

AGENDA
HAYES TOWNSHIP, CHARLEVOIX COUNTY
PLANNING COMMISSION
SPECIAL MEETING
AUGUST 22, 2023 7:00 pm
Hayes Township Hall
9195 Major Douglas Sloan Road
Charlevoix, Michigan 49720
ZOOM

<https://us02web.zoom.us/j/83601481092?pwd=bTRvd01yc2NtSHY5MXkrZDUxVDMrZz09>

Meeting ID: 836 0148 1092

Passcode: 068828

+1 312 626 6799 US (Chicago)

1. Call to Order
2. Review and Approval of the Agenda
3. Declaration of Conflict of Interest (if any)
4. Public Comment (Unrelated to Agenda Items)
5. Continuation of Review of the Master Plan Advisory Committee Recommendations-
Future Land Use Map
6. Begin Review of Draft Edits to Zoning Ordinance (If Time Permits)
7. Public Comment
8. Planning Commission Comment
9. Adjournment

Public Comment at Meetings of the Hayes Township Planning Commission

The Hayes Township Planning Commission values public input and offers two opportunities for the public to comment at its meetings, once near the beginning and once near the end. This affords the Planning Commission the opportunity to hear your views and remarks. If you speak, you should not expect to engage the Planning Commission members or any staff in discussion or debate.

Planning Commission Members will not respond to comments made during the Public Comment unless it becomes necessary to ask a clarifying questions, correct a factual error, or to provide specific factual information.

Questions about Township matters are best directed to individual Board members or Township staff (Planner, Zoning Administrator, or Assessor) between meetings. Contact information is available on the township website at: hayestownshipmi.gov.

The availability of public comment is recognized by the Michigan Open Meetings Act. The Act provides that rules may be adopted for orderly comment from the public. To that end, the following rules have been established by the Planning Commission:

1. A person who wishes to speak during Public Comment will sign in and signify that they would like to speak on the form.
2. The person will begin by stating their name, spelling it out if requested.
3. The person addresses the Chairperson, or other person chairing the meeting, on behalf of the entire Planning Commission. Public comment is NOT to be addressed to individual Planning Commission members, to any township staff present, or to other members of the audience.
4. There is a three (3) minute time allotment for each speaker. The time limit may be extended by the Chairperson or majority of the Planning Commission members present. If a speaker uses less than three (3) minutes, they may not use the remaining time at that Public Comment. A speaker may speak only once at each Public Comment. There is no provision for another audience member to 'donate' their three (3) minutes to another speaker.
5. A speaker will be out of order if the speaker disrupts the meeting, fails to be germane, speaks longer than the allotted time, uses vulgarities or makes a personal attack on a Planning Commission member or Township employee that is unrelated to the performance of that person's duties.
6. If a speaker is called out of order, that speaker will not be able to speak again at the same meeting except by special leave of the Planning Commission. If the speaker continues to disrupt the meeting or is disorderly, law enforcement will be called to remove the speaker.
7. The Chairperson, or other person chairing the meeting, will have the discretion to permit members to speak at times other than the times reserved for Public Comment.

Hayes Township Planning Commission
July 18th, 2023
Regular Meeting
Zoom ID 836 0148 1092

CALL TO ORDER: Chairperson Roy Griffitts called the meeting to order at 7:00 p.m.
Members present: Roy Griffitts (Chair), Steve Bulmann, Derek Burnett, Marilyn Morehead, Rex Greenslade and Matt Cunningham
Excused: Ed Bajos.
Also, present: April Hilton (Deputy Clerk/Recording Secretary).
Audience: Ellis Boal, Jim McMahon, LuAnne Kozma, Shelly VanWart, Tim Boyko, Jeff Tashjian, Winnie Boal, Deb Narten, Mel Narten, Dee Hutcheson, Bill Henne, Betty Henne, Mel Czechowski, Carol Umlor, Anthony Dinz, Todd Peterson, and Jim Pemberton.

PLEDGE OF ALLEGIANCE TO THE FLAG: Mr. Griffitts led the Pledge of Allegiance.

REVIEW AGENDA:

Ms. Morehead made a motion, supported by Mr. Burnett, to approve adjournment of the July 18th 2023 Planning Commission meeting no later than 9:00 pm.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffitts, Matt Cunningham, Rex Greenslade, and Marilyn Morehead

Nays: none **Motion Carries**

Ms. Morehead made a motion, supported by Mr. Cunningham to approve the agenda as corrected.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffitts, Matt Cunningham, Rex Greenslade, and Marilyn Morehead

Nays: none **Motion Carries**

DECLARATIONS OF CONFLICTS OF INTERESTS: None

APPROVAL OF MINUTES JUNE 20TH, 2023 REGULAR MEETING

Mr. Greenslade made a motion, supported by Ms. Morehead, to approve the June 20th, 2023, regular meeting minutes as corrected.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffitts, Matt Cunningham, Rex Greenslade, and Marilyn Morehead.

Nays: none **Motion Carries**

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APPROVAL OF MINUTES JUNE 27TH, 2023 SPECIAL MEETING MINUTES

Mr. Bulmann made a motion, supported by Ms. Morehead, to approve the June 27th, 2023, special meeting minutes as corrected.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead.

Nays: none **Motion Carries**

PUBLIC COMMENTS UNRELATED TO AGENDA ITEMS:

Public comments opened at 7:10 pm.

Comments included:

- Resident stated Hayes Township is loved by many people. Which is why they are concerned about the discussion of reducing the acre limit in different zones.
- Resident feels the Township already has the best Zoning Ordinance for protecting the Shoreland. However, they did suggest strengthening the protection on retaining walls and excavating near the shoreland.
- Resident is concerned about the discussion regarding the Future Land Use Map.
- Resident complimented to Advisory Group for all their hard work. Also, would like to see the term "Mining Impaired" used in the Future Land Use Map.
- Resident supports the term "Mining Impaired" for the Future Land Use Map.
- Resident agrees to keep meeting within two hours, also stated the audience members are difficult to hear on zoom. Also, would like to see unrelated to agenda item public comments removed from the first public comments. Concerned the new language of the new zoning ordinance will change the protection of the shoreline and stated, excavation in the shoreland protection strip should be prohibited in all cases.

Public comments closed at 7:28pm

REPORT OF TOWNSHIP BOARD REPRESENTATIVE TO THE PLANNING COMMISSION:

Next meeting July 14th, 2023.

REPORT OF ZONING BOARD OF APPEALS REPRESENTATIVE:

NA

ZONING ADMINISTRATOR REPORT:

Written report available at Hayes Township Hall.

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NEW BUSINESS-

REVIEW ADVISORY COMMITTEE REPORT AND FUTURE LAND USE MAP:

Ms. Morehead made a motion supported by Mr. Greenslade, to finalize discussion at next meeting.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead.

Nays: none **Motion Carries**

The Planning Commission came to a consensus that all members will be prepared to discuss modifications in the Master Plan and on the Future Land Use Map at the next Planning Commission Meeting.

BEGIN REVIEW OF ZONING ORDINANCE DRAFT:

Ms. Morehead made a motion, supported by Mr. Greenslade to table discussion until next Planning Commission meeting.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead.

Nays: none **Motion Carries**

OLD BUSINESS-

SET/CONFIRM PUBLIC HEARING DATES:

None

SET/CONFIRM DATE OF NEXT PLANNING COMMISSION MEETING:

Planning Commission Special Meeting for a site plan review of A Shoreland Protection Strip will take place July 25th, 2023, at 7:00 pm.

Next Planning Commission regular meeting will take place on August 15th, 2023, at 7:00 pm.

PUBLIC COMMENT: Public comments open 9:19 pm.

Comments included:

- Resident is disappointed in the discussion the Planning Commission had on the Mining portion of the Advisory Committee report, does not agree with deleting it from the report

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- Resident is concerned the Planning Commission is not considering the possibility of 30 more years of mining.
- Resident does not agree with removing the mining section from the Future Land Use map, agrees with changing the word "impaired", however keep the section/definition the Advisory Committee recommended.
- Representative for Reith Riley stated Rieth Riley would like to keep the North side of 31 zoned as Industrial.

Public comments closed 9:26pm.

PLANNING COMMISSION COMMENT:

- Mr. Griffiths stated the Planning commission and/or Township cannot approach the residents' concerns with the Reith Riley mineral extraction at this time. Planning Commission is looking towards the future and the Future Land Use Map is a tool to guide to Township.

ADJOURNMENT: Mr. Greenslade made a motion, supported by Mr. Bulmann, to adjourn the meeting at 9:30 pm.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffiths, Marilyn Morehead, Rex Greenslade, and Matt Cunningham.

Nays: none **Motion Carries**

Respectfully Submitted by:
April Hilton
Deputy Clerk/Recording Secretary

Hayes Township Planning Commission
July 25th, 2023
Special Meeting
Zoom ID 836 0148 1092

CALL TO ORDER: Chairperson Roy Griffitts called the meeting to order at 7:00 p.m.

Members present: Roy Griffitts (Chair), Steve Bulmann, Derek Burnett, Marilyn Morehead, Rex Greenslade and Matt Cunningham

Excused: Ed Bajos.

Also, present: April Hilton (Deputy Clerk/Recording Secretary).

Audience: Janet Simon, Shelly Green VanWart, Marolyn Anderson, Kevin Willis, Pat Fary, Catherine Phelps, Daran Phelps, Jeff Harmon, Dianne McMahon, Betty Henne, Jim McMahon, Deb Narten, Danielle Hutchenson, Kim Fary, Sue Pike, Joellen Rudolph, Jim Rudolph, Tim Boyko, Susan Mcbrew, Chip Lorenger, LuAnne Kozma, Carol Umlor, Anthony Deir, Mel Czechowski, Jim Pemberton, Bob Ferguson, Mel Taylor, and Winnie Boal.

PLEDGE OF ALLEGIANCE TO THE FLAG: Mr. Griffitts led the Pledge of Allegiance.

REVIEW AGENDA:

Ms. Morehead made a motion, supported by Mr. Cunningham to approve the agenda as presented.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffitts, Matt Cunningham, Rex Greenslade, and Marilyn Morehead

Nays: none **Motion Carries**

Ms. Morehead made a motion, supported by Mr. Bulmann to adjourn the meeting no later than 9:00pm.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffitts, Matt Cunningham, Rex Greenslade, and Marilyn Morehead

Nays: none **Motion Carries**

DECLARATIONS OF CONFLICTS OF INTERESTS: None

PUBLIC COMMENTS UNRELATED TO AGENDA ITEMS:

Public comments opened at 7:02 pm.

Comments included:

- Resident's comments are attached to the minutes.
- Resident does not agree with changing the label 'mining impaired'. Feels the land should be labeled with concern.
- Resident suggested 'mining History' or 'mining reclaimed' would be better verbiage that all parties could agree on. They would like to see a lawsuit avoided.

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- Resident would like to thank the Advisory committee for all their hard work. However, they are concerned for the residents well water and the water in the surrounding creeks to the Reith Riley property.
- Resident is concerned there is no public comment towards the end of the meeting. Feels the mining impaired portion of the advisory committee report should be part of the Hayes Township Zoning ordinance.
- Deb Narten supports the Mining Impaired label, feels it best describes the land as it is damaged.
- Resident feels the Planning Commission should approve all the suggestions from the Advisory Committee especially the label of mining impaired. Does not feel one property owners' opinion should affect the Planning Commission's decision.
- Resident feels the Planning Commission should visit the Reith Riley pit for they feel it is dangerous. Also feels there should be a second public comment towards the head of the meeting.
- Resident feels the Township should not have any special meetings. They do not feel like the Township is working for the residents. And feels the 'mining impaired' label should be changed to 'stripped mining.'
- Resident feels Rieth Riley has stripped the land from mineral extraction and feels 'mining impaired' is what it should be labeled. Believes the Planning Commission should use the label that the Beckett and Raeder professional created for this section. Also, would like to thank the Advisory Committee for all their hard work.
- Resident suggest the Township advertise special meetings better.
- Resident feels the Township is receiving bad legal advice suggesting changing the advisory committee report and feels the Planning Commission should follow the advice of the Advisory Committee.

Public comments closed at 7:25pm

NEW BUSINESS-

SHORELAND SITE PLAN REVIEW: 7948 INDIAN TRAILS, CHARLEVOIX, MICHIGAN 49720:

Mr. Greenslade made a motion, supported by Mr. Bulmann to use the identified sections of the Site Plan Review that pertain to the application.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead

Nays: none **Motion Carries**

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Ms. Morehead made a motion, supported by Mr. Greenslade, to approve the Zoning Permit Application, Site Plan Review, for 7948 Indian Trails, Charlevoix Michigan 49720 with the condition the applicant discuss any additional plantings of deep-rooted shrubs with a Tip of the Mitt representative for approval.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffiths, Matt Cunningham, Rex Greenslade, and Marilyn Morehead

Nays: none **Motion Carries**

CONTINUATION OF REVIEW ADVISORY COMMITTEE REPORT AND FUTURE LAND USE MAP:

Planning Commission discussion included, the desire for proper reclamation of gravel pits for future use; Public confusion between Future Land Use Map and zoning designations; County disapproves of negative designations on Future Land Use Maps; the intent of the Future Land Use Map is to show what the Township wants the future to look like (desired is to have Rieth Riley's property as AG, so why designate it "Mining Impaired"); The Advisory Committee envisioned the Rieth Riley property as a residential classification; consent judgement provides rules for property owners responsibility and court controls property

- The Planning Commission came to a consensus to label the area of the "Green pit" as Rural Residential on the Future Land Use Map with an asterisk explaining the conditions of current land use, the limitations of the consent agreement and what desired future uses are TBD and will be specifically defined.
- The Planning Commission came to a consensus to keep the Farm/Forest district as a 10-acre minimal.
- The Planning Commission came to a consensus to keep the language for Residential-Waterfront while identifying the different bodies of water within Hayes Township.
- The Planning Commission came to a consensus to include language for affordable housing (R2-R4) in the Residential – Settlement section of the Future Land Use Map.
- The Planning Commission came to a consensus to continue discussion of the definitions and asterisk language at the next meeting.

OLD BUSINESS-

SET/CONFIRM PUBLIC HEARING DATES:

None

SET/CONFIRM DATE OF NEXT PLANNING COMMISSION MEETING:

Planning Commission regular meeting will take place on August 15th, 2023, at 7:00 pm.

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PLANNING COMMISSION COMMENT:

Mr. Greenslade made a motion, supported by Ms. Morehead to amend the agenda, and add a second Public Comment.

PUBLIC COMMENT:

Open at 8:40pm

- Resident appreciates the discussion by the Planning commission tonight.
- Resident would like to know if the restoration of the Rieth Riley is contingent on the future use of the land.
- Resident appreciates the discussion by the Planning Commission. Feels it had a positive movement forward.
- Resident feels the discussion of the Planning Commission was a great step forward.
- Resident is concerned the Planning Commission did not consider the whole building within the Site Plan Review.
- Resident feels the Planning Commission had a very productive discussion.

Closed at 8:48pm

ADJOURNMENT: Ms. Morehead made a motion, supported by Mr. Greenslade, to adjourn the meeting at 8:48 pm.

Yeas: Derek Burnett, Steve Bulmann, Roy Griffiths, Marilyn Morehead, Rex Greenslade, and Matt Cunningham.

Nays: none **Motion Carries**

Respectfully Submitted by:
April Hilton
Deputy Clerk/Recording Secretary

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Parcels, 007-112-030-00, 007-112-031-00, 007-112-033-00, 007-112-035-00 require further explanation. These parcels are currently zoned agricultural and are being used for sand and gravel extraction under the terms of a consent agreement.

On June 19, 1989, Hayes Township, H&D, Inc., and intervening neighbors resolved litigation in the Charlevoix County Circuit Court by entering into a consent judgment regarding the scope of future mining and reclamation of the property. The consent judgment, as amended, binds the successors, assigns, and affiliates of H&D.

At the end of the extraction process, the property is to be restored per the agreement with the results being inspected and approved by an environmental engineering firm. When restoration has been completed, the consent agreement contemplates the future use may be four 10-acre housing lots. Additionally, Hayes Township believes future land use options could include residential, commercial, open space and/or passive recreation, all of which would be subject to special land use conditions intended to minimize unfavorable impacts to adjacent residential land uses.



August 18, 2023

Ron Vanzee, Hayes Township Supervisor

Via Email

supervisorhayestownshipmi@gmail.com

RE: Mining Impaired

Dear Mr. Vanzee:

You have asked me to review and comment on the proposed classification of the Rieth-Riley gravel mine as "Mining Impaired" in the draft master plan. I would advise against using that term for several reasons. First, the term "impaired" implies that there is something wrong with the property. While I understand that there are some concerns over ground water and air quality, I am unaware of any testing that has revealed any contamination on that property. Giving a zoning classification a name that implies problems with the property can lead to claims of loss of value and interference with the ability to sell the property in the future. Second, it is my understanding that there are other gravel pits in the township that are not proposed to be classified as "Mining Impaired". If that is true, then treating the Rieth-Riley property differently than other similarly situated property could lead to an equal protection claim by the property owner. Finally, creating a separate zoning classification to a small parcel of property, even if applied to all gravel mines in the township, could lead to a claim of spot zoning. While spot zoning is not per se invalid, it does lead to increased scrutiny by any court reviewing a challenge to the change in zoning. While I can appreciate the desire to try to address concerns raised by the public, I would encourage the Planning Commission to use a more neutral term that is in line with the historic zoning classifications used in Hayes Township and the anticipated/desired future use of the property, rather than to use it to send a message to future buyers.

Thank you for your attention to this matter. Please do not hesitate to contact me with any questions you might have.

Very truly yours,

Todd W. Millar

TWM:krs



Effective strategies ♦ Practical techniques ♦ Valuable resources

Whether you're a zoning administrator, member of the planning commission or zoning board of appeals, or part of your township's planning and zoning team, your knowledge of the planning and zoning process is vital to your community. As new developments and projects approach your township, it's important to be prepared to make tough decisions. Join your peers from around the state along with expert planners and legal counsel for MTA's **Planning & Zoning Team Retreat**. Held at The Highlands in Harbor Springs Oct. 3-4, this retreat offers premier education and excellent networking opportunities.

Educational sessions include:

Out of Order: Managing Meeting Hot Potatoes

Controversial, emotionally charged meetings or public hearings where tensions are high and tempers flare are happening with increasing frequency. More than just a lesson in grace, conflict and controversy can make a positive contribution to your decision-making processes. Learn steps you can take before, during and after difficult meetings to lessen the stressing and make your meetings more effective.

Presenter: Seth Koches, MTA Legal Counsel, Bauckham, Thall, Seiber, Kaufman & Koches PC

How the Heck Do We Enforce Our Ordinances?

An ordinance won't work if you don't enforce it. There is no advantage—and plenty of disadvantages—to having ordinances or provisions that you don't want, need or use. Learn how to enforce many ordinance violations without involving the township attorney and walk away with complaint forms and notice of violation letters to streamline your enforcement efforts.

Presenter: Seth Koches

Hot Topics in Planning & Zoning

Land use issues keeping you up at night? We can help! Don't miss this review of the hottest issues in planning and zoning. An abbreviated version of MTA's most-popular summer workshop series, this session offers practical, real-life guidance on emerging land use issues from an expert who brings the unique perspective of planner and attorney.

Presenter: Catherine Kaufman, MTA Legal Counsel, Bauckham, Thall, Seiber, Kaufman & Koches PC

What You Need to Know About Renewable Energy

As the state's climate plan continues to drive renewable energy standards, it's important that you understand opportunities and challenges for your township. We'll help you get a handle on all the considerations to ensure your zoning decisions weigh all the options. Your attendance qualifies you to join a future renewable energy site tour.

Presenter: Catherine Kaufman and Sarah Banas Mills, PhD, Senior Project Manager, Graham Sustainability Institute Lecturer, School for Environment and Sustainability, University of Michigan

Managing All the Pieces

Gain insight into the scope and authority of the planning commission, zoning administrator, zoning board of appeals and township board. Explore the roles and responsibilities, learn who should (and shouldn't!) be doing what, and how it all fits together.

Presenter: Michael Selden, MTA Director of Member Information Services

Decision-Making: By the Book

The decisions you make as part of your township's planning commission or zoning board of appeals will shape your community for years to come! So, it's critical you reach defensible, effective decisions based on a solid foundation of planning principles and sound procedures. This session takes a deep dive into the decision-making process and is guided by the guy who literally wrote the book on it!

Presenter: Steve Langworthy, land use expert and author of MTA's planning & zoning guidebooks

Gotcha! Don't Take the Bait

Has it happened to you? An angry individual in the township hall or parking lot, exclaiming complaints with profanity, acting aggressively and maybe even armed with a video camera hoping to catch you or another member behaving badly in reaction to their accusations. Don't get caught off guard or be the next social media star. Learn what the law allows and take away tips for addressing this troubling behavior should you get caught in a similar heated and uncomfortable situation.

Presenter: Steven Joppich, Shareholder, Rosati, Schultz, Joppich & Amtsbuechler PC

Controversial Land Uses: Regulators, Mount Up!

Your township simply must have a plan in place to deal with controversial and unpopular land use proposals. So how do you comply with the legalities and still address concerns of your residents? Don't miss this review of what you can (and can't!) do to address hot-button land use issues.

Presenter: Mike Homier, Attorney, Foster Swift

Agenda

Tuesday, Oct. 3

9 a.m.
Registration check-in
9:30 a.m.
Welcome
10 a.m.
Out of Order
11:30 a.m.
How the Heck Do We Enforce Our Ordinances?
12:45 p.m.
Networking luncheon
1:45 p.m.
Hot Topics in P&Z
3:30 p.m.
What You Need to Know about Renewable Energy
5 p.m.
Adjourn
6 p.m.
Dinner and evening activity

Wednesday, Oct. 4

7:30 a.m.
Networking breakfast
8 a.m.
Managing All the Pieces
9:30 a.m.
Decision-Making: By the Book
Noon
Networking luncheon
1 p.m.
Parade of Stars
1:15 p.m.
Gotcha! Don't Take the Bait
2:30 p.m.
Vendor Showcase
3 p.m.
Controversial Land Uses
4:15 p.m.
Adjourn

*Agenda subject to change; doesn't show breaks

REGISTRATION FORM

Township & County _____

Name & Title _____

Email Address _____

Name & Title _____

Email Address _____

NOTE: Payment must accompany form in order to be processed.

- ☐ Check enclosed (payable to MTA)
☐ Charge to: (circle one) MasterCard VISA

Card # _____ CSV 3-digit code _____ Expires _____

Print Card Holder's Name _____ Signature _____

Planning & Zoning Team Retreat

Oct. 3-4, 2023

Bring another member of your team and save \$60 off full-program rates!
Discount applies to second registrant who is attending the same retreat.

Full Program rates: Includes all sessions, meals, refreshments and evening activity. Housing is NOT included; see details on reverse.

☐ \$365/person \$415/person after Sept. 12

☐ **BONUS:** I saved \$60 on a second full-program registration!

Single-Day rates: Includes that day's sessions, meals and refreshments. Day one includes evening activity. Housing is NOT included; see details on reverse.

Check the day you wish to attend: ☐ Day 1 OR ☐ Day 2

☐ \$230/person \$280/person after Sept. 12

TOTAL: \$ _____ Non-members, call MTA for rates.



Send your completed registration form with payment to MTA, P.O. Box 80078, Lansing, MI 48908-0078; fax: (517) 321-8908. Or register online at www.michigantownships.org. Need event registration assistance?