

CHARTER TOWNSHIP OF MONITOR
REGULAR TOWNSHIP BOARD MEETING
AUGUST 27, 2012

The Supervisor called the meeting to order at 7:00 p.m.

Members present: Brandt, Kowalski, Pike, Arnold, Kochany, Malkin, Miller
Members absent: None

The Pledge of Allegiance was recited by all present.

Public Input opened at 7:01 p.m. No public present wished to speak and public input was closed.

Motion by Miller supported by Kochany to adopt the agenda with the addition of: Resolution R-2012-008 and DDA 2012 Budget Adjustment.

Motion carried.

Motion by Pike supported by Arnold to approve the minutes of the August 13, 2012 regular meeting as presented.

Motion carried.

Motion by Kochany supported by Pike to pay the bills in the amount of \$32,184.14 from General Fund.

Roll call vote:

Yes: Brandt, Kowalski, Pike, Arnold, Kochany, Malkin, Miller

No: None

Absent: None

Motion carried.

Resolution R-2012-008 Resolution Supporting IGA for New Water Treatment Plant

Brandt feels that if DWS, through the Road Commission overseas and manages the new water treatment plant, Monitor Township owning the Monitor 2 water system, should be treated as an owner as far as wholesale water rates, bonding, and operations and maintenance, the same as the county owned Monitor 1 water system is treated as an owner. Brandt also does not want Monitor Township to have to assume any financial responsibility for bond payments for the Monitor 1, Kawkawlin-Metro, or Bangor Monitor water systems that are outside of the township owned water district, since they have a total of more customers than Monitor Township and they are under Bay County control. It is Brandt's opinion if DWS runs the plant, the Road Commission would make all the final decisions and we would have no say in the decision making process. It is for that reason he has been in favor of setting the new water treatment plant up under a water authority.

Arnold stated we are all in this together and like it or not, if the majority of the local units feel the structure should be run by DWS instead of an authority, then we have to go with that decision. Our main concern is to make sure we make the best deal we can for our residents. Arnold stated our goal should be to get the water maps as complete as possible regarding the

township owned water lines. Once the system is 100% complete is will only cost the township more money to maintain the lines. For this reason, Arnold proposes the township sign the waterlines over to the county and have them combine the Monitor 2 system (3,700 customers) with the county owned Monitor 1 system.

Arnold is of the opinion that if the majority of the local units are in favor of a water authority, the county will not back the bonds.

Malkin stated the only way for the township to have a voice at the table as to how the water plant is set up, is to adopt the resolution and see what the intergovernmental agreement is about. If we feel at that time that the terms are not in the township's best interests, we can explore other options.

Miller stated at the many informational meetings that were held concerning the new plant, there was a lot of discussion regarding setting up an advisory board.

Malkin feels the advisory committee would not necessarily have a lot of power if we had issues with how the plant was run. On the other hand, to go with an authority and get it set up from scratch by the end of the year would not be feasible. There is the feeling that the timing to start group discussions concerning the plant may have been planned so the operation of the plant went to the county.

Kowalski agrees that it would be a huge undertaking to set up a water authority, hire people to run the plant, set up the billing etc. If we sell off the waterlines we forfeit any say as to the rate charged or how the plant is run. If we do not buy-in to the plant we, meaning our residents would pay a higher water rate and not the wholesale rate, and it too would involve an intergovernmental agreement with the county to get the water. Either way some kind of intergovernmental agreement would be necessary, and it would be in Monitor's best interests to have a voice in the decision process.

The resolution does not mean we are in any way committed to signing an IGA and we should not make any decisions to buy-in or not until we see what is actually proposed in the agreement.

Motion by Malkin supported by Miller to adopt Resolution R-2012-008, a resolution supporting an intergovernmental contract for a new bay area water treatment plant as follows:

RESOLUTION SUPPORTING INTERGOVERNMENTAL CONTRACT
FOR NEW BAY AREA WATER TREATMENT PLANT

WHEREAS, the Monitor Township Board of Trustees adopted a Resolution Supporting a New Membrane Water Filtration Plant on October 24, 2011; and,

WHEREAS, that resolution resolved that the Monitor Township Board of Trustees supported concentrating all efforts on constructing a new membrane water filtration plant utilizing Saginaw Midland Municipal Water Supply Corporation (SMMWSC) raw water, continuing efforts to secure a contract from the SMMWSC, identifying the water transmission system, and defining a governance structure that best serves all water customers in the Bay Area community; and,

WHEREAS, in that resolution, the Monitor Township Board of Trustees stated their support of the efforts of the Bay County Department of Water and Sewer, Hampton Township, the City of Essexville, and the City of Bay City to partner in providing the best, most cost effective means of providing quality filtered water throughout the entire Bay Area community; and,

WHEREAS, similar resolutions were adopted by townships, cities, and water districts throughout Bay County served by filtered water from the Bay City Water Treatment plant; and,

WHEREAS, on behalf of all townships, cities, and water districts served by filtered water from the Bay City Water Treatment plant, the Bay County Road Commission through its Department of Water and Sewer submitted a 2012 Drinking Water Revolving Fund (DWRF) Application including a Bay Area Water Treatment Plant Project Plan to the Michigan Department of Environmental Quality (MDEQ) for funding in FY 2013, with additional funding segments in future years; and,

WHEREAS, the Bay Area WTP Project Plan has ranked high and this project is very likely to receive DWRF funding since the MDEQ has ranked and included this project on the draft Project Priority List (PPL) and Draft Intended Use Plan (IUP) to receive a commitment of \$12 million in FY2013 with additional funding segments in FY2014 and FY2015 likely; and,

WHEREAS, the MDEQ can provide up to \$6 million in principal forgiveness for green project components of any one project and has indicated that the Bay Area WTP Project could qualify for a principle forgiveness amount of \$6 million out of the proposed \$12 million FY2013 commitment; and,

WHEREAS, the Bay Area water users must have a water authority established or signed intergovernmental agreement by December 31, 2012, a signed purchase agreement with the Saginaw Midland Municipal Water Supply Corporation by January 31, 2013, and meet many other milestone dates to receive DWRF funding in FY2013; and,

WHEREAS, the townships, cities, and water districts served by filtered water from the Bay City Water Treatment plant have participated in Governance Workshops since April 2012 to consider options and identify a governance structure that best serves all water customers to be served by a new Bay Area Water Treatment Plant (WTP); and,

WHEREAS, many governance structures have been considered during the Governance Workshops including a Water Authority and Intergovernmental Agreements; and,

WHEREAS, the Out-City/City Water Workgroup and Water Technical Committee have considered elements of forming a Water Authority or Intergovernmental Agreements that will best serve the needs of all

water customers to be served by a new Bay Area Water Treatment Plant (WTP); and,

WHEREAS, it is apparent that an Intergovernmental Agreement structure will provide the Bay Area water partners and customers with the most cost effective means of financing, operating, and maintaining a new Bay Area WTP for the next 40 years and beyond.

NOW, THEREFORE, BE IT RESOLVED, that the Monitor Township Board of Trustees on this 27th day of August, 2012, adopts this resolution in support of concentrating all efforts on developing a governance structure through an Intergovernmental Agreement or Agreements;

BE IT FURTHER RESOLVED, that the Monitor Township Board of Trustees understands that the Intergovernmental Agreement or Agreements as developed will need to be provided to all local units in a timely manner for consideration of each governing board and review by legal counsel before any Agreement can be executed;

BE IT FURTHER RESOLVED, that while the Monitor Township Board of Trustees supports a governance structure based upon Intergovernmental Agreements, the Monitor Township Board of Trustees is not approving a final Agreement or Agreements in advance by adoption of this resolution;

BE IT FINALLY RESOLVED, that the Monitor Township Board of Trustees supports and applauds the efforts of the townships, cities, water districts and Road Commission, DWS in exploring and developing a governance structure that will provide a partnership and provide the most cost effective means of supplying quality filtered water throughout the entire Bay Area community.

Roll call vote:

Yes: Kowalski, Pike, Arnold, Kochany, Malkin, Miller

No: Brandt

Absent: None

Motion carried.

2012 Budget Adjustment for Planning Commission Master Plan Expense

Motion by Kowalski supported by Arnold to increase the 2012 General Fund Budget account 101-401-801 \$3,950.00, and decrease fund equity \$3,950.00.

Roll call vote:

Yes: Brandt, Kowalski, Pike, Arnold, Kochany, Malkin, Miller

No: None

Absent: None

Motion carried.

Second Reading & Adoption of Fireworks Ordinance No. 62

Motion by Miller supported by Kowalski to have this meeting serve as Second Reading and Adoption of Fireworks Ordinance No. 62 as follows:

ORDINANCE NO. 62

**AN ORDINANCE TO REGULATE THE USE, SALE AND
DISPLAY OF FIREWORKS WITHIN THE TOWNSHIP OF
MONITOR; TO PROVIDE FOR PENALTIES; AND TO REPEAL
CONFLICTING ORDINANCES AND PARTS OF ORDINANCES**

THE TOWNSHIP OF MONITOR ORDAINS:

SECTION I:

The purpose of this Ordinance is to preserve the public health, safety, and welfare by establishing regulations for the use, possession and sale of fireworks within the Township.

SECTION II:

DEFINITIONS

- A. "Consumer Fireworks" means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.
- B. "Display Fireworks" means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.
- C. "Firework" or "Fireworks" means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, and special effects.
- D. "Low-Impact Fireworks" means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.
- E. "Novelties" means that term as defined under APA standards 87-1, 3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:
- (1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in

packages labeled to indicate the maximum explosive content per cap.

- (2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (1) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
- (3) Flitter sparklers in paper tubes not exceeding 1/8inch in diameter.
- (4) Toy snakes not containing mercury, if packed in cardboard boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box; and toy smoke devices.

SECTION III

The manufacture of fireworks within the Township is prohibited.

SECTION IV

GENERAL PROVISIONS

- A. A person shall not offer for sale, expose for sale, sell at retail, keep with intent to sell at retail "Display Fireworks" (formerly known as "Class B" Fireworks), also known as 1.3G Fireworks.
- B. The sale, display, storage, transportation, or distribution of consumer, display or low-impact fireworks is not regulated under this Ordinance, except as set forth in the Monitor Township Ordinance No. 52.
- C. Prohibition on use of consumer fireworks. No person shall ignite, discharge or use consumer fireworks within the township, except this prohibition shall not preclude any person from the ignition, discharge and use of consumer fireworks on the day preceding, the day of, or the day after a national holiday consistent with Section 7(2) of Public Act 256 of 2011.
- D. Low-impact fireworks shall be ignited, discharged, or used so as to not cause injury or damage to any person or property but shall not be ignited, discharged, or used inside any building or structure at any time without a license or permit issued by the Fire Marshall or Fire Chief. Novelty fireworks may be ignited, discharged, or used without restriction, but only in

a manner so as to not cause injury or damage to any person or property.

SECTION V

This ordinance shall not apply to the sale of novelty fireworks.

SECTION VI

Obtaining permit for use of Display Fireworks

- A. Applications for fireworks permits for display shall be made in writing on forms provided by the Monitor Township Office.
- B. The Township Board may, in its discretion, issue a fireworks permit for public display of fireworks by a public body, or by a fair association or amusement park, or other approved groups or organizations and approved individuals over the age of 18 years.
- C. Permits approved by the Township Board shall be on forms provided by the Director of the Department of State Police and shall be non-transferable.
- D. Before a permit for use of fireworks is issued, the person making application therefore shall furnish proof of financial responsibility by a bond or insurance on an amount deemed necessary by the Township Board to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the person, firm or corporation, or an agent or employee thereof, in the amount, character, and form the local authority determines necessary for the protection of the public.
- E. A permit shall not be issued under this act to a nonresident person, firm, or corporation for conduct of a fireworks display in this state until the person, firm, or corporation has appointed in writing a resident member of the bar of this state or a resident agent to be his or her legal representative upon whom all process in an action or proceeding against him may be served.
- F. The Board shall rule on the competency and qualifications of operators of fireworks displays, as the operator has furnished in his or her application form, and on the time, place, and safety aspects of the displays before granting permits.

SECTION VII

Any violation of this ordinance shall be a municipal civil infraction and punishable as set forth in Ordinance 53A of the Charter Township of Monitor.

SECTION VIII

This Ordinance shall be published in a newspaper of general circulation within the Township of Monitor, Bay County, Michigan, and shall become effective immediately upon publication.

SECTION IX

A copy of this Ordinance may be inspected at the Monitor Township Office, 2483 E. Midland Road, Monitor, Michigan, during regular business hours.

Roll call vote:

Yes: Brandt, Kowalski, Pike, Arnold, Kochany, Malkin, Miller

No: None

Absent: None

Motion carried.

Planning Commission Inquiry Regarding Amendment to Sign Provisions

The Planning Commission submitted for board review and comment, proposed amendments to the sign provisions contained in Zoning Ordinance 52.

When reviewing the proposed changes to the sign provisions, board members referred to the 6 points the board proposed at the April 23, 2012 township board meeting and the 4 questions raised by the planning commission in McKenna's memo to the board dated July 3, 2012.

The board recommendations to the proposed amendments are as follows:

1. Section 2.80 (d) Electronic changeable Copy Sign ó the definition needs clarification in that the proposed definition includes regulation provisions that are contained in another section of the ordinance. The board recommends the following change:

Electronic Changeable Copy Sign – A sign, or portion thereof, that displays electronic static images, static graphics or static pictures, with or without textual information. Such a sign has the capability of being changed or altered by electronic means on a fixed display screen composed of a series of lights including light emitting diodes (LED's), fiber optics, lights bulbs, or other illumination devices within the display area where the message is displayed. ~~Each message displayed shall remain static for a minimum of eight seconds, and the change sequence shall be accomplished instantaneously. Electronic display signs shall not include animated images or graphics, audio components, scrolling messages, or video moving images similar to television images.~~

2. To keep the definitions in Section 2.80 alphabetical, the board recommends swapping (g) Monument Sign to (h), and (h) Marquee Sign to (g).

3. Section 2.80 does not contain a definition for a roof sign ó it is referred to at the beginning of section 2.80 and is regulated under Section 15.06 (c).

4. Section 15.06 (g)(1) ó Sentence improvement is recommended. It is believed the provision should be that electronic changeable copy (LED) signs shall not produce blinking, scrolling, flashing or animated images or blinking, scrolling, flashing or animated messages.

5. Section 15.06 (g) (2) ó The changeable copy or message delivered by the sign shall not be changed more often than once every ten (10) seconds.

The board response to the 4 questions contained in McKenna's July 3, 2012 Memo are as follows:

1. Is the maximum sign area listed in Section 15.09 (a) (2) for building mounted signs sufficient? ó Board response: Yes
2. How long should electronic changeable sign copy signs be required to keep the same message? Is 8 seconds sufficient? ó Addressed above.
3. Could memorial signs (exempted by the ordinance) be lit at night and presumably be a sign? Board response: Memorial signs are typically different than signs advertizing the business. They could be lit from within or lit by a spotlight which would be covered by site plan review. Memorial Signs as they are provided for in 15.03 (g) pose no issue. However, in the event the Memorial sign is an LED sign, the ordinance should contain a definition for a Memorial sign and it should be regulated in Section 15 with the same restriction provisions as those for any other changeable copy LED sign.
4. With regards to signs, should signage for shopping centers (strip malls where each tenant has their own entrance/exit to the outside) be revised as well? Board response: The board is satisfied with the provisions already contained in the ordinance and does not recommend changes at this time.

Fire Chief August 16, 2012 Request

Motion by Malkin supported by Kowalski to authorize the Fire Chief and/or full time duty officer to use paid on-call firefighters to fill in from time to time on a temporary basis, to assist with the daily operations of the department. On-call firefighters assigned to such duty would be paid their normal training wage for the hours worked. The Board further authorizes the Fire Chief to exercise the option to return to work on an administrative light-duty basis following his scheduled medical leave provided he submits a signed doctor's slip authorizing such activity.

Roll call vote:

Yes: Brandt, Kowalski, Pike, Arnold, Kochany, Malkin, Miller

No: None

Absent: None

Motion carried.

DDA 2012 Budget Adjustment

Motion by Kowalski supported by Malkin to approve the DDA's August 27, 2012 request to amend the 2012 DDA budget as follows: Increase Property Tax line item by \$168.45; Decrease Auditing line item by \$168.45.

Roll call vote:

Yes: Brandt, Kowalski, Pike, Arnold, Kochany, Malkin, Miller

No: None

Absent: None

Motion carried.

The meeting adjourned at 8:51 p.m.

Cindy L. Kowalski, Clerk

Gary A. Brandt, Supervisor