeals for a three-year term beginning January 1, 2012, through December 31, 2014, to fill the position of Jon Town who decided not to continue in the position. Ayes: 6. Nays: 0. Motion carried.

Mrs. Ruwersma moved, with a second by Mrs. Pendrick to approve to appoint Jeremy Austin to the Zoning Board of Appeals for a three-year term beginning January 1, 2012, through December 31, 2014. Ayes: 6. Nays: 0. Motion carried.

Mrs. Ruwersma moved, with a second by Mr. Posekany to approve a 2011 Budget transfer of \$5,000.00 from Contingency Fund #101-250-715 to Township Other-FICA Fund #101-850-715. Ayes: 6. Nays: 0. Motion carried.

Mrs. Pendrick moved, with a second by Mr. Posekany to approve a Post-auditing Policy, allowing Payroll to be paid at the beginning of each month instead of at the monthly meeting. Ayes: 6. Nays: 0. Motion carried.

Mr. Roy moved, with a second by Mrs. Pendrick to approve to change the precinct election boundaries for Eureka Charter Township from Precinct #1 presently located west of M-91 and Precinct #2 presently located east of M-91; to Precinct #1 being located north of M-57 and Precinct #2 being located south of M-57. The reason for precinct the

change is to even out the amount of voters in each precinct. New voter cards will need to be mailed to the effected voters with the Township picking up the expense. Ayes: 6. Nays: 0. Motion carried.

The Township Christmas Party is scheduled for Thursday, December 8, 2011, with appetizers at 6:00pm and dinner at 6:30pm, at the Eureka Township Hall.

Supervisor Shears commented on the letter sent to Mr. Klackle concerning the traffic issue at Klackle Orchards during the busy harvest season. He wrote back stating he would put it on his “to improve for next year” list. She also reminded the Board to be careful when emailing other members; to use facts only, not trying to persuade other members, and to please “copy Laura” on all correspondence.

During the Second Public Comment and Board Comments, Mrs. Pendrick stated that the Leaf Collection Program is doing well and Secretary Fountain will prepare a list with the names of those participating in the program. Clerk Ruwersma stated that those interested in going to the MTA Annual Conference in Detroit in January need to let her know soon. Treasurer Hanson stated that the winter tax bills will be mailed by December 1, 2011.

Supervisor Shears adjourned the meeting at approximately 9:37pm.

Linda J. Ruwersma, CMC  
Eureka Charter Township Clerk  
November 18, 2011