

**AVERY TOWNSHIP BOARD
REGULAR MONTHLY MEETING
May 1, 2018**

Supervisor Seymour called the regular monthly meeting to order at 6:00 p.m. at the Avery Township Hall with the pledge to the American Flag.

ROLL CALL: Present: Thom Seymour, Supervisor; Jean Angell, Treasurer; Ann Seymour, Clerk; Dawn Dobbyn, Trustee; Gary Mc Murphy, Trustee;

Absent: None

Guests: Don Angell, Deputy Treasurer, Ken Werner, MCRC

Motion by Jean Angell seconded by Dawn Dobbyn to approve the April 3, 2018 minutes as submitted. All in favor, motion carried. Yea 5 No 0

Motion by Gary McMurphy, seconded by Dawn Dobbyn to approve the April 30, 2018 Treasurer's report as submitted as follows: All in favor, motion carried. Motion carried. Yea 5 No 0

TRIAL BALANCE STATEMENT AS April 30, 2018:

Cash on hand:.....	\$ 26,197.44
Disbursements:.....	- 7,405.42
Bank Dividends/Interest:.....	0.00
Bank Charges:.....	- 0.00
Receipts.....	10.48
TOTAL.....	\$ 18,802.50

AAACU CD #300.....	\$ 21,351.98	Matures 1/25/19
AAACU CD #301.....	\$ 21,351.98	Matures 1/25/19
AAACU CD# 307.....	\$ 10,676.12	Matures 1/25/19
AAACU CD #308.....	\$ 24,857.41	Matures 5/8/19
AAACU CD #309.....	\$ 23,664.60	Matures 5/8/19
TOTAL.....	\$101,902.09	

Motion by Jean Angell, seconded by Gary McMurphy to authorize payment of vouchers #3502-3528 inclusive totaling \$7,405.42. All in favor, motion carried.

New Business: Treasure Angell reported on Internet Crash Plan Pro. After discussion decision was to back up computers manually and daily. Email from Jim Young suggests using flash drives or "I drive".

Letter read from Assessor regarding Property Tax Exemptions forms (copies distributed to study for next months meeting.

After discussion regarding the Municipal Civil Infractions Ordinance the following motion was entered to adopt the "MUNICIPAL CIVIL INFRACTIONS ORDINANCE" as follows:

MUNICIPAL CIVIL INFRACTIONS ORDINANCE #6-2018

An ordinance providing for municipal civil infractions of certain township ordinances and penalties pursuant thereto; establishing procedures relating thereto; authorization of which township officials can issue civil infraction tickets and appearance tickets; penalties; and procedures relating to such matters.

**THE TOWNSHIP OF AVERY, MONTMORENCY COUNTY, MICHIGAN,
ORDAINS:**

Section 1. Title

This Ordinance shall be known as the "Avery Township Municipal Penalty, Civil Infraction and Appearance Tickets Ordinance."

Section 2: Definitions

As used in this chapter:

- * "Act" means Act No. 236 of the Public Acts of 1961, as amended and Public Acts 12-26 of 1994, as amended.
- * "Authorized township official" means a township official, police officer or other personnel or agent of the township authorized by this Ordinance or any ordinance to issue civil infraction citations.
- * "Municipal civil infraction action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- * "Municipal civil infraction citation" means a written complaint or notice prepared by an authorized township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.
- * "Township" means Avery Township.

Section 3: Municipal Civil Infraction Action; Commencement

A municipal civil infraction may be commenced upon the issuance by an authorized township official of a municipal civil infraction directing the alleged violator to appear in court.

Section 4: Municipal Civil Infraction Citations; Issuance and Service

Municipal civil infraction citations shall be issued by authorized township officials as follows:

- (a) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- (b) The place for appearance specified in a citation shall be the District Court that has jurisdiction over Avery Township.
- © Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the township and issued to the alleged violator as provided by Section 8705 of the Act.

- (d) A citation for a municipal civil infraction signed by an authorized township official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement.

Immediately above the date and signature to the official: "I declare under penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

- (e) An authorized township official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible an original and required copies of a citation.
- (f) An authorized township official may issue a citation to a person if:
- (1) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - (ii) Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the township attorney approves in writing the issuance of the citation.
- (g) Municipal civil infraction citations shall be served by an authorized township official as follows:
- (i) Except as otherwise provided below, an authorized township official shall personally serve a copy of the citation upon the alleged violator.
 - (ii) If the municipal civil infraction action involves the use of occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting a copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building, or structure at the owner's last known address.

SECTION 5: Municipal Civil Infraction Citations; Contents

- (a) A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- (b) Further, the citation shall inform the alleged violator that he or She may do one of the following:
- (i) Admit responsibility for the municipal civil infraction by mail, In person, or by representation, at or by the time specified for appearance.

- (ii) Admit responsibility for the municipal civil infraction “with explanation” by mail by the time specified for appearance or, in person, or by representation.
- (iii) Deny responsibility for the municipal civil infraction by doing Either of the following:
 - (A) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is required by the township.
 - (B) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- (c) The citation shall also inform the alleged violator of all of the following:
 - (i) That if the alleged violator desires to admit responsibility “with explanation” in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
 - (ii) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
 - (iii) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the township.
 - (iv) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
 - (v) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
- (d) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgement against the alleged violator on the municipal civil infraction.

Section 6: General Penalties and Sanctions for Violations of Township Ordinances; Continuing Violations; Injunctive Relief

- (a) Unless a violation of an ordinance of the Township of Avery is specifically designated in the ordinance as a municipal civil infraction, the violation shall be deemed to be a criminal misdemeanor.

(b) The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00 (plus cost of prosecution), or imprisonment not exceeding 93 days, or both, unless a specific penalty is otherwise provided for the violation by the ordinance involved.

© The sanction for violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the ordinances involved, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, Public Acts 12-26 of 1995, as amended, and other applicable laws.

(i) Unless otherwise specifically provided for a particular municipal civil infraction violation by an ordinance (or if the ordinance involved is silent, as set by the Township Board by resolution), the civil fine for a municipal civil infraction violation shall be not less than \$100.00, plus costs and other sanctions, for each infraction.

(ii) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of an ordinance. As used in this Ordinance, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or ordinance (i) committed by a person within any twelve (12) month period (unless some other period is specifically provided by and Ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by and ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:

(A) The fine for any offense which is a first repeat offense shall be not less than \$100, plus costs.

(B) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$200, plus costs.

(d) A violation includes any act which is prohibited or made or declared to be unlawful or an offense by an ordinance, and any omission or failure to act where the act is required by an ordinance.

(e) Each day on which any violation of an ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

(f) In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of any Township Ordinance.

Section 7: Authorized Persons-Civil Infractions Tickets

Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Avery Township ordinance to the contrary, the following officials are hereby designated as authorize Township officials to issue and serve municipal civil infraction citations for violations of Township Ordinances which provide for a municipal civil infraction for a violation thereof:

The Montmorency County Sheriff and all other Deputy County Sheriffs of said County
The Township Supervisor
The Township Ordinance Enforcement Officer
The Township Zoning Administrator
The Township Clerk

Section 8: Authorized Persons-Misdemeanor Appearance Tickets

Unless prohibited by state law or unless otherwise provided by specific provisions of a particular Avery Township ordinance to the contrary, the following officials are empowered to issue and serve Appearance Tickets for violations of the Township ordinances which contain criminal misdemeanor penalties for violations of the ordinance involved:

The Montmorency County Sheriff and all other Deputy County Sheriffs of said county.
The Township Supervisor
The Township Ordinance Enforcement Officer
The Township Zoning Administrator
The Township Clerk

Section 9: Applicability of the Act

If this Ordinance is silent as to given procedural requirements or in any way conflicts with the Act, the Act shall govern.

Section 10: Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section of clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 11: Effective Date

This Ordinance shall become effective thirty (30) days after it's publication (or publication of a summary thereof) in a newspaper in general circulation within Avery Township.

This Ordinance was offered by adoption by Township Board member Gary McMurphy and was seconded by Township Board Member Jean Angell, the vote being as follows: YEAS: Thom Seymour, Ann Seymour, Jean Angell, Gary McMurphy and Dawn Dobbyn. NAYS: None ABSTAIN/Absent: None

ORDINANCE DECLARED ADOPTED:

Ann M. Seymour, Avery Township Clerk

CERTIFICATION :

I hereby certify that the above is a true copy of an ordinance adopted by the Avery Township Board at a regular meeting held at the Avery Township Hall on Tuesday, May 8, 2018 at 6:00 p.m., pursuant to the required statutory notice and procedures.

Ann M. Seymour Avery Township Clerk

AIRPORT REPORT: Given by Jean Angell

AMBULANCE REPORT: Given by Ann Seymour per Thom Seymour.

ASSESSOR REPORT: No report.

BOR REPORT: No report.

CEMETERY REPORT: By Ann Seymour

ELECTION REPORT: Clerk updated on mandatory election training for Clerk, Deputies, and election workers. New equipment will be here in June.

FIRE BOARD REPORT: Given by Dawn Dobbyn

MONTMORENCY COUNTY ROAD COMMISSION: No report.

MONTMORENCY COUNTY COMMISSIONER: Given by Ken Werner

MTA COUNTY CHAPTER: No report

PARK REPORT: Will meet next month.

P.I.E. & G. CO-OP LAISON BOARD: No report.

PLANNING COMMISSION REPORT:

PUBLIC COMMENT: None

ZONING ADMINISTRATOR REPORT: No report.

ZONING BOARD OF APPEALS: No report. Currently have vacancy.

CORRESPONDENCE: Read and returned to the Clerk for filing and disposition.

ADJOURNMENT: There being no further business at hand, the meeting was adjourned at 7:05 p.m..

Respectfully submitted,

Ann M. Seymour, Clerk