

CHARTER TOWNSHIP OF MONITOR
REGULAR TOWNSHIP BOARD MEETING
JULY 24, 2017

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

Members present: Malkin, Kowalski, Pike, Brandt, Kochany, Reder, Walsh
Members absent: None

The Pledge of Allegiance was recited by all present.

Public Input opened at 7:01 p.m.

County Commissioner V. Begick stated the County has begun working on their budget.

T. Burger, 4792 E. Westgate stated he spoke at length with E. Knopf from DWS. He understands there have been meetings with the executive board from the township, J. Lillo from the road commission and DWS to find a solution to the township flooding issues. Burger stated he would be open to working with the township to help fix the problems. Malkin stated it was discovered in the meeting with E. Knopf that there were 5 million gallons of excess storm water in the sewer system coming into pump 13 that cannot be accounted for. This additional volume of water attributed to the bottleneck at the 2 Mile and Midland Road interconnection and overloaded the system to the point it blew out a flow meter further down the line. This is believed to be the reason for the additional pressure in the Midland Road line and the resulting backups it created. The township will continue to work with DWS to discover what caused the storm water from entering the system.

H. Phillips, 4831 E. Westgate, asked if the DWS plant at Patterson can handle the volume. Malkin stated the answer is yes however the pipes were designed to handle "normal" sewage volume and not the huge influx of storm water from a weeklong rain event.
Public Input closed at 7:30 p.m.

Motion by Pike supported by Reder to adopt the agenda as presented.
Motion carried.

Motion by Reder supported by Kochany to approve the minutes of the July 10, 2017 regular meeting as presented.
Motion carried.

Motion by Reder supported by Walsh to pay the bills in the amount of \$33,389.21 from General Fund.

Roll call vote:

Yes: Malkin, Kowalski, Pike, Brandt, Kochany, Reder, Walsh

No: None

Absent: None

Motion carried.

Motion by Reder supported by Kochany to receive the Treasurer's Report for June 2017.
Motion carried.

Second Reading & Adoption of Dangerous Building Ordinance No. 64

Motion by Pike supported by Reder to have this meeting serve as Second Reading and adoption of Dangerous Building Ordinance No. 64 as follows:

ORDINANCE NO. 64

Monitor Township Dangerous Building Ordinance

AN ORDINANCE TO PROMOTE THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE BY REGULATING DANGEROUS BUILDINGS; TO ESTABLISH ADMINISTRATIVE REQUIREMENTS AND TO ESTABLISH REMEDIES AND FIXED PENALTIES FOR THE VIOLATION THEREOF.

THE BOARD OF TRUSTEES OF THE CHARTER TOWNSHIP OF MONITOR, BAY COUNTY, MICHIGAN, HEREBY ORDAINS:

Section I - Short Title

This Ordinance shall be known and cited as the "Monitor Township Dangerous Building Ordinance".

Section II - Definition of Administrative Official and Hearing Officer

- (a) The Charter Township of Monitor Building Inspector is hereby designated as the local officer who shall administer the provisions of this Ordinance and serve as the enforcement officer of this Ordinance.
- (b) The Hearing Officer is a person retained by the Charter Township of Monitor specifically for the purpose of conducting the hearings as hereinafter described. The Hearing Officer shall not be an employee of the Township and shall be familiar with construction codes and standards either by experience and/or education such as an architect, engineer, contractor, or a building inspector of another municipality. He/she shall conduct a hearing in a professional manner and make a determination whether the proposed structure at issue is dangerous or is capable of being rehabilitated or is not in violation of this Ordinance.

Section III - Dangerous Building, Prohibition

It is unlawful for any owner or agent thereof to keep or maintain any building or part thereof which is a dangerous building as defined in Section IV.

Section IV - Definition of "Dangerous Building"

As used in this Ordinance, "Dangerous Building" means any building or structure which has any of the following defects or is in any of the following conditions:

- (a) Whenever any door, aisle, passageway, stairway, or other means of exit does not conform to the approved Fire Code of the Township of Monitor, it shall be

considered that such building does not meet the requirements of this Ordinance or the Charter Township of Monitor Building Code;

- (b) Whenever any portion has been damaged by fire, wind or flood, or by any other cause, in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of the Township of Monitor Building Code for a new building or similar structure, purpose or location or the State of Michigan Housing Law or similar provisions adopted by this Township;
- (c) Whenever any portion or member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property;
- (d) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by the Township of Monitor Building Code;
- (e) Whenever the building or structure, or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal of movement of some portion of the ground necessary for the purpose of supporting said building or portion thereof, or for other reasons, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way;
- (f) Whenever, for any reason whatsoever, the building or structure or property upon which it is located, including trees, landscaping, rocks, or similar accessory structures due to deterioration and decay may become unsafe or any portion is manifestly unsafe for the purpose for which it is used;
- (g) Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral act;
- (h) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the health officer, or is likely to work injury to the health, safety or general welfare of those living within or other residents within the immediately surrounding vicinity; and
- (i) Whenever any building becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

Section V - Notice of Dangerous and Unsafe Condition, Issuance, Recipient, Contents, Filing, Form, Service, Hearing Officer, Appointment

- (a) Notwithstanding any other provision of this Ordinance, when the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the enforcing officer shall issue a notice of the dangerous and unsafe condition;
- (b) Such notice shall be directed to each owner of or party in interest in the building in whose name the property appears on the last local tax assessment records;
- (c) The notice shall specify the time and place of a hearing on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe;
- (d) The hearing officer shall be appointed by the Monitor Township Supervisor to serve at his/her pleasure. The enforcing officer shall file a copy of the notice of the dangerous and unsafe condition with the hearing officer; and
- (e) All notices shall be in writing and shall be served upon the person to whom they are directed personally or, in lieu of personal service may be mailed by certified mail, return receipt requested addressed to such owner or party in interest at the address shown on the tax records, at least ten (10) days before the date of the hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure.

Section VI - Testimony; Determination to Close Proceedings or Order Building Demolished or Made Safe, Compliance, Hearing, Cost of Compliance as Lien, Collection

- (a) The hearing officer shall take testimony of the enforcing officer, the owner of the property and any interested party or witness. The hearing officer shall render his or her decision by either closing the proceedings and making a finding that there is no corrective action necessary or ordering the building to be demolished and any excavation to be filled and otherwise made safe or ordering the building to be rehabilitated and be made safe and maintained;
- (b) If it is determined by the hearing officer that the building or structure should be demolished and any excavation to be filled and otherwise made safe or ordering the building to be rehabilitated and be made safe and maintained, he/she shall order, fixing a time in the order for the owner, agent or lessee, to comply therewith;
- (c) If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order, the hearing officer shall file a report of his/her findings and a copy of

his/her order with the legislative body of the Charter Township of Monitor and request that the necessary action be taken to demolish the building and any resulting excavation to be filled and otherwise made safe or the building to be rehabilitated to be made safe and maintained. A copy of the findings and order of the hearing officer shall be served on the owner, agent or lessee in the manner prescribed in Section V;

- (d) The legislative body of the Charter Township of Monitor shall fix a date for hearing, reviewing the findings and order of the hearing officer and shall give notice to the owner, agent or lessee in the manner prescribed in Section V of the time and place of the hearing. At a hearing, the owner, agent or lessee shall be given the opportunity to show cause why the building should not be demolished and the resulting excavation filled and made safe, or the building otherwise rehabilitated and made safe; the legislative body of the Township shall either approve, disapprove or modify the order for the demolition and making safe the resulting excavation, or ordering the building or structure to be rehabilitated and to be made safe and maintained. If the legislative body approves or modifies the order, the legislative body shall take all necessary action to enforce the order. The legislative body is the Board of Trustees for the Charter Township of Monitor. If the order is approved or modified, the owner, agent, or lessee shall comply with the order within sixty (60) days after the date of the hearing under this subsection. For an order of demolition, if the Township Board, determines that the building or structure has been substantially destroyed by fire, wind, flood, deterioration, neglect, abandonment, vandalism or other cause, and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent, or lessee shall comply with the order of demolition within twenty-one (21) days after the date of hearing under this subsection. If the estimated cost of repair exceeds the state equalized value of the building or structure to be repaired, a rebuttable presumption that the building or structure requires immediate demolition exists;
- (e) The cost of the demolition includes, but is not limited to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the County Register of Deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under this act. The cost of the demolition and filling and making safe the resulting excavation, or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the Charter Township of Monitor who shall assess the cost against the property on which the building or structure is located;
- (f) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he/she fails to pay the same within thirty (30) days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the tax to the next tax roll of such Township, and

the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by such Township; and

- (g) In addition to other remedies under this Ordinance, the Charter Township of Monitor may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The Township shall have a lien on the property for the amount of a judgment obtained under this subsection. The lien shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

Section VII - Review

An owner aggrieved by any final decision or order of the legislative body under Section VI, may appeal the decision or order to the Circuit Court by filing a Petition for an Order of Superintending Control within twenty (20) days from the date of the decision.

Section VIII - Severability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section IX - Penalty

Any person who shall violate any provision of this Ordinance shall be deemed responsible for the violation of a municipal civil infraction and shall be subject to all of the allowable fines, costs, and penalties which shall be applicable to such violations in accordance with Ordinance No. 53, as amended.

Section X - Ordinances Repealed

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section XI - Publication

A true copy of this Ordinance shall be published in a newspaper circulated within the Charter Township of Monitor, Bay County, Michigan, within ten (10) days following the adoption thereof.

Section XII - Effective Date

This Ordinance shall take effective immediately upon publication thereof.

Roll call vote:

Yes: Malkin, Kowalski, Pike, Brandt, Kochany, Reder, Walsh

No: None

Absent: None

Motion carried.

R-2017-024 LWCF Park Grant Acceptance Resolution for Monitor Township Park Improvements Project 26-01770

Motion by Brandt supported by Pike to adopt Resolution R-2017-024, a resolution accepting the LWCF grant and agreement for park improvements and commit the township's 50% share of \$102,300 of the total project cost of \$204,600 as follows:

LWCF PARK GRANT ACCEPTANCE RESOLUTION
FOR MONITOR TOWNSHIP PARK IMPROVEMENTS PROJECT 26-01770

Upon motion made by Brandt, supported by Pike the following Resolution was adopted:

"RESOLVED, that the Charter Township of Monitor, Bay County, Michigan, does hereby accept the terms of the Agreement as received from the Michigan Department of Natural Resources (DEPARTMENT), and that the Charter Township of Monitor does hereby specifically agree, but not by way of limitation, as follows:

1. To appropriate all funds necessary to complete the project during the project period and to provide One Hundred Two Thousand Three Hundred (\$102,300) dollars to match the grant authorized by the DEPARTMENT.
2. To maintain satisfactory financial accounts, documents, and records to make them available to the DEPARTMENT for auditing at reasonable times.
3. To construct the project and provide such funds, services and materials as may be necessary to satisfy the terms of said Agreement.
4. To regulate the use of the facility constructed and reserved under this Agreement to assure the use thereof by the public on equal and reasonable terms.
5. To comply with any and all terms of said Agreement including all terms not specifically set forth in the foregoing portions of this Resolution."

Roll call vote:

Yes: Malkin, Kowalski, Pike, Brandt, Kochany, Reder, Walsh

No: None

Absent: None

Motion carried.

Change Order for 2017 Pipe and Manhole Rehabilitation Project

Motion by Malkin supported by Reder to approve the change order for the 2017 pipe and manhole project by adding an additional \$7,734 for replacement/repair of manholes in Westgate Subdivision making a total of \$115,474 for the project including the engineering costs.

Roll call vote:

Yes: Malkin, Kowalski, Pike, Brandt, Kochany, Reder, Walsh

No: None

Absent: None

Motion carried.

Spicer Proposal to Review BAWTP Transmission Line Proposal

Spicer submitted a proposal in the amount of \$2,500 - \$5,000 to review BAWTP transmission line proposal. It was suggested by board members to have representatives from the BAWTP come to the meeting to explain the proposed plan. If afterwards the board feels additional review is needed then further action could be taken at that time.

Hall Request ó Bay City Lionø Club December 6, 2017

The Bay City Lionø Club submitted a request to waive hall rental fees for their December event. There was board discussion regarding previous board action to limit waiving hall rental fees to one time a year for nonprofit groups. The hall fee had previously been waived for the Lionø March dinner.

Motion by Pike supported by Brandt to approve the request from the Bay City Lionø Club to waive hall rental charges for use of the township hall on December 6, 2017; signed contract, damage and security deposit required.

Roll call vote:

Yes: Malkin, Pike, Brandt, Kochany, Reder, Walsh

No: Kowalski

Absent: None

Motion carried.

Miller Canfield Proposal for Subdivision Bond Services

Motion by Brandt supported by Pike to accept the proposal submitted by Miller, Canfield, Paddock and Stone, P.L.C. for bond council services related to the subdivision curb/gutter and/or drainage improvement special assessment project in the amount currently estimated at \$18,500 for the \$2,410,000 project.

Roll call vote:

Yes: Malkin, Kowalski, Pike, Brandt, Kochany, Reder, Walsh

No: None

Absent: None

Motion carried.

REPORTS

Parks Report ó Malkin reported the park custodian is painting the outside of the restroom building in the park. Malkin also stated the board may need to revisit next year charging a fee for use of the park pavilion.

Assistant Assessor Position ó To date, the township has only received one application for the assistant assessor position. Malkin stated we may need to either extend the application period or wait to March and re-advertise the position.

Medical Marijuana ó Malkin reported the executive board had a meeting with a developer and former consultant with the state and MTA regarding a possible medical marijuana facility. The state is currently working on seed to sale rules and regulations for these facilities and should be in a position to start issuing licenses in January. If the township is interested in öopting inö, an ordinance should be in place by December.

Malkin also reported the planning commission is almost finished with their technical review of the zoning ordinance. Once it is complete, drafts will be printed and a joint meeting will be scheduled.

The meeting adjourned at 8:35 p.m.

Cindy L. Kowalski, Clerk

Ken Malkin, Supervisor