

CHARTER TOWNSHIP OF MONITOR
REGULAR TOWNSHIP BOARD MEETING
SEPTEMBER 12, 2011

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

Members present: Brandt, Kowalski, Pike, Arnold, Kochany, Malkin, Miller
Members absent: None
Also present: R. Austin, Township Attorney

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 Kowalski supported by Kochany to adopt the agenda as presented.
Motion carried.

Motion by Miller supported by Pike to approve the minutes of the August 22, 2011 regular meeting as presented.
Motion carried.

Motion by Kochany supported by Pike to pay the bills in the amount of \$61,498.95 from General Fund.

Roll call vote:

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

No: None

Absent: None

Motion carried.

Krengielski PA 116 Applications (3)

Motion by Pike supported by Malkin to approve the three (3) Farmland and Open Space Preservation PA116 applications submitted by William & Janice Krengielski for the following parcels: 09-100-016-300-010-00, 39 acres; 09-100-016-300-020-00, 31.73 acres; 09-100-016-300-030-00, 35.9 acres; all with an initial term of 40 years.

Roll call vote:

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

No: None

Absent: None

Motion carried.

R-2011-014 Resolution Approving McLeodUSA ó PAETEL Metro Act Permit

Motion by Kowalski supported by Miller to adopt Resolution R-2011-014, as follows:

**RESOLUTION REGARDING
McLeodUSA TELECOMMUNICATIONS SERVICES, LLC,
d.b.a. PAETEC BUSINESS SERVICES**

WHEREAS, subsequent to the adoption of the Metropolitan Extension

Telecommunications Rights-of-Way Oversight Act, Act No. 48 of the Public Acts of 2002, the Charter Township of Monitor did adopt Ordinance No. 51 providing for the permitting of Telecommunications providers utilizing rights-of-way within the Township; and

WHEREAS, on August 25, 2011, PAETEC Business Services ("PAETEC") did submit a Telecommunications Permit Application with exhibits,

NOW THEREFORE IT IS HEREBY RESOLVED, the Township of Monitor does hereby approve the Telecommunications Permit Application of PAETEC, and

BE IT FURTHER RESOLVED that the Clerk of the Township is hereby instructed to issue a unilateral permit to the Applicant for an effective Period of five (5) years, and

IT IS FURTHER RESOLVED that the Clerk of the Township is hereby further directed to notify the Michigan Public Service Commission of the approval of this permit.

Roll call vote:

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

No: None

Absent: None

Motion carried.

R-2011-015 Resolution Approving Ellison Foundation Request for Liquor License

Motion by Kowalski supported by Pike to adopt Resolution R-2011-015, as follows:

STATE OF MICHIGAN
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES
LIQUOR CONTROL COMMISSION

LOCAL LEGISLATIVE BODY RESOLUTION FOR
SPECIAL LICENSES ON MILITARY INSTALLATIONS ONLY

At the September 12, 2011 regular meeting of the Township Board called to order by Supervisor Brandt at 7:00 p.m. the following resolution was offered:

Moved by Kowalski and supported by Pike

That the request from the Ellison Foundation for a special license for the sale of either Beer and Wine or Beer Wine and Spirits for the event held on September 16, 2011, at the Bay City Armory, 2510 E. Wilder Rd., Bay City, MI, 48706 be considered for Approval.

Roll call vote:

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

No: None

Absent: None

Motion carried.

Bids for LWCF Park Improvement Project

Rob Eggers, Spicer engineer assigned to the park project, reported the bids had been opened on September 1st. Of the fourteen contractors sent the invitation to bid, only 3 contractors responded: J.R. Heineman & Sons - \$149,326; Pumford Construction - \$162,500; Graham Construction ó \$166, 500.

Eggers reported the original estimates for the park improvements and the grant funding was based upon \$109,000 + \$11,000 for contingencies (\$120,000). The Board now needs to decide how to proceed. Eggers suggested some cost cutting measures that could be implemented to make up the \$29,000 shortfall: 1) Eliminate the heaters in the restroom and storage areas ó savings of \$4,000; 2) Eliminate the hand dryers in the restrooms ó savings of \$800 - \$1,000; and 3) Shorten the walking path at the northwest end of the loop ó savings of \$10,000.

Kowalski stated the township is committed to \$75,000 for the project and inquired if the township could eliminate the fitness stations and more of the walking path to stay within the realms of the approved cost.

Eggers responded that the grant was awarded on the points system and the fitness stations and walking path were part of the basis for the grant award.

Miller stated his support for the project if we could save \$15,000 by cutting items 1 & 3.

Malkin concurred with Miller and stated the township could make up the difference out of fund balance.

Arnold stated even though he has not personally supported the project, he cannot see eliminating improvements such as shortening the walking path. Arnold remarked on discrepancies amongst the three bids and suggested inquiring if certain line items of the bids could be reduced.

Motion by Malkin supported by Miller to accept the bid from J. R. Heineman & Sons provided the Supervisor is able to negotiate the price to not more than \$134,326.00 for the LWCF Park Improvement project.

Roll call vote:

Yes: Brandt, Pike, Malkin, Miller

No: Kowalski, Arnold, Kochany

Absent: None

Motion carried.

Emergency Sirens

Motion by Miller supported by Malkin to approve Monitor Township's share of the cost to install two (2) emergency sirens in the amount of \$13,930, with the sirens to be located at the Monitor Township Hall and Mackensen School as designated in the map provided by Bay County Central Dispatch.

Roll call vote:

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

No: None

Absent: None

Motion carried.

Noise Ordinance Discussion

Brandt stated the board has received various copies of Noise Ordinances. The topic for discussion is whether or not we need to develop one for Monitor Township. Brandt stated as Supervisor, he has received noise complaints over the years such as the recent one discussed at

the August 8th meeting, and has not been able to stop the offense because it is not covered by the County noise ordinance. Brandt stated his support to adopt a township ordinance.

Miller stated most of the ordinances received do not list a decibel level but instead include the wording "unreasonable sound". Miller asked Austin if such wording would be hard to enforce. Austin responded the City of Burton has a police force. The police officer uses his discretion to make that distinction and determine if a citation is warranted. If a citation is written, the township attorney would prosecute the case in court. Should the board decide to proceed with a noise ordinance, Austin recommends to not adopt one with a stated decibel level in the ordinance.

Kowalski stated a significant difference in our situation is that unlike Burton, Monitor does not have a police department. The township has 1 contracted Bay County Sheriff department officer for two shifts and is covered by the county wide officer for the third shift. Most of the noise ordinances we reviewed are for the hours of 10:00 p.m. to 7:00 a.m. To adopt a township ordinance for those same hours is redundant when we are relying on the county officer for that time frame. Kowalski stated her opposition to a township ordinance.

Brandt responded we need the help during the day and feels that if people knew we had an ordinance, that knowledge would solve 90% of the problems.

Malkin stated a number of the ordinances had a provision for off-road vehicles and contained provisions for the setback necessary from neighboring properties.

Arnold stated he lives a distance from Mackensen School, yet can still hear the kids yelling. In subdivisions neighbors need to settle their disputes. In rural areas people buy homes to live out there to have more freedom. Every time the township becomes involved in a neighbor feud, the township loses.

Austin responded that Arnold is correct. Ordinance enforcement is a money loser. The fines collected would only cover about 1/3 the cost to prosecute the case in court. That leaves the township to cover the other 2/3rds of the expense.

Kochany stated that a lot of noise complaints could be avoided if neighbors talked to each other. Kochany asked Brandt if most of the noise complaints he received were township wide.

Brandt responded no, only a few each year some of which were repeat offenders.

Arnold stated you always get a few "bad apples". It needs to be considered that if we had a noise ordinance and let the offender know, they could then increase their noise activities, or the township could be flooded by nuisance noise complaints.

Malkin suggested putting the question on the website for resident comment.

Kowalski replied the only problem with that is the board has to be on board to assume the additional enforcement costs.

An informal poll was taken of the board members and it was the consensus of the majority of board members to take no action regarding the township adopting a noise ordinance.

Planning Commission Recommendation & Possible First Reading of Medical Marijuana Ordinance 52-R

Austin provided background behind the court of appeals ruling against medical marijuana dispensaries. It would be up to the county prosecutor to decide if they would or would not pursue action against known dispensaries. The current ruling is being appealed at the Michigan Supreme Court. The sale of marijuana at this point is illegal and Austin advised taking dispensaries out of the current ordinance draft.

Malkin made the point that the Supreme Court would rule pertinent to the McQueen case and it would not necessarily rule against dispensaries in general. Malkin proposed keeping medical marijuana dispensaries in the ordinance.

Kochany and Kowalski were of the opinion to either keep dispensaries in the ordinance or prohibit them from doing business in the township, citing the McQueen case.

It was the consensus of the board to maintain the moratorium until the Michigan Supreme Court rules and bills are introduced to amend the law.

Hall Request ó Bay City Lionø Club

Kowalski stated the board has already approved twice this year to waive the hall rental fee for five dates for the Lions club and though she has nothing against the Lions holding a childrenø Christmas party, there are other halls they could approach for this event.

Motion by Malkin supported by Miller to approve the request submitted by the Bay City Lionø Club to waive the hall rental fee for the Childrenø Christmas Party to be held on December 15, 2011; signed contract, damage deposit, clean-up fee, and security fee (if applicable) required.

Roll call vote:

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

No: Kowalski

Absent: None

Motion carried.

Fire Chief Recommendation Regarding Allocation of Enbridge Donation

Motion by Pike supported by Kochany to allocate the Enbridge Donation of \$200 to the Public Safety Fund for the future purchase of fire department equipment, as requested in the Fire Chiefø letter to the Board dated August 23, 2011.

Roll call vote:

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

No: None

Absent: None

Motion carried.

The meeting adjourned at 9:58 p.m.

Cindy L. Kowalski, Clerk

Gary A. Brandt, Supervisor