

**Charter Township of Augusta
Washtenaw County, Michigan**

A RESOLUTION TO CONDEMN ACTIONS TAKEN WITHOUT BOARD ACTION BY
SUPERVISOR JACKSON, TREASURER WILLIAM BABUT AND FORMER TOWNSHIP
ATTORNEY KENNETH SCHWARTZ IN 2004 TO ACCEPT REDUCED PAYMENTS FOR
CONNECTION FEES

RESOLUTION NUMBER 10-1

DATE RESOLUTION PROPOSED: 01/12/10
DATE RESOLUTION ADOPTED: XXXXX

At a regular meeting of the Township Board of Trustees of Augusta Charter Township, Washtenaw County, Michigan, held at the Township Hall of said Township on the 12th day of January, 2010, the following resolution was offered:

WHEREAS, this Board is authorized by statute and by the provisions of Township Utility Ordinance to determine by resolution rates, fees and other charges for services and benefits by Township's sewer and water systems; and

WHEREAS, the Board on September 14, 1999 approved a Planned Unit Development (PUD) for 132 single family homes known as Lincoln Pines for Arbor Development LLC; and

WHEREAS, Section 6.5 of said PUD agreement calls for an indirect capital charge (connection fee) of \$1500 per lot (\$900 for sewer and \$600 for water) for 42 months from the date of the first building permit. Any lots unconnected after 42 months are to pay the indirect water and sewer charges in effect at that time. The charge shall be paid at the time the building permit is granted; and

WHEREAS, on January 28, 2003 the Board passed a Resolution setting the connection charges to be \$7000; \$3500 to connect to the water system and \$3500 to connect to the sewer system; and

WHEREAS, the first building permit for Lincoln Pines was issued by the Washtenaw County Building Department on May 18, 2000 for 8021 Fox Tail Court, and pursuant to the PUD agreement, the 42 months and the agreement of a \$1500 indirect capital charge (connection fee) expired on November 18, 2003; and

WHEREAS, on May 12, 2004, Lincoln Pines LLC paid and then Treasurer Babut accepted the connection fees for the remaining 64 lots at the \$1500 rate (\$96,000). Review of the accounting files show that a total of 74 lots were paid at the \$1500 rate when the \$7000 rate was applicable. Further, many of these lots have yet to apply for a building permit, and hence the applicable rate is yet to be determined. The difference between what was paid and what was owed is at least \$407,000 (determined from $74 * (\$7000 - \$1500)$); and

WHEREAS, on March 7, 2008, the Accounts Receivable Committee met to discuss outstanding accounts including Lincoln Pines, LLC. In the discussion, then Supervisor Jackson revealed that she had an ongoing email discussion with Dale LaClair regarding the Lincoln Pines overdue review-fee account. Further, she revealed that she and Treasurer Babut had allowed Lincoln Pines LLC to pay less than the required amount for connection fees. Supervisor Jackson was asked to forward the respective emails to the Accounts Receivable Committee for consideration. On May 27, 2008 the requested email was received (attached as

Exhibit 1). According to this email, Jackson, Babut and then township Attorney Schwartz had negotiated with Dale LaClair to accept the original capital charge (connection fee) of \$1500 per lot despite the Board approved PUD agreement; and

WHEREAS, the Township Board never agreed to extend the 42 month period for the \$1500 indirect capital charge (connection fee) as required by Section 7.9 of the PUD Agreement, and therefore the \$7000 rate is applicable.

NOW, THEREFORE, BE IT RESOLVED, that this Board disavows and condemns the above actions apparently taken by then Supervisor Kathleen Jackson, then Treasurer William Babut and former Township Attorney Kenneth Schwartz. These actions were a clear contravention of the September 14, 1999 PUD agreement and township ordinances in effect, costing the township Utility Department at least \$407,000 that eventually must be made up by present and future users of the utility system.

CERTIFICATION

Motion by xxxxxxx, 2nd by xxxxxx and upon roll call vote, the following voted "Aye": xxxx. "Nay": xxxx.

The Supervisor declared the ordinance amendment adopted.

Kathy Giszczak, Clerk

CERTIFICATE

I, Kathy Giszczak, the duly elected and acting Clerk of Augusta Charter Township, Washtenaw County, Michigan, hereby certify that this is a true copy etcetera, etcetera

Kathy Giszczak, Clerk
Augusta Charter Township

Introduced: 01/12/10

Published:

Adopted:

EXHIBIT 1

William Tobler

From: "Kathy Giszczak" <kgiszczak@augustatownship.org>
To: <kjackson@augustatownship.org>; "William Tobler" <wtobler@augustatownship.org>; "McLain Winters" <mcwinlaw@gmail.com>; "Kathy Giszczak" <kgiszczak@augustatownship.org>
Sent: Wednesday, May 28, 2008 8:55 AM
Subject: (Forward to A/R Committee) FW: Arbor Development

Thank you,

Kathy Giszczak
Augusta Charter Township Clerk
8021 Talladay Road
PO Box 100
Whittaker, MI 48190
Office: 734-461-6117 ext. 201
Office Fax: 734-461-6379
Cell: 734-740-0530
Home: 734-461-0256
Email: kgiszczak@augustatownship.org
Web: <http://augustatownship.org>

From: Kathleen M. Jackson [mailto:kjackson@augustatownship.org]
Sent: Tuesday, May 27, 2008 11:42 PM
To: 'Kathy Giszczak'
Subject: FW: Arbor Development

From: LaClairBld@aol.com [mailto:LaClairBld@aol.com]
Sent: Monday, April 21, 2008 9:11 PM
To: kjackson@augustatownship.org
Subject: Re: Arbor Development

Kathy, Nothing you have stated can I argue with, however I was never given any notice of any additional work being done, that estimates were insufficient, let alone any time sheets to verify and compare with my contractors schedules. When I got that invoice you told me to ignore it. I ignored it and some how it continues to grow. Anyone can send invoices out. And no reimbursement to me for damages done.

You and Ken have been fair, and I do appreciate it. However the clerk has no verification for these 5 year old invoices which is needed. She stated they go back to Washtenaw engineering. That's several years before our final phase. About the time of the Bemis Road improvement extortion by the County. They took the 45k I had paid the township per the pud. It's 5 years this June with no road. We are all (Augusta Township residents) getting F by the Road Commission.

I will be happy to meet with you and Ken. Set it up and let me know.

Dale

In a message dated 4/21/2008 8:32:40 P.M. Eastern Daylight Time, kjackson@augustatownship.org writes:

| Dale

I'm guessing we should probably meet soon to discuss this matter, and just for shits and giggles we should invite Ken, I'm sure his memory of the issue is far better than either of us. Not to mention we never had that lighting district lunch.

If my memory serves me correctly, you were supposed to have paid your w/s tap fees within a certain amount of time from either the first tap or first home app. If you did not pay for them in the time frame you would be subject to the fees at the time. You blew that time frame and were upset because we didn't remind you that the time was approaching. (Which by the way was not our responsibility)? Ken suggested that we should cut you some slack whereby we would allow you to pay the fee's at the original rate, provided you pay them in full, paid any outstanding debt, and donated the 33,000 (negotiated by you and I) to the fire dept. All of which I believe you may have done. If you have incurred fees after that for engineering services or whatever, you have to pay them. That's the nature of fees. I will pull your agreement, Cc this to Ken, and attempt to set up a meeting. I do recall both Schwartz and Babut indicating that you had always been an up front guy and that we could help you, but that wasn't a free pass forever.

The long and short of this is that if we had required you to pay the fee's at the new rate, it would have cost you several hundred thousand dollars, that you said you didn't have. Since we had already agreed to accept the lesser rate in your original agreement, and you were struggling financially, it seemed like the right thing to do for all concerned. We got the \$\$ we were originally anticipating, all be them late, and you weren't bankrupted by the higher cost.

If we went back and recalculated what you should have paid, subtracted the easement & the \$ 33,000 donation, I would guess that you would still owe in the area of \$75,000. Until I hear otherwise, I will assume you don't want to do that.

I'll be in contact,

Kathy Jackson

From: LaClairBld@aol.com [mailto:LaClairBld@aol.com]
Sent: Thursday, March 27, 2008 4:56 PM
To: kjackson@augustatownship.org
Subject: Arbor Development

Kathy,

I am not going to go into a long drawn out ordeal hear, but You need to do what you said you would do. That is to take care of this invoice. (I hope I don't ever have to repeat what you said.)

When we started our forth and final phase at Lincoln pines I paid the fees that I was ask to pay which was an additional\$10,400.00 + - up front which was the custom. I was even told I should have a credit for previous phases but no one knew how much, because well no one was keeping track. Then all of a sudden there was this 15 K invoice for who knows what. No one knew. **You** told

me to ignore it you would take care of it. (The rest of what you said I will not repeat in this note to you). I then paid for my 33 address, and made an additional payment of \$33,000 which you wanted to be given to the Fire Department building fund. " Your big project" we took photo's. I was in good standing!!! paid in full!!! Making donations!!!

I was also ask to grant the township a easement so the school could bring the Water main west on Bemis, which went right through my new property and landscaping berm. I mentioned that this type of grant usually requires substantial compensation, 30, 40 K of which I never demanded or received a cent for. Lets call it another donation!!! In addition when they did the work the sprinkler system was destroyed, my shrubs and bushes were killed and the berm was all screw up. Spoils eroded into the new ditch, which the road commission made me clean out. The repairs to my shrubs and sprinkler alone were over 3,000. Bill personally guaranteed me I would be compensated. Dale you've always done the township right and we will take car of you. Promise.

Now, I don't know how or what happened regarding all these additional inspection fees. Even at the time there was no way to back track to verify anything and I sure can't do it now. I do know we made a deal. I have always kept my word...

Call me, lets have lunch, dale

Dale R. LaClair
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