

CHARTER TOWNSHIP OF WATERFORD
5200 CIVIC CENTER DRIVE
WATERFORD, MI 48329
DECEMBER 14, 2009, 6:30 PM
- A G E N D A -

APPROVE AGENDA -
APPROVE MINUTES -
APPROVE BILL PAYMENT -

ANNOUNCEMENTS:

1. Township offices will be closed Dec 24 & 25, 2009 for the Christmas holiday. We will also be closed Dec 31, 2009 and Jan 1, 2010 for New Year holiday.

AWARDS AND PRESENTATIONS:

1. Fire Department recognizes Kenlyn Lloyd-Thames and Essence Rhodes-Thames for assisting paramedics during a life-threatening event

REPORTS:

1. Clerk's Dept, June and July 2009
2. Treasurer's Dept, October 2009
3. Treasurer's Third Quarter Investment Report

OLD BUSINESS:

1. State Housing Development Authority Act Tax Exemption Ordinance, final adoption
2. Rejection of previously awarded bid for Nelsey Rd water booster pump station

NEW BUSINESS:

1. Reappoint Howard Heitzeg and Laura Petrusha to Cable Commission
2. Appoint Bill Flury to Cable Commission
3. Acceptance of donated property
4. Resolution for revised Library Network service plan
5. Water rate analysis and recommendations
6. Fuel contract extension
7. Resolution Deferring Land Use decisions (during Zoning Ord amendment process)
8. Grant & budgeted monies for Dispatch & Recording Equipment purchase

Betty Fortino, Clerk

IN CONFORMANCE WITH THE AMERICANS WITH DISABILITIES ACT, LARGE-PRINT AGENDAS AND MINUTES ARE AVAILABLE UPON REQUEST. BARRIER-FREE PARKING AND ACCESS ARE ALSO AVAILABLE AT TOWN HALL. MINUTES ARE AVAILABLE UPON REQUEST AT THE CLERK'S DEPARTMENT, AND ON THE TOWNSHIP'S WEB SITE.

Minutes of the Waterford Township Board Meeting, held December 14, 2009 at 6:30 PM in Town Hall Auditorium, 5200 Civic Center Drive, Waterford, Michigan 48329.

BOARD MEMBERS PRESENT:

Carl W. Solden, Supervisor
Betty Fortino, Clerk
Margaret Birch, Treasurer
David Kramer, Trustee
David Maloney, Trustee
Bette O'Shea, Trustee

BOARD MEMBERS ABSENT:

Kenneth Hempstead, Trustee

OTHERS PRESENT:

Eileen Marshall	Bob Marshall	Sharon Thomas	Joan Rogers
Martin Kuhn	Steve Campbell	Terry Biederman	Liz Lesnau
Bob Vallina	Dave McKee	Tom Newcombe	C Thompson
James Gifford	C Mac	Dan McCaw	Carol Tisdale

Supervisor Carl Solden called the meeting to order at 6:30 PM. Supervisor Solden asked for a moment of silence and then led the Pledge of Allegiance.

Moved by O'Shea,
Supported by Maloney, RESOLVED, to approve the agenda as follows: Under Presentations and Awards, add Recognition of Eileen Marshall.

Motion carried unanimously.

Moved by O'Shea,
Supported by Birch, RESOLVED, to approve the November 23, 2009 Minutes and the November 6, 2009 Special Meeting Minutes as printed.

Motion carried unanimously.

Moved by Kramer,
Supported by Birch, RESOLVED, to approve payment of the bills for December 14, 2009. A list of bills is attached to these minutes.

Motion carried unanimously.

Supervisor Solden made the following announcements:

Township offices will be closed Dec 24 & 25, 2009 for the Christmas holiday. We will also be closed Dec 31, 2009 and Jan 1, 2010 for New Year holiday.

The Fire Department gave recognition to seven-year-old Kenlyn Lloyd-Thames and five-year-old Essence Rhodes-Thames for their heroic and responsible actions assisting paramedics in the care of their grandmother during a life-threatening event. Congratulations were offered.

Eileen Marshal was also recognized for her many years of service as chairperson of the Media Network. She began as a volunteer in 1999. Congratulations were offered.

The following reports were presented:

1. Clerk's Dept, June and July 2009
2. Treasurer's Dept, October 2009
3. Treasurer's Third Quarter Investment Report

Moved by O'Shea,
Supported by Fortino, RESOLVED, to receive the foregoing reports.

Motion carried unanimously.

The State Housing Development Authority Act Tax Exemption Ordinance was on the agenda for final adoption. This ordinance was first introduced at the November 23, 2009 meeting and subsequently published. It follows here:

**STATE HOUSING DEVELOPMENT AUTHORITY ACT
TAX EXEMPTION ORDINANCE**

An ordinance to exercise the Township's authority under Section 15a of the State Housing Development Authority Act, MCL 125.14154a, to provide that tax exemptions under that Act shall not apply to certain classes of housing projects, reserve the Township's authority and rights to limit the period of time tax exemptions are in effect and establish service charge amounts, and specify the time and manner in which service charges are to be calculated and paid subject to audit.

Ordinance cont'd

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

The Waterford Charter Township Code of Ordinances is hereby amended by adding the following Division and Sections in Article I, In General, of Chapter 15.5, Taxation, to read as follows:

DIVISION 1. STATE HOUSING DEVELOPMENT AUTHORITY ACT TAX EXEMPTIONS
Sec. 15.5-1. Purpose and intent.

The regulations in this division are adopted for the purpose and with the intent to fully exercise and/or reserve the township's rights and options regarding exemptions from ad valorem property taxes under MCL 125.1415a, which is Section 15a of the State Housing Development Authority Act, Public Act No. 346 of 1966, as amended ("Act"), and to provide for matters not addressed in that Act, including elimination of the exemption for certain classes of housing projects, providing for township changes in the otherwise applicable tax exemption periods and service charges in lieu of taxes, and providing for uniform and efficient implementation, administration and enforcement of the tax exemption process and requirements for existing and future classes of eligible housing projects consistent with state assessment and property tax laws and existing Ordinances.

Sec. 15.5-2. Scope and application.

The regulations in this division shall apply to all housing projects for which exemption from ad valorem property taxes has been approved in the past or is approved in the future under the Act, including those housing projects for which a township tax exemption ordinance was adopted, with the provisions of this division to control over any conflicting or inconsistent provisions of such ordinances to the extent allowed by law.

Sec. 15.5-3. Definitions.

The following words and phrases, when used in this chapter shall have the meanings indicated except where the context used clearly indicates a different meaning. Words and phrases used in this chapter and not defined in this section shall have their commonly understood meaning.

Act means the State Housing Development Authority Act, Public Act No. 346 of 1966, as amended, specifically including MCL 125.1415a.

Annual shelter rent means the total collections during a calendar year that an eligible housing project has tax exempt status from all occupants of that housing project of rent or occupancy charges, excluding any collections from the occupants of charges for gas, electricity, heat, water and other utilities furnished to occupants and paid for by the Owner.

Annual service charge means a percentage of annual shelter rent or other amount as determined under the Act or by an ordinance of the township that is to be paid to the township in lieu of property taxes as provided in this division.

Ordinance cont'd.

Authority means the Michigan state housing development authority created in the Act

Elderly means a single person who is 55 years of age or a household in which at least one member is 55 years of age or older and no other household members are under the age of 50 years.

Eligible housing project means an elderly housing project.

Housing project means a primarily residential real property development in the township providing or proposed to provide housing that the Authority has determined is exempt or eligible for exemption from property taxes under the Act.

Low income persons and families means persons and families that are eligible to move into a housing project as defined in the Act or determined by the Authority.

Owner means the person or legal entity that holds legal title or another ownership interest of or in a housing project.

Sec. 15.5-4. Eligible and ineligible housing projects.

Notwithstanding an Authority determination that a housing project is exempt or eligible for exemption from property taxes under the Act, the only class of housing project that is exempt from property taxes in the township are those where occupancy is limited to low income elderly persons and families. Tax exemption under the Act shall not apply to any other class of housing projects in the township, including those where the exemption would have been based on the income of occupants only.

Sec. 15.5-5. Tax exemption effectiveness period.

By separate ordinance for an eligible housing project, the township may limit the otherwise applicable period of time the exemption from property taxes would be in effect under the Act, provided that the proposed ordinance and written notice of the dates when it will be considered for introduction and adoption has been provided to the Owner and the ordinance is adopted prior to December 31 of the year following notice to the township assessor of the Authority's approval of the exemption or exemption eligibility.

Sec. 15.5-6. Tax exemption commencement.

As provided in the Act, the exemption from property taxes for an eligible housing project begins in the year following a timely notice to the township assessor of the Authority's approval of the exemption or exemption eligibility. As of December 31 of the year such a notice is received, the tax exempt status will not have commenced and the property will be subject to payment of property taxes for the next year as provided in MCL 211.2(2). The tax exempt status for an eligible housing project shall be determined as of December 31 of the year following the township assessor's receipt of a timely notice of exemption, and if confirmed as exempt, will commence for the next tax year after that date.

Ordinance cont'd.

Sec. 15.5-7. Annual service charges in lieu of taxes.

(a) By separate ordinance at any time during the period that a tax exemption is in effect for an eligible housing project, the township may establish or change the annual service charge to be paid in lieu of taxes to an amount different amount than the service charge specified in the Act, provided that the amount established shall not exceed the property taxes that would be payable if the eligible housing project was not exempt and the amount is applied to all other eligible housing projects in the same class. A proposed ordinance under this section and written notice of the dates when it will be considered for introduction and adoption shall be provided to the Owner. If the township does not adopt such an ordinance, the annual service charge shall be as required by the Act when the tax exemption commences (10% of annual shelter rents at the time of this ordinance.)

(b) Notwithstanding the annual service charge specified in the Act or by ordinance, for any portion of the eligible housing project that is occupied by other than low income persons and families with an elderly member of the household, the township may assess and require payment of an amount equal to the full amount of taxes that would be payable on that portion if the project if it were not tax exempt.

Sec. 15.5-8. Payment of annual service charge in lieu of taxes.

(a) On or before June 1 of each tax year that an eligible housing project has tax exempt status as of December 31 of the prior year under the Act, MCL 211.2(2), and as provided in this division, the owner shall pay the township the required annual service charge in lieu of taxes. The calendar year that ended on December 31 immediately preceding the tax year and year the payment is due shall be the applicable period for calculating annual shelter rents if those are a basis for the annual service charge. Owner's payment shall be accompanied by supporting documentation of the rent or occupancy charges collected and charges for utilities furnished to occupants and paid for by owner.

(b) The township's acceptance of the owner's payment shall not be considered or construed as agreement to the amount or a waiver of the right to contest or claim additional amounts. The township shall have the right to inspect and/or audit the Owner's records regarding the annual shelter rents upon written request.

(c) The township may assess and collect a 4% percent administrative fee and interest of 1% per month on any amounts of a required annual service charge the township determines to be owed that are not paid by the required date.

Sec. 15.5-9. Eligible housing project requirements.

During all periods that an eligible housing project is exempt from property taxes the Owner shall devote the entire Project and its rental units to the exclusive occupancy of low income persons and families with an elderly member of the household as defined in this division and shall allocate the full benefits of the tax exemption granted to the housing project exclusively to such persons in the form of reduced housing charges. The township shall have the right to physically inspect the project and its records and communicate with its occupants for purposes of determining if these requirements are being satisfied.

Ordinance cont'd.

Ordinance cont'd.

Sec. 15.5-10. Owner reporting obligations.

The owner of an eligible tax exempt housing project shall immediately notify the township in writing of any change in the ownership, financing, occupancy or other aspect or feature of the housing project from what existed and was the basis for the Authority's determination that the project was exempt or eligible for exemption under the Act. Upon the township's written request, the owner shall provide documentation of the project's continued eligibility for tax exemption.

Sec. 15.5-11. Township revocation, repeal or suspension of tax exemption.

Notwithstanding the period of effectiveness of a tax exemption provided by the Act or approved by an ordinance of the township for an eligible housing project, after providing written notice and an opportunity to be heard to an owner, the township by introduction and adoption of an ordinance, may repeal, revoke or suspend the tax exemption based on violations of one or more of the requirements of this division by the owner of that housing project as a non-compliant class of housing project.

Sec. 15.5-12. Township distribution of annual service charges.

All annual service charges received by the Township shall be distributed as provided in the Act.

Sec. 15.5-13. Previously approved tax exempt eligible housing projects.

(a) The housing projects with exemption from property taxes under ordinances that remain in effect that were approved prior to the ordinance that added this division, which are now subject to the requirements of this division to the extent allowed by the Act and ordinances which approved the exemptions are: Riverside Gardens as described in Article II of this Chapter (Parcel No. 13-21-227-006), Whispering Meadows Elderly Housing (Parcel No. 13-32-301-035) and Lakeland Place Elderly Housing (Parcel No. 13-25-176-003).

(b) As of the date of the ordinance that added this division, Ordinance No. 114 which approved tax exempt status for the elderly housing portion of the Waterford Meadows housing project (Parcel No. 13-24-451-011) was no longer in effect.

(c) As of the date of the ordinance that added this division, the elderly (Parcel No. 13-24-451-011) and non-elderly (Parcel No. 13-24-451-012) housing portions of the Waterford Meadows housing project were exempt from property taxes for the 2009 tax year pursuant to the Act. Pursuant to Section 15.5-4, the non-elderly housing portion of the Waterford Meadows housing project (Parcel No. 13-24-451-012) is no longer exempt from property taxes under the Act. Subject to a future individual ordinance for the elderly housing portion of Waterford Meadows (Parcel No. 13-24-451-011), it will remain exempt from property taxes with the annual service charge required being 10% of annual shelter rents as provided in the Act.

Ordinance cont'd.

Section 2 of Ordinance

Should any section, subdivision, sentence, clause or phrase of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any other parts not invalidated.

Section 3 of Ordinance

This Ordinance shall be effective immediately upon publication.

Moved by O'Shea,

Supported by Kramer, RESOLVED, to approve the foregoing State Housing Development Authority Act Tax Exemption Ordinance for Final Adoption and direct the Clerk to publish it.

Motion carried unanimously.

The rejection of a previously awarded bid for the Nelsey Rd water booster pump station was on the agenda. The following was presented by DPW Director Terry Biederman:

Bids to construct the above mentioned project were opened on July 28, 2009 at Townhall and were subsequently reviewed by Johnson and Anderson (J&A) for accuracy, compliance, content and Contractor experience. The bids were set up a with a Division I for the Nelsey Road Water Booster Station and an Alternate for a pumping system in a prefabricated station enclosure and a Division II for the Appian Way Water Booster Station and an Alternate for a pumping system in a prefabricated station enclosure.

After the bids were opened, a Pre-Award meeting was held on August 10, 2009 between DPW staff, J&A, Contractor and prefabricated pumping system and enclosure supplier to the Contractor to discuss project details including utilization of the Alternate Bids for the pumping systems in prefabricated station enclosures because they were deemed to be the superior alternative. The possible elimination of the Division II Appian Way water booster pumping station from the contract was also discussed.

Several changes were also discussed to meet Detroit Edison (DTE) requirements and station equipment including elimination of the generators, which were expected to result in contract savings. To further save money, the use of smaller prefabricated station enclosures than were originally specified were discussed as well. It was determined that reducing the prefabricated station enclosure sizes to 6' x 6' would save money on the project and be more aesthetically pleasing.

The meeting concluded with a plan to seek Board approval at the August 24, 2009 Board meeting for construction of both Alternate Division I and II stations, as bid, and to execute a change order at the time of contract signature to reflect the revised pricing for the smaller prefabricated station enclosures and other items that were discussed. Please see the attached Pre-Award Meeting Minutes and Sign-In sheet in Appendix A

Biederman memo cont'd

and a copy of my August 17, 2009 recommendation Memo to the Board in Appendix B for details.

At the August 24, 2009 Board meeting, Board approval was obtained for only the Division I Alternate Bid for the Nelsey Road Water Booster Station in the amount of \$206,000. The Contractor was immediately notified that the Division II work would be formally eliminated from the project and that Bulletin #1 would be issued for revised pricing for the smaller prefabricated station enclosure and other items for the Nelsey Road Water Booster Station so a change order could be drafted and executed at the time of contract signature. Bulletin #1 was sent out on September 10, 2009 and I have attached it in Appendix C for your review. Please note the Contractor's signature date of September 7, 2009, which is incorrect, the fact that J&A did not receive it until October 13, 2009 and that it was a net increase to the project of \$3,087.

Upon receiving Bulletin #1 from the Contractor, J&A requested an explanation of the pricing because it did not contain the expected reductions discussed in the August 10, 2009 Pre-Award meeting. An email sent from the Contractor on October 16, 2009 outlined some additional pricing information but no detail to document the cost increase, J&A then forwarded it to me for review and I responded in an email that I was not satisfied with this detail and to set up a meeting to discuss the issues further. On November 3, 2009 the Contractor sent an email to J&A stating that additional information was coming and mentioned that he was trying to recoup losses from Division II work being eliminated from the contract. He also mentioned that perhaps the owner would understand. I responded back on November 3, 2009 that it was clear in the Bid Advertisement that one of the stations could be eliminated and again reiterated my concerns over the pricing increase instead of the anticipated reduction. Please see the Bid Advertisement attached in Appendix D. On November 5, 2009 J&A forwarded an email to me that outlined an impasse on the expected contract credit and that their recommendation was to cancel the contract, which still had not been executed. Please see the attached emails outlining the exchange of information in detail from oldest to newest correspondence in Appendix E.

I subsequently called the Contractor's supplier of the prefabricated pumping system and enclosure directly on November 5, 2009 to get information on the smaller prefabricated enclosure and pumping system cost and was informed that the original and revised smaller enclosure costs to the Contractor were \$111,900 and \$77,100 respectively representing a \$34,800 reduction, which the Contractor passed on as only a \$1,080 decrease to the Township. Please see Item 1 in Bulletin #1 in Appendix C. This information confirmed that the Contractor had only passed on a minimal reduction in cost to the Township for the smaller enclosure, SCADA and breakers not to mention other unrealized credits in Bulletin #1. I have attached a subsequent email from the supplier for your review in Appendix F outlining this information.

J&A forwarded a November 9, 2009 formal Memo to me outlining their recommendation to reject the Contractors bid due to the lack of pricing information supplied and inadequate price credit for the smaller prefabricated enclosure and other work outlined in Bulletin #1. I have attached a copy of the Memo in Appendix G for your review.

Biederman memo cont'd

The Memo also outlines three (3) alternatives for moving forward with the project including:

1. Rebidding the project in the spring, which would most likely be greater in cost if Division II work were not included;
2. Direct purchase of the prefabricated pumping station in the smaller enclosure from the supplier by the DPW with installation by our own forces saving additional taxes on equipment purchases;
3. Direct purchase of the prefabricated pumping station in the smaller enclosure from the supplier by the DPW with bidding of the installation in the spring not saving additional taxes on equipment purchases.

A meeting was held November 23, 2009 to discuss details for implementing Option 2 with DPW field and management staff and J&A because it would be the cheapest alternative for the Township. Upon conclusion of the meeting it was determined that, with elimination of the Division II portion of the project, the DPW could effectively construct the project for \$143,500, or less, representing a savings of at least \$62,500 over the original Division I Alternative Bid. Please see the attached Engineer's Assessment of Probable Cost in Appendix H.

Based on the above, I concur with J&A's recommendation to reject the bid and recommend the Board rescind the August 24, 2009 Contract Award to Man-Con Michigan Incorporated in the best interest of the Township. I also recommend the Board approve implementation of Option 2 outlined above in the amount of \$143,500 including the direct purchase of the prefabricated pumping system and enclosure from DuBois-Cooper Associates, Inc. in the amount of \$77,100. Please see a copy of the station purchase contract in Appendix I. Because the Township never signed the contract, all contract bonds and insurances will be returned to the Contractor upon approval of the Board. If you have any questions or comments, please let me know. Thank you for your attention in this matter.

Moved by Fortino,

Supported by Birch, RESOLVED, to reject the previously awarded bid for the Nelsey Road pumping station as explained above.

Motion carried unanimously.

Moved by O'Shea,

Supported by Birch, RESOLVED, to approve a direct purchase of the prefabricated pumping station for Nelsey Road from the supplier with our own DPW performing the installation as explained above.

Motion carried unanimously.

Supervisor Solden had requested the reappointment of Howard Heitzeg and Laura Petrusa to the Cable Commission.

Moved by Fortino,
Supported by Maloney, RESOLVED, to reappoint Howard Heitzeg and Laura Petrusa to the Cable Commission, terms to expire 12/31/12.

Motion carried unanimously.

Supervisor Solden also requested the appointment of Bill Flury to the Cable Commission.

Moved by O'Shea,
Supported by Birch, RESOLVED, to appoint Bill Flury to the Cable Commission, term expiring 12/31/14.

Motion carried unanimously.

The following was presented by Supervisor Solden regarding donated property:

The properties in question are owned by Judge Richard Kuhn, Sr. He expressed his desire to donate the properties to the Township. The properties are mostly wetlands and unbuildable. Taxes amount to \$15.31 per lot, per year.

All 16 properties jet into our Elizabeth Lake Woods Park and would be a great addition to the park.

I would ask the Board to approve the donation of the properties from Judge Kuhn with the thought in mind of increasing the size of Elizabeth Lake Woods Park.

Parks and Recreation Director, Tom Newcombe is aware and in complete agreement with the acquisition of the properties, which will enhance the park. I would also commend and thank Judge Kuhn for the gift to the Township.

Moved by O'Shea,
Supported by Birch, RESOLVED, to receive donated property from Sally and Richard Kuhn, thereby increasing the size of the Township's Elizabeth Lake Woods Park. (Copy of Quit Claim Deed attached to these minutes)

Motion carried unanimously.

Library Director Joan Rogers presented the following:

The following is a copy of the proposed revision to the Plan of Service of the Library Network cooperative of which the Waterford Township Public Library is a member. This document defines the cooperative and sets the parameters by which member libraries participate in the organization, allowing Waterford to take advantage of the opportunities it presents for leveraging our community's resources.

Revision of the Plan of Service is necessary to

- Protect the significant investment that Waterford has in the Shared Automation System (SAS) which provides our circulation system and online catalog; the very backbone of our library's day-to-day operations.
- Strengthen the language of this document to clearly delineate (see pages 8-11 of the proposed revision)
 - Ownership of the assets of the SAS
 - The fiduciary imperative that The Library Network Board of Trustees has with regard to that ownership, and
 - A path to transition SAS to a successor organization should the library cooperative be dissolved by the state legislature, either statutorily or by eliminating its funding. This path assures member libraries uninterrupted service from SAS in the event of such dissolution.

Included with the proposed revised Plan of Service is a resolution supporting a vote in the affirmative on adopting it. On behalf of the Library Advisory Board I ask that the Township Board of Trustees adopt this resolution.

Please feel free to contact me with any questions or concerns.

RESOLUTION FOR THE ADOPTION OF
THE LIBRARY NETWORK COOPERATIVE'S REVISED PLAN OF SERVICE

WHEREAS, the Plan of Service of The Library Network cooperative is the document that defines the organization in terms of governance, membership and services, and

WHEREAS, the Shared Automation System (SAS) is one of the menu services of The Library Network cooperative available to its member libraries, and

WHEREAS, the SAS provides core tools for library services to the Waterford community, i.e. the circulation system containing patron and bibliographic databases and our online catalog, and

WHEREAS, the SAS is a valuable resource developed through The Library Network cooperative by many member libraries, but not all member libraries, and

WHEREAS, the costs for developing, maintaining and improving SAS has been borne solely by the member libraries participating in the SAS service, and

WHEREAS, the Waterford Township Public Library has participated in the SAS from its inception in the mid-1980s and is a stakeholder in this service, and

Resolution cont'd.

WHEREAS, the existence of public library cooperatives established by PA 89 in the state of Michigan and funded by declining state aid, has been threatened and remains in doubt due to the state's current economic climate, and

WHEREAS, the current Plan of Service of The Library Network cooperative which delineates the services provided by The Library Network cooperative to its member libraries does not specifically state who owns the assets of the SAS, including the Capital Reserve Funds, nor what would happen to this service should the cooperative be dissolved, and

WHEREAS, member libraries who participate in the SAS have worked with a specialist in library law at the firm of Mika Meyers Beckett & Jones (Grand Rapids, MI) to revise the language of the Plan of Service to clearly define ownership of these assets and the path that will be followed to ensure the continuation of the SAS without an interruption of service in the event of the dissolution of The Library Network cooperative,

NOW, THEREFORE, BE IT RESOLVED that the Charter Township of Waterford Board of Trustees of Waterford Township, Oakland County, Michigan, supports the proposed revision to the Plan of Service of The Library Network cooperative and casts Waterford's 72 votes in favor of this revision on this fourteenth day of December, 2009.

Moved by O'Shea,

Supported by Kramer, RESOLVED, to approve the foregoing resolution for the Library Network Service Plan as presented.

Motion carried unanimously.

DPW Director Terry Biederman presented the following:

The last water rate increase became effective on March 1, 2008 specifically to provide required funds for repayment of the Drinking Water Revolving Fund (DWRP) low interest loan the Township undertook to construct several capital improvements including the new Hess Hathaway Water Treatment Plant. At that time, the base quarterly rate of \$10.00 per 100 cubic feet remained unchanged, as it has, since February 1983 while the quarterly overage charge of \$1.05 per 100 cubic feet increased to \$1.25 per 100 cubic feet.

However, several factors over the last two (2) years have resulted in water fund deficits exceeding \$1,000,000 in years 2007/2008 and projected again for 2009. Please see the attached, "Water Revenues to Expenses Analysis", spread sheet in Appendix A outlining water operation revenues and expenses since 2000. In order to ensure sufficient funds to meet water operations, payment of bond debt and necessary ongoing and future capital improvement requirements, it is necessary and prudent to analyze current water rates.

Biederman memo cont'd.

Major factors adversely impacting water revenue and expenses since 2007 include:

- Annual interest revenue from the Water and Sewer Fund balance has decreased by approximately 150% or \$120,000 since 2007 due to severely reduced interest rates;
- Water sale revenue has decreased by approximately \$500,000 annually since the end of 2006 due to wet and cooler summers and the number of unoccupied properties within the Township;
- Retirement funding contribution has increased over \$190,000 annually to meet current funding guidelines;
- General Fund Services Administration charge has increased \$95,000 annually;
- Water related capital improvement bond debt will increase from approximately \$95,000 in 2007 to \$447,500 annually in 2009;

On the expenditure side of operations, it is important to illustrate that the cost to produce 1,000 cubic feet of water from 1994 to 2008 has remained largely unchanged with a 1994 cost of \$11.92 per 1,000 cubic feet and a 2008 cost of \$12.54 per 1,000 cubic feet despite only charging \$10.00 per 1,000 cubic feet. Please see the attached, "Cost of Water Production", data and graph in Appendix B for complete information. Note the cost of water increase in 2004 due to existing Bond debt being paid off early to save interest charges. When major cost components of water production such as energy, which has increased substantially since 1994, and the fact that the DPW can currently produce 120% more water for distribution since 1994 are taken into account, it is evident that cost reducing measures including energy and other management techniques, utilization of advanced technology and a small well trained staff have all contributed significantly to holding expenses in check.

I have also attached 2009 comparative water only rates for Waterford and other communities for your review in Appendix C. Waterford rates compared to the three (3) well system communities of White Lake, Independence and Oxford Township's are 56%, 40% and 76% lower respectively. This is even more significant when the fact that White Lake doesn't treat their water for iron removal is taken into account. The rest of the communities utilize Detroit water and Waterford rates range from 46% lower than the lowest rate in Pontiac to over 69% lower than Rochester Hills at the highest rate.

A copy of the current schedule of quarterly rates and their associated minimum water usages for the various meter sizes available is located in Appendix D. The rate schedule for the 5/8 inch meter represents the typical domestic customer and comprises approximately 75% of all installed meters in the Township. The current overage rate of \$1.25 per 100 CF is for water usage that exceeds the assigned minimum usage for a particular meter size. This rate is applied equally across the board to all meter sizes including sprinkler meters.

The future presents many challenges to design and construct additional capital improvements on the water distribution system to ensure efficient, cost effective and reliable water delivery and to meet increasingly stringent regulatory requirements. These improvements will cost millions of dollars over the next ten (10) to twenty (20) years and beyond. Without sufficient funds to meet these challenges, these and other capital improvements will need to be suspended and the Water and Sewer Fund balance used to subsidize water operations. I have included detailed project descriptions for major projects in Appendix E for your review.

Biederman memo cont'd

These projects include:

- Water main relining rehabilitation/replacement of existing cast iron and asbestos cement water main which comprises approximately 80% of water main in the Township. Estimated cost \$45,920,000;
- Main Street Water Tank lead abatement and recoat. Estimated cost \$625,000;
- Cass Water Tank lead abatement and recoat. Estimated cost \$750,000;
- Maceday Tank roof replacement. Estimated cost \$1,287,500;
- Gate Valve replacement in Huron Gardens Area. Estimated cost \$1,005,000;
- New well, piping and treatment process equipment for Treatment Plant 32-1, which is currently deactivated. Estimated cost \$3,260,000.

The rate analysis begins by analyzing water operations revenue and expenditures in their core accounts. Operation revenues are made up of several accounts within the Water Revenue (Org 59001) and General Revenue (Org 59003) organizations. Because the Water and Sewer Fund is a combined fund, and always has been, there is no way to determine the exact proportion of General Revenues specifically related to water operations. An educated estimate based on revenue comparison of Water Revenue to Sewer Revenue (Org 59002) results in approximately 35% of General Revenue being generated from water related activity. This factor was used in calculating General Revenues in this analysis. Please see Appendix F, which contains data and revenue trending for water sales and general revenue components of the Water and Sewer Fund from 1992 to 2008.

While overall water revenue has shown slight growth since 1992, as it should with the increased number of customers connected to the system, the driving component of water revenue, today, is realized from account 64500 Sales- Water/Metered. Account 64500 represents revenue generated from the direct sale of water to the customers and is demand driven. For example, a dry year will drive demand up and result in greater revenue while wet years will have the opposite effect. It also must be pointed out that dry year operational costs also increase because of greater use of energy, labor and chemical costs to meet the demand. Account 65010 Charge- Capital Equalization has also declined significantly since 1992 due to the decreasing number of new connections made to the system because of the economy and the Township approaching build out.

I have attached analysis and trending information related to water customer growth in Appendix G for your review. As you can see from the annual percent growth chart, customer growth is clearly decreasing and the total number of water connections approaching a statistical limit of 25,000 connections. Sprinkler meter growth, on the other hand, is continuing to increase slightly and should continue for the foreseeable future. Sprinkler meter growth also results in reduced sewer revenue because sprinkler meter consumption is not included in the sewer portion of the bill.

Because sprinkler meters only comprise 4,275 meters of the total 28,607 meters in the system (15%), but are responsible for approximately 31% of all water consumed annually, their rates have also been included with domestic rates in the analysis. Current rate models in the industry have moved toward this method to encourage conservation and to ensure that larger users are the ones paying proportionally larger

Biederman memo cont'd

amounts to help offset the increased capital and operational costs needed to provide the higher volumes of water.

Appendix A contains the resulting revenue and expenditure analysis. As you can see from the analysis, overall expenditures have decreased while water revenue deficits in 2007 and 2008 were \$1,422,383 and \$1,250,955 respectively. Utilizing 90% of the average of the two (2) annual deficits (\$1,203,002) as projected revenue required to offset the deficit, the average domestic water customer consuming 2,200 cubic feet of water per quarter will realize a total annual increase of approximately \$20.00 or \$5.00 per quarter. A sprinkler water customer consuming 1,000 cubic feet of water per quarter will realize a quarterly increase of \$7.30.

Specifically, I am recommending the Board approve the following:

- A base domestic quarterly rate increase of \$2.00 per 1,000 cubic feet to be effective January 1, 2010. This will raise the current quarterly base rate from \$10.00 per 1,000 cubic feet to \$12.00 per 1,000 cubic feet. This has not been raised since 1983.
- A domestic overage rate increase of \$0.25 per 100 CF to be effective January 1, 2010. This will raise the current overage rate from the current \$1.25 per 100 CF to \$1.50 per 100 CF.
- A base sprinkler quarterly rate increase of \$2.00 per 1,000 cubic feet to be effective January 1, 2010. This will raise the current quarterly base rate from \$6.00 per 1,000 cubic feet to \$8.00 per 1,000 cubic feet.
 - A sprinkler overage rate increase of \$0.53 per 100 CF to be effective January 1, 2010. This will raise the current overage rate from the current \$1.25 per 100 CF to \$1.78 per 100 CF.
 - A review of the rates again in 2011, unless warranted earlier, and every two (2) years thereafter to ensure they provide sufficient funds for operations.

If you have any questions or comments, please let me know. Thank you for your attention in this matter.

Water rates cont'd.

Moved by O'Shea,

Supported by Kramer, RESOLVED, to approve township water rates as follows:

- A base domestic quarterly rate increase of \$2.00 per 1,000 cubic feet to be effective January 1, 2010. This will raise the current quarterly base rate from \$10.00 per 1,000 cubic feet to \$12.00 per 1,000 cubic feet. This has not been raised since 1983.
- A domestic overage rate increase of \$0.25 per 100 CF to be effective January 1, 2010. This will raise the current overage rate from the current \$1.25 per 100 CF to \$1.50 per 100 CF.
- A base sprinkler quarterly rate increase of \$2.00 per 1,000 cubic feet to be effective January 1, 2010. This will raise the current quarterly base rate from \$6.00 per 1,000 cubic feet to \$8.00 per 1,000 cubic feet.
 - A sprinkler overage rate increase of \$0.53 per 100 CF to be effective January 1, 2010. This will raise the current overage rate from the current \$1.25 per 100 CF to \$1.78 per 100 CF.
 - A review of the rates again in 2011, unless warranted earlier, and every two (2) years thereafter to ensure they provide sufficient funds for operations.

Motion carried unanimously.

The following was presented by Purchasing Agent Mike Shaw:

Our Fuel contract expires January 31, 2010. The contract is a consortium purchase of 17 municipalities so we get a better price. Our host City is the City of Sterling Heights. We approved the original contract in January 2008.

The contract was for two years beginning February 1, 2008, ending January 31, 2010 with a two (2) year possible extension if mutually agreed upon. The City of Sterling Heights received a letter from Mansfield Oil and RKA stating they would agree to the two year extension at the unit prices stated in their bids of December 2007. (see attached)

The City of Sterling Heights Council has approved this recommendation December 1, 2009 at their City Council meeting. (see attached) The new extension would run from February 1, 2010 through January 31, 2012.

I am asking the Board of Trustees for their approval of award of this extension.

I have all the documentation, 30 plus pages, if you would like to look at it. If you have any questions I can be contacted at 248-674-6212.

Fuel contract extension

Moved by O'Shea,

Supported by Fortino, RESOLVED, to extend the contract with Mansfield Oil and RKA Petroleum for two years, beginning February 1, 2010 and ending January 31, 2012.

Motion carried unanimously.

Community Planning and Development Director Bob Vallina presented the following:

In order to provide for honest, fair, and objective evaluation of land uses and developments through a new zoning ordinance, attached for your consideration and approval is a resolution deferring land use decisions during the zoning ordinance amendment process. The attached resolution defers Township consideration and actions regarding submissions and proposals for rezoning or the establishment of a new development, redevelopment or expansion of development through special land use and site plan approval processes until the Township Board completes their decision-making on the proposed zoning ordinance comprehensive amendment. Since staff anticipates the Planning Commission finalizing its zoning ordinance review and public hearing process before the end of December 2009 and submitting its recommendation so that it is placed before the Township Board in January 2010 for first introduction, in conjunction with the fact that the deferral period coincides with the winter months and a very slow economy, it is staff's opinion that such a deferral period will not negatively impact the Township's economy or development activity.

If the deferral period does appear to a property owner to interfere with their legitimate property rights, the resolution provides for the property owner to request a hearing before the Township Board and provides for the Board to grant relief from the deferment where it finds that such relief is needed to enable the viable economic use of property.

The resolution also provides for an exemption for an ongoing review process for a preliminary conceptual site plan that has been submitted to the Township intending to consolidate and develop Parcel Nos. 13-20-252-004, -009, -037, and -038, as well as the future site plan submissions based on such preliminary conceptual site plan. This exemption will enable the Township to continue this property consolidation and redevelopment project without delay.

Both Township Attorney Gary Dovre and I will be in attendance at your December 14, 2009 meeting to answer any questions you may have regarding the resolution and the zoning ordinance amendment process. If you have any questions prior to the meeting, please do not hesitate to contact me at (248) 618-7443.

RESOLUTION REGARDING DEFERRAL OF LAND USE DECISIONS PENDING
COMPLETION OF ZONING ORDINANCE AMENDMENT PROCESS

At a regular meeting of the Board of Trustees of the Charter Township of Waterford, Oakland County, Michigan, held at the Waterford Township Hall, 5200 Civic Center Drive, Waterford, Michigan, on December 14, 2009, at 6:30 p.m., with those present and absent being,

WHEREAS, the current version of the Charter Township of Waterford Zoning Ordinance was adopted on August 31, 1981; and

WHEREAS, utilizing its current Master Plan as a guide, the Charter Township of Waterford has undertaken a detailed review and analysis of its Zoning Ordinance and determined that it is presently necessary to complete a comprehensive update and amendment of its Zoning Ordinance, including map amendments; and

WHEREAS, the proposed comprehensive amendment to the Zoning Ordinance includes, but is not limited to, the following substantial revisions:

- Clarifies and add more definitions;
- Establishes definable enforcement measures for noise;
- Revises the natural features setback regulations to provide separate standards for wetlands, watercourses, and lakefront yards;
- Removes the woodlands regulations from the zoning ordinance, with the intent of establishing updated such regulations in the general ordinance;
- Links the allowable height and sign area of freestanding signs to the length of right-of-way frontage possessed by a zoning lot;
- Revises the temporary sign regulations to allow additional opportunities for use of on-site signage for limited periods of time;
- Aligns the time period for use of election signs to reflect the full timeframe of a calendar year election cycle;
- Arranges the zoning districts into six general land use classes: Single-Family Residential, Multiple-Family Residential, Public, Office, Commercial, and Higher Intensity;
- Provides a complete listing of uses within each zoning district and eliminates the inverted pyramid use reference system;
- Establishes regulations applicable to each general land use class;
- Revises the regulations for vehicle parking, vehicle storage, and vehicle sales and establishes such regulations for each general land use class;
- Revises residential zoning district standards to accommodate subdivision plats created prior to the establishment of zoning in the Township while maintaining building code requirements;
- Revises the suburban farms zoning district into a large-lot single family zoning district;
- Adds a natural features and passive recreation overlay district;
- Replaces the public recreation district with a public lands district;
- Revises the commercial zoning districts to correlate scope and scale of commercial land uses with the area contained within a zoning lot;
- Deletes the TISO and parking zoning districts;

Resolution cont'd.

- Adds a high tech office and a high tech industrial/office district;
- Revises the regulations for the raising and keeping of animals and establishes such regulations for each general land use class;
- Revises the regulations for lot coverage to that of regulation of impervious surfaces;
- Provides a distinction between tax parcels and zoning lots;
- Provides a more effective determination of lakefront yard setbacks to prevent encroachment of buildings from obscuring site lines of adjacent properties;
- Expands the number of review procedures to eliminate the current "one-size-fits-all" approach and provide procedures that fit the scope of the proposed activity;
- Provides for more efficient review of temporary activities;
- Creates a review process for alternative energy activities and products;
- Introduces a planned unit development procedure for use in the commercial recreation, general office, extensive business, urban business, Union Lake business, high tech office, and high tech industrial & office zoning districts;
- Reduces the size of the Planning Commission from nine members to seven members;
- Increases the size of the Zoning Board of Appeals from five members to seven members;
- Delineates the responsibilities of the Township Board, Planning Commission, Zoning Board of Appeals, and Township officials for administration and enforcement of the zoning ordinance;
- Provides for a schedule of engineering standards to be established by resolution of the Township Board and establishes an appeals review process for such standards;
- Provides for a site planning and landscape design standards manual to be established by resolution of the Township Board and establishes an appeals review process for such standards; and
- Updates and adds graphics to clarify text; and

WHEREAS, the Waterford Township Planning Commission is currently in the process of reviewing and holding multiple public hearings concerning a draft of the amended Zoning Ordinance, including map amendments; and

WHEREAS, it is anticipated that the Planning Commission will complete its review and public hearings over the course of the next thirty (30) days and the draft amended Zoning Ordinance will be forwarded to the Township Board of Trustees, with a report from the Planning Commission, for review and consideration; and

WHEREAS, it is the intention of the Board of Trustees to complete its review and consideration of the proposed amended Zoning Ordinance within sixty (60) days of its receipt of a report and draft of the Ordinance from the Planning Commission; and

WHEREAS, considering the goals and objectives of the Master Plan and recognizing that the comprehensive amendments to the Zoning Ordinance implementing many of those established goals and objectives are nearing finalization, the Board of Trustees finds that a temporary deferral of rezoning, special land use and site plan proposals is necessary and appropriate for the following reasons:

Resolution cont'd.

- It is of major importance, for the future overall development of the Township, to ensure that reasonable land uses are authorized and that compatible development is required in connection with the remaining development and redevelopment of the Township;
- Future development and redevelopment projects in the Township are likely to have a significant impact on the character and future direction of the Township as a whole, and on property values and quality of life, and on the general public health, safety and welfare of the Township and its residents;
- To promote development of the Township over the long term in a manner that would complement the rest of the Township, not undermine the overall character and planning of the Township, and remain consistent with the purpose, goals and objectives of the Master Plan that are in the process of being implemented by the proposed amended Zoning Ordinance;
- To ensure consistent, cohesive and sensible development in Waterford Township; and
- The consideration of rezoning, special land use, site plan or other land use proposals during the finalization and completion of the process of adopting the amended Zoning Ordinance would be counter-productive and undermine the Township's efforts to accomplish the above community-wide planning and zoning objectives and to provide for the health, safety and welfare of the Township and its residents.

NOW, THEREFORE, IT IS HEREBY RESOLVED that, for the reasons and based on the findings set forth above, the finalization and enactment of the amended Zoning Ordinance presently being considered by the Planning Commission should precede any new development or other zoning and planning actions in the Township; and, accordingly, the Township Board hereby defers, until March 31, 2010, any consideration or action taken by a Township entity, official, and/or agent regarding a submission or proposal for rezoning or the establishment of a new development, redevelopment or expansion of development through special land use and site plan approval process on any property within the Township.

IT IS FURTHER RESOLVED that the Township Board also recognizes that deferring development, redevelopment and rezoning proposals on land within the Township could result in inconvenience for some users, and that some property owners may claim an interference with legitimate rights. On this basis, the Township Board has determined that it is necessary to expedite the actions contemplated and necessary for the finalization and enactment of the amended Zoning Ordinance (without compromising the quality and integrity of the results of such actions), and that it is also necessary to provide a mechanism allowing petition to the Township Board for relief from the deferral. Accordingly,

- (1) The Township officials and Planning Commission engaged in the process of finalizing the draft Zoning Ordinance for presentation to the Township Board are directed to proceed with such efforts without delay; and

Resolution cont'd.

- (2) Any property owner or business who shall feel aggrieved by a deferral of action shall be entitled to a hearing for the purpose of providing an opportunity to be heard, and to demonstrate to the Township Board that the temporary deferral will result in the unreasonable preclusion of viable economic use of property, or otherwise violate applicable provisions of State or Federal constitution or law. Such hearing shall be conducted on an expedited basis before the Township Board. At the conclusion of the hearing, the Township Board shall make findings and conclusions with respect to whether the Petitioner has demonstrated that viable economic use of the property has been unreasonably precluded and/or whether there would be a violation of applicable constitution or law if relief were not granted. If it is found and demonstrated that the deferment has the effect of unreasonably precluding viable economic use of property, or that it violates a law or constitutional provision, the Township Board shall grant relief from the deferment to the degree necessary to cure the contravention.

IT IS FURTHER RESOLVED that this Resolution is not intended to, and does not apply to the Township's already ongoing process of reviewing and considering the following: (1) the comprehensive amended Township Zoning Ordinance text and map; and (2) the preliminary conceptual site plan submission for consolidation and development of Parcel Nos. 13-20-252-004, -009, -037, and -038 and future site plan submissions for said property that are generally consistent with said conceptual site plan, provided the owners and purchasers, if any, of said property decide to proceed with said submission and acknowledge and agree to the following notice as part of their submissions to the Township: Notice is hereby given that neither the owner of Parcel Nos. 13-20-252-004, -009, -037, and -038, nor any other individual may rely upon this paragraph as vesting any rights in the development or use of the property pursuant to the conceptual site plan submission or any subsequent submission; that no right to develop or use the property according to the site plan or in any other manner shall exist until vested in the manner provided or established by law; and that the owner of said property and any other parties in interest proceeding with the processing of development submissions do so at their own risk that the pending amended Zoning Ordinance, if enacted prior to the vesting of rights under the present Zoning Ordinance, may require submission of different and/or additional petitions, applications and/or approval requests.

Moved by O'Shea,

Supported by Birch, RESOLVED, to approve the foregoing resolution deferring land use decisions during the Zoning Ordinance amendment process.

Motion carried unanimously.

Police Chief McCaw presented information and grants and budgeted monies for dispatch and recording equipment purchases. (No action was needed.)

Moved by Maloney,
Supported by Kramer, RESOLVED, to adjourn the meeting at 7:37 PM.

Motion carried unanimously.

Betty Fortino, Clerk

Carl W. Solden, Supervisor