

## ONEKAMA TOWNSHIP BOARD REGULAR MEETING

TUESDAY, AUGUST 4, 2009, 8:30 A.M.

The meeting was called to order at 8:30 a.m. by Supervisor David Meister.

The Pledge of Allegiance was said.

Members present: Trustee James Wisniski, Trustee Roland Clement, Treasurer LaVonne Schafer-Beebe, Clerk Helen **Mathieu**.

**WILL DAVISON/TOM GRIER:** Attorneys Will Davison and Tom Grier addressed the board regarding Portage Lake, Sunnyside and Lakeview Avenues. Comments received from Charles Greaves and Philip Daly. Consensus of board to prepare documentation and send it to the board for review, with an answer due to the attorneys in three weeks.

**MINUTES: Motion** by Wisniski, second by Clement accept the minutes of the July 7, 2009 meeting as presented. Motion carried. **Motion** by Wisniski, second by Clement to approve the notes from the July 14, 2009 phragmites informational meeting. Motion carried. **Motion** by Beebe, second by Wisniski to accept the minutes of the July 20, 2009 special meeting. Motion carried.

**TREASURER'S REPORT:** Beebe reported that the difference of uncollected taxes for the township operating fund, fire fund, roads and administration fee is \$27,413.17 for 2007 and \$47,898 for 2008. She said the Statutory Revenue Sharing—which is from sales tax revenue—will be reduced by 4.9 percent, and may be cut by 17-20 percent.

**AMEND AGENDA:** Add County Road Commission Chairman Bill Eckert after Mary Griffiths.

**PUBLIC COMMENT:** Comments received from Howard Hughes.

**MARY PITCHER:** Pitcher, Recycling Coordinator Manistee and affiliated with the Alliance for Economic Success, explained how Public Act 69 works. The Manistee Board of Commissioners adopted PA 69 as a funding mechanism available to townships and municipalities to fund recycling programs. Individual townships can choose to opt in or out and if in, an inter local agreement between the county and the township is signed. Projected need for the first year in Manistee County is \$12 annually per household or \$1.00 per month, which Pitcher said is a firm figure for the first year. The county commissioners have committed to a cap of \$20, even though the fee, by law, can be up to \$25 annually. Recycling drop-off locations would be established for participating townships. In the first year, accepted materials would include glass, plastic, co-mingled paper, tin and aluminum. Additional items could be added in future years. Funds would be used to pay private industry to transport and process recyclables. The Alliance for Economic Success is working the township and county officials to structure the program.

The township board will further discuss this at a special meeting.

**MARY GRIFFITHS/BILL ECKHARDT:** Griffiths read a letter and spoke on naming a private road.

She asked that the property owners on the road be allowed to name their road. Consensus of the board to tell the property owners at the location of Government Lot 3 in Section 33, starting near address 2521 and running to address 2671 Crescent Beach Road, to work out the road name with the county road commission. County Road Commission Chairman Eckhardt said the commissioners will consider the issue at its meeting Thursday, Aug. 13 at 9 a.m. in the county road commission building.

**COMMISSIONER ED HAIK:** The commissioners are seeking applications to fill the term of a member who resigned from the County Road Commission. The group will meet Tuesday, August 4 at 1 p.m. for a budget discussion, the next regular meeting is Thursday, Aug. 20. County employees Peggy Falk and Ginny Martz were honored.

**COMMISSIONER KEN HILLIARD:** No additional comments.

**10:25 A.M.:** Meister left the meeting and asked Clement to continue conducting the meeting.

**INVASIVE SPECIES:** Chairman Mary Reed said because of costly postage the committee has requested the board to rescind Ordinance No. 2009-02 to remove the words “Noxious Weed Act of 1941” and approve a new Ordinance No. 2009-03. **Motion** by Clement, second by Beebe to rescind Ordinance No. 2009-02. Motion carried.

#### **ONEKAMA TOWNSHIP PHRAGMITES ORDINANCE**

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**Ordinance No. 2009-03**

#### **THE TOWNSHIP OF ONEKAMA ORDAINS:**

**Section 1: Title.**

This Ordinance shall be known as the Onekama Township Phragmites Ordinance.

## **Section 2: Legislative Findings and Purpose of Ordinance.**

Phragmites is an invasive species whose spread is not halted by traditional legal boundaries between parcels.

Although Phragmites seeds can cause a small amount of spread, most reproduction is accomplished through runners growing along the ground. A single stand of Phragmites can spread 30-50 feet per year through these runners. If left unchecked, dense Phragmites stands can block views of Portage Lake, and make beaches inaccessible, which can lead to a decline in tourism and property values. In addition, the spread of Phragmites can drive out native plant species thereby destroying beneficial wildlife habitat. The loss of habitat, tourism, and recreational opportunities also impairs the public trust. Because of its method of reproduction and extreme competitive advantage over native plant species, effective treatment of Phragmites requires eradicating the plant wherever it is found, including both above and below the ordinary high water mark.

The purpose of this Ordinance is to provide procedures intended to comply with federal and state due process requirements so that all property with a Phragmites infestation can be included in a Phragmites eradication zone and can receive effective Phragmites treatment. By including all property with a Phragmites infestation in the Phragmites eradication zone, this Ordinance will help maximize the effectiveness of the Phragmites treatment, thereby eliminating or reducing the adverse impacts of a Phragmites infestation and reducing the chance and severity of re-infestation.

## **Section 3: Definitions.**

As used in this Ordinance,

"Bottomland" means lands in Portage Lake, including the bays and harbors thereof, lying below and lakeward of the ordinary high water mark.

"Ordinary high water mark" means the line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

"Person" means an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

"Phragmites" or "Phragmites plant" means the invasive plant species with the scientific name *Phragmites australis*, also known as the common reed, which is a large perennial grass native to wetland sites throughout temperate regions of the world. Phragmites is hereby also declared by the Township to be a noxious weed for purposes of Act 359 of 1941.

"Phragmites Administrator" means the person(s) appointed by the Township Board to administer this Ordinance.

"Phragmites eradication zone" means the area of bottomland of Portage Lake with a Phragmites infestation that the Township Board has determined is subject to Phragmites treatment.

"Phragmites infestation" means the presence of one or more seed heads in a Phragmites plant.

"Phragmites treatment" means the application of necessary herbicide chemicals by a person authorized to do so under a permit issued by the Michigan Department of Environmental Quality (DEQ).

"Township Board" means the Onekama Township Board.

"Treatment" means any and all methods of eradicating and/or preventing the spread of Phragmites, including but not limited to the application of chemical herbicides.

#### **Section 4: Phragmites Inspection; Written Report; Right to Access Property; Consent;**

##### **Administrative Search Warrant.**

Unless the Township Board directs otherwise, the Phragmites Administrator shall annually conduct an inspection of all Portage Lake shoreline properties within the Township for the purpose of identifying all

parcels on which a Phragmites infestation is present. The Phragmites Administrator shall submit a written report of his or her findings to the Township Board no later than the Township Board's regular July meeting.

The Phragmites Administrator shall have the right to access all Portage Lake shoreline properties within the Township for the purpose of conducting the Phragmites inspection. However, before entering onto a parcel to conduct the inspection, the Phragmites Administrator shall obtain written consent from the property owner for any such inspection. If the property owner fails to provide written consent to the Phragmites Administrator for the physical inspection of the parcel, then the Phragmites Administrator shall not enter

onto the parcel, unless authorized to do so by an administrative search warrant issued by a court of competent jurisdiction.

## **Section 5: Public Hearing to Show Cause Why Property Should not be Included in Phragmites**

### **Eradication Zone; Notice of Public Hearing.**

After receiving the written report from the Phragmites Administrator identifying all parcels in the Township on which a Phragmites infestation is present, the Township Board shall schedule a public hearing giving the owners of the property identified by the Phragmites Administrator in his or her written report submitted to the Township Board under Section 4 of this Ordinance an opportunity to show cause why their property should not be included in the Phragmites eradication zone. A written notice of the public hearing, specifying the time, date, and place of the hearing and stating that the parcel has been tentatively identified for inclusion in the Phragmites eradication zone, shall be sent by sent by first class mail mail to all owners of record or other parties in interest whose names and mailing addresses are on the Township assessment records no less than fourteen (14) days before the hearing. Notice of the public hearing shall also be published twice in a newspaper of general circulation in the Township with

the first publication being no less than fourteen (14) days before the hearing. The notices shall describe methods of treating and eradicating the Phragmites.

## **Section 6: Parcels to be Included in Phragmites Eradication Zone.**

Following the public hearing required under Section 5 of this Ordinance, the Township Board shall determine which parcels identified by the Phragmites Administrator in his or her written report submitted to the Township Board under Section 4 of this Ordinance shall be included in the Phragmites eradication zone. The Township Board shall exclude a parcel identified by the Phragmites Administrator in his or her written report upon a finding that due to the isolation of the parcel in relation to other parcels, the minor nature of the Phragmites infestation on the parcel, or other factors the exclusion of the parcel from the Phragmites eradication zone shall not have a significantly detrimental impact on the

effectiveness of the Phragmites  
treatment in the Township.

**Section 7: Application to DEQ for Phragmites Treatment Permit; Permit Fee.**

After the Township Board has determined which parcels shall be included in the Phragmites eradication zone for that year, the Phragmites Administrator shall apply to the Michigan Department of Environmental Quality (DEQ) for a permit authorizing Phragmites treatment on the parcels within the Phragmites eradication zone.

Any fee charged by the DEQ for such Phragmites treatment permit shall be paid for as determined by the Township Board.

**Section 8: Phragmites Treatment; Cost.**

Following the receipt of a permit from the Michigan Department of Environmental Quality (DEQ) authorizing Phragmites treatment on the parcels within the Phragmites eradication zone, the Township shall engage the services of a professional authorized to engage in Phragmites treatment. The cost of the Phragmites treatment shall be paid for as determined by the Township Board.

**Section 9: Validity.**

If any section, provision or clause of this Ordinance or the application thereof to any parcel, person or circumstances is held invalid, such invalidity shall not affect any remaining portions or application of this Ordinance, which can be given effect without the invalid portion or application.

**Section 10: Effective Date.**

This Ordinance shall become effective the day following its publication in a newspaper of general circulation within the Township.

**Ordinance No. 2009-03 of 2009, was adopted on the 4th day of August, 2009, by the Onekama Township Board as follows:**

Motion by: Helen Mathieu

Seconded by: LaVonne Schafer-Beebe

Yeas: James Wisniski, Roland Clement, Helen Mathieu, LaVonne Schafer-Beebe

Nays: None.

Absent: David Meister.

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Helen Mathieu, Clerk

Motion carried. **Motion** by Wisniski, second by Beebe to direct the clerk to send State of Michigan forms and a check for \$1,500 to the State of Michigan to start the invasive species spraying program. Reed said a public hearing is scheduled for Tuesday, August 11 at 7 p.m. in Farr Center to hear and consider any objections to the proposed special roll for the Special Assessment District. A public hearing will also be held on Tuesday, Aug. 25 at 7 p.m. in Farr Center for Portage Lakefront Owners, to show cause why that owner's property should not be included in the Phragmites Eradication Zone.

**DAVID O'GRADY:** O'Grady, consultant of Michigan Office Solutions, presented information on a copier machine. A decision will be made at a later date.

**FIRE/RESCUE:** Tom Kleinsorge reported 5 fire runs, 8 meetings; 17 rescues and 2 meetings. The department will assist with an Onekama Days 5 K run, the Onekama Parade. The township parking lot will be closed to any vehicles Aug. 13 and Aug. 14 for testing of ladders and pumpers; Aug. 15,

members will attend HazMat training; Aug. 17 the department will host a potluck in honor of Shelley and Rob Johnson and Jeff Wisniski, who have completed Firefighter I and II training, The board instructed the clerk to reimburse the three for their training expenses.

The department will assist at the Demolition Derby Sept. 4 at the fairgrounds. It also received a donation of two Global Positioning Systems from Scott Baker.

Clerk Mathieu was instructed to make arrangements to have the northwest entrance to the fire station repaired or replaced.

**ONEKAMA COMMUNITY PLANNING COMMISSION:** Report received and placed on file.

**BOARD OF REVIEW:** Assessor Ginny Martz reported the petitions and all minutes have been turned in to the proper county authorities.

**CEMETERY:** Mathieu said all the survey work is completed.

**ZONING BOARD OF APPEALS:** Chairman Tom Gerhardt reported a ZBA hearing is scheduled for Thursday, Aug. 6 at 6 p.m. in the township for Pierre Dahmani . Another hearing is scheduled for Tuesday, Aug. 25 at 6 p.m. in the township hall for Thomas Schram.

**ZONING ADMINISTRATOR:** Schindler requested the board to consider a fee to be considered for the fee schedule for “conditional” Land Use Permit applications. The board postponed consideration of Schindler’s contract for one week.

**PORTAGE LAKE HARBOR COMMISSION:** No report.

**PARKS & RECREATION:** Secretary Gerhardt reported: Plant markers and new brochures have been placed in North Point Park. Nordlund Engineering has been notified to do survey work at the park; the “Map of Recreational Sites and Opportunities Within the Political Boundaries has been attached to the committee’s minutes and are in their hardbound notebooks. The list comes from the Five Year Plan. He asked if Carden Park could be mowed in front, and, mowing and clearing the primitive trail at North Point Park is needed.

**MAIDENS, CHRISTENSEN RDS.:** No quotes.

**ORV:** Place on agenda for next month, or, at a special meeting if one is called.

**BEACH CLEANUP:** Village Council Member Alice Hendricks was asked to contact City Manager Mitch Dietsch.

**MICHIGAN WORKS:** Clerk to call re: a response to her request.

**ZONING ORDINANCE REQUESTS:** Clerk reminded board members to give any suggestions they might have to the zoning ordinance committee.

**APPRECIATION:** Mathieu asked board members to consider some form of appreciation for Mary Reed and Ginny Martz, for their untiring efforts on the Invasive Species project.

**PUBLIC COMMENT:** None.

**BILLS: Motion** by Wisniski, second by Beebe to pay all incoming and regular bills.

Motion carried.

**CORRESPONDENCE:** received and placed on file.

**ADJOURN:** 10:50 a.m

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David Meister, Supervisor

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Helen Mathieu, Clerk

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LaVonne Schafer-Beebe, Treasurer

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Trustee Roland Clement

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Trustee James Wisniski