

MUSKEGON COUNTY REGIONAL WATER SYSTEM POLICY BOARD

MICHAEL E. KOBZA HALL OF JUSTICE

990 Terrace Street

Board of Commissioners Room, 4th Floor

April 24, 2017

11:00 AM

A G E N D A

- A. Call To Order
- B. Roll
- C. Approval of Agenda
- D. Approval of Minutes (p. 2)
- E. Public Comment (on an agenda item)
- F. Items for Consideration:
 - 1. Dispute Resolution (p. 7)
- G. Old Business
- H. New Business
- I. Audience Participation
- J. Adjourn

REQUEST FOR BOARD CONSIDERATION-COUNTY OF MUSKEGON

COMMITTEE Muskegon County Regional Water Policy Board		BUDGETED	NON-BUDGETED	PARTIALLY BUDGETED
REQUESTING DEPARTMENT Public Works		COMMITTEE DATE April 24, 2017		REQUESTOR SIGNATURE Matthew Farrar
SUMMARY OF REQUEST (GENERAL DESCRIPTION, FINANCING, OTHER OPERATIONAL IMPACT, POSSIBLE ALTERNATIVES)				
Approval of the minutes of the Muskegon County Regional Water System Policy Board meeting held on March 21, 2017.				
SUGGESTED MOTION (STATE EXACTLY AS IT SHOULD APPEAR IN THE MINUTES)				
I move to approve the minutes of the Muskegon County Regional Water Policy Board meeting held on March 21, 2017.				
ADMINISTRATIVE ANALYSIS (AS APPLICABLE)				
<u>HUMAN RESOURCES ANALYSIS:</u>		<u>FINANCE & MANAGEMENT ANALYSIS:</u>		
<u>CORPORATE COUNSEL ANALYSIS:</u>		<u>ADMINISTRATOR RECOMMENDATION:</u>		
If motion originates from a Statutory Board, Authority or Advisory Committee, please provide the date the motion was approved by that Board/Authority/Committee				Date
AGENDA DATE:	AGENDA NO.:	BOARD DATE:	PAGE NO. 2	

Muskegon County
Water System Policy Board
March 21, 2017
2:00 p.m.
Michael E. Kobza Hall of Justice
990 Terrace Street
Board of Commissioners Room, 4th Floor

Kim Arter, Chair

David Kieft, Vice Chair

MINUTES

CALL TO ORDER

The meeting was called to order by Chair Arter at 2:00 p.m.

ROLL

Present: . Kim Arter, Laketon Township Supervisor
 Tony Barnes, Dalton Township Supervisor
 Marcia Jeske, Fruitland Township Supervisor
 Susie Hughes, Muskegon County Commissioner
 David Kieft, Muskegon Charter Township Supervisor
 Kenneth Mahoney, Muskegon County Commissioner
 I. John Snider II, Muskegon County Commissioner

Excused:

Staff

Present: Matt Farrar, Public Works Director
 Steve Fink, Public Works Project Manager
 Robert Ribbens, Water System Supervisor
 Tina Nash, DPW Departmental Clerk
 Carly Hines, DPW Administrative Analyst
 David Bossenbroek, Attorney
 Mark Eisenbarth, Muskegon County Administrator
 Doug Hughes, Corporate Counsel for Muskegon County

APPROVAL OF AGENDA

WSPB-17-018 Moved by Commissioner Barnes, seconded by Commissioner Mahoney, to approve the agenda as presented.

Voice Vote: **Motion Carried**

APPROVAL OF MINUTES

WSPB-17-019 Moved by Commissioner Hughes, seconded by Tony Barnes, to approve the minutes of the Muskegon County Regional Water Policy Board meeting held on February 15, 2017.

Voice Vote: **Motion Carried**

PUBLIC COMMENT (on an agenda item)

None

INFORMATION ITEMS

WSPB-17-020 Moved by David Kieft, seconded by Commissioner Snider, that the following information items be received and placed on file:

1. Local Fund Balance Sheet for February 2017

Voice Vote: **Motion Carried**

REPORTS

Water System Update

The Water System Update, Regional Water Fund Statements, Annual Pumpage/Usage Reports for Community Water Supply and the 2016 Water Supply Cross Connection Reports were accepted as written and distributed for information.

Marcia Jeske asked about the check to William Hughes Law Offices and what that bill was for. Matt Farrar stated he would get the information to the Board.

OLD BUSINESS

Moved by Tony Barnes, seconded by David Kieft, to approve the reimbursement of all legal fees Muskegon Township incurred in relation to the lawsuit brought against them by Fruitland, Laketon and Dalton Townships; the reimbursement of any hydrant fees/system maintenance fees paid by each municipality between 2014-2016; the payment in full of the outstanding legal invoices for Jim Rose; and that no additional water system funds shall be expended for legal expenses incurred by any of the parties in relation to the Fruitland/Laketon/Dalton Townships vs Muskegon Township lawsuit/appeal if such fee was incurred after March 21, 2017.

Discussion ensued on whether the motion was properly made. No action was taken.

NEW BUSINESS

Schedule Work Session to Discuss Future

WSPB-17-021 Moved by Commissioner Mahoney, seconded by Commissioner Snider, to hold a Work Session in the Board of Commissioners Room on Monday, April 17, 2017 at 2:00 p.m.

Voice Vote: **Motion Carried**

WSPB-17-022 Moved by Tony Barnes, seconded by David Kieft, to approve the reimbursement of all legal fees Muskegon Township incurred in relation to the lawsuit brought against them by Fruitland, Laketon and Dalton Townships; the reimbursement of any hydrant fees/system maintenance fees paid by each municipality between 2014-2016; the payment in full of the outstanding legal invoices for Jim Rose; and that no additional water system funds shall be expended for legal expenses incurred by any of the parties in relation to the Fruitland/Laketon/Dalton Townships vs Muskegon Township lawsuit/appeal if such fee was incurred after March 21, 2017.

There was further discussion on whether the motion was a proper motion or not. Chair Arter requested action items be submitted to her to be included on the agendas.

WSPB-17-023 Moved by Commissioner Snider, seconded by Marcia Jeske, to table the motion.

Voice Vote: **Motion Carried**

Moved by Tony Barnes, to immediately remove Dave Bossenbroek as the legal consultant to the Water Policy Board; to instruct staff to seek a RFQ for legal consultation only from attorneys that do not represent nor have any other relationship with any of the parties involved in the Muskegon County Regional Water System.

Chair Arter reiterated that action items be submitted to her to be included on the agendas.

AUDIENCE PARTICIPATION

None

ADJOURN

There being no further business to come before the Water System Policy Board, the meeting adjourned at 2:16 p.m.

Kim Arter, Chair

**WATER SYSTEM POLICY BOARD
OF THE COUNTY OF MUSKEGON**

**RESOLUTION REGARDING DISPUTE BETWEEN THE CHARTER TOWNSHIP OF
MUSKEGON, DALTON TOWNSHIP, FRUITLAND TOWNSHIP
AND LAKETON TOWNSHIP**

WHEREAS, the Charter Township of Muskegon (“Muskegon Township”), Dalton Township, Fruitland Township and Laketon Township are parties to the Muskegon County Regional Water System Management Contract (the “Contract”); and

WHEREAS, in 2013, a disagreement arose as to the Contract provisions of certain fees, commonly referred to as hydrant fees, and

WHEREAS, Muskegon Township ceased to pay hydrant fees as part of that disagreement; and

WHEREAS, Laketon Township, Fruitland Township, and Dalton Township continued to pay hydrant fees; and

WHEREAS, Laketon Township, Fruitland Township, and Dalton Township commenced legal action in the Muskegon County Circuit Court file number 15-049995-CK, in regard to Muskegon Township’s disagreement about hydrant fees; and

WHEREAS, the attorney fees and costs for Laketon Township, Fruitland Township, and Dalton Township were paid out of the Pooled Account, an account established pursuant to Section 5 of the Contract; and

WHEREAS, Muskegon Township paid its own attorney fees and costs; and

WHEREAS, on or about September 15, 2016, the Circuit Court case was resolved on a motion for summary disposition, wherein Muskegon Township’s interpretation of the Contract prevailed; and

WHEREAS, Laketon Township, Fruitland Township, and Dalton Township appealed the Muskegon County Circuit Court decision to the Michigan Court of Appeals in Docket Number 335743; and

WHEREAS, Dalton Township thereafter withdrew from the appeal; and

WHEREAS, the Water Policy Board is cognizant that Muskegon Township, Dalton Township, Fruitland Township and Laketon Township must work together in the best interests of the Water System and their respective residents.

NOW, THEREFORE,

THE WATER POLICY BOARD RECOMMENDS TO THE RESPECTIVE GOVERNING BODIES OF ITS MEMBERS AND TO THE BOARD OF PUBLIC WORKS, AS FOLLOWS:

1. That the County of Muskegon should no longer be involved in, in any manner, the appeal of the lawsuit between Laketon Township, Fruitland Township and Muskegon Township; and
2. That Muskegon Township should not seek reimbursement of its legal fees relative to defending the lawsuit from the County of Muskegon, Laketon Township, Dalton Township, or Fruitland Township; and
3. Laketon Township, Fruitland Township, Dalton Township, and the County of Muskegon should not seek to recover hydrant fees from Muskegon Township that were not paid in 2013, 2014, and 2015; and
4. That the County of Muskegon should, out of the Pooled Account, reimburse the hydrant fees paid by Laketon, Dalton, and Fruitland and in 2013, 2014, and 2015, in the amount of:
 - a. Dalton Township \$60,600;
 - b. Fruitland Township \$6,800; and
 - c. Laketon Township \$101,100.
5. That Laketon Township, Dalton Township, and Fruitland Township will agree to reimburse the Pooled Account for the legal fees paid relative to the lawsuit whose file number is 15-049995-CK.
6. That the County of Muskegon should issue a request for qualifications for independent Water Policy Board legal services. Independent means an attorney who does not currently represent a Water Policy Board member.
7. That the Water Policy Board members agree to recommend a User Charge System based on an independent rate expert's recommendation that is in compliance with Michigan statutes and case law, and the most recent Contract between the parties; and
8. That the parties should open and update the Contract, or agree to amendments, as appropriate.

IN WITNESS WHEREOF, the parties have executed this Agreement.

The preceding resolution was offered by _____ and supported by _____.

AYES:

NAYS:

RESOLUTION DECLARED ADOPTED.

Secretary

I hereby certify that the following constitutes a true and complete copy of a resolution adopted by the Water System Policy Board of the County of Muskegon at a regular meeting held on _____, 2017, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267 of the Public Acts of Michigan of 1967.

Secretary