RESULT: ADOPTED [UNANIMOUS]
MOVER: Tere Onica, Clerk
SECONDER: Barry June, Trustee
AYES: Onica, Kautman-Jones, June, Moore
ABSENT: Major

35. ADOPT RESOLUTION NO 14-29 MORATORIUM REGARDING HYDRAULIC FRACKING OF OIL, GAS AND OTHER HYDROCARBON

36. Board adopts Resolution No. 14-29 moratorium regarding high volume hydraulic fracking of oil, gas and other hydrocarbons and refer to Planning Commission to consider police ordinances for fracking.

Attorney Lattie pointed out that Michigan statutes prohibits limiting of natural gas and mining by any local government.

If resolution is adopted you have no authority to deny. Township could attack some of the characteristics of fracking. Dust Control....water usage...traffic..etc.

RESOLUTION NO. 14-29
TOWNSHIP OF ATLAS
GENESEE COUNTY, MICHIGAN
MORATORIUM REGARDING HIGH VOLUME
HYDRAULIC FRACKING OF OIL, GAS AND OTHER HYDROCARBONS

WHEREAS, the Township of Atlas desires to maintain its long tradition of protecting the natural resources and environment within its borders and promoting compatible land uses; and

WHEREAS, an increase in oil and gas leasing activity has been noted within the Township and surrounding area; and

WHEREAS, Township residents have brought to the attention of the Township Board the residents’ position that high volume hydraulic fracking in residential districts is an incompatible land use, leading to concerns regarding potential adverse impacts resulting from uncontrolled exploration and extraction activities; and

WHEREAS, the Township has not previously been faced with the prospect of high volume hydraulic fracking for oil and gas production, and the Township Zoning Ordinance and other ordinances do not fully address and regulate such activities; and

WHEREAS, The Michigan Zoning Enabling Act contains some limitation on the Township’s ability to regulate operations related to the exploration and extraction of natural resources within the Township, which will require further analysis in order to adopt effective regulations on these activities to protect the air, water, natural resources, the environment, and the compatibility of land uses; and

WHEREAS, Michigan statutes and law impose a substantive duty on the Township to take reasonable action to prevent or minimize likely degradation of the air, water, and natural resources or the public trust in those resources; and
WHEREAS, the Township recognizes that applicable Michigan statutes and regulations may not be sufficient to protect the health, safety and well-being of Township residents, so certain aspects and activities associated with high volume hydraulic fracking development may need to be subject to Township regulation; and

WHEREAS, in order to allow the Township an opportunity to investigate and develop appropriate regulations as to those aspects of high volume hydraulic fracking operation which the Township is authorized to regulate, it is in the public interest to adopt a moratorium upon the issuance of permits by the Township for such activity.

NOW, THEREFORE, BE IT HEREBY RESOLVED;

1. Effective October 20, 2014, and for a period of twelve (12) months through October 19, 2015, except in Township areas zoned industrial, a moratorium is hereby established on the consideration, review or action by all Township entities and officials on applications, proposals, requests, permits or approvals regarding any proposed high volume hydraulic fracking operations in the Township and that during the moratorium period, no high volume hydraulic fracking operations, including development, projection and other related or ancillary activities, shall be allowed in the Township.

2. This moratorium is not intended to infringe upon the jurisdiction of state and federal agencies to the extent that such jurisdiction has been reserved and sufficiently implemented by those agencies that have concurrent jurisdiction over such high volume hydraulic fracking.

3. The Township shall proceed with due diligence to investigate and consider appropriate regulations of high volume hydraulic fracking oil and gas activities within the Township.

4. An aggrieved property owner or business petitioner may request and be entitled to a hearing before the Township Board for the purpose of attempting to demonstrate that the moratorium will preclude all viable economic use of their property or otherwise violate applicable provisions of state or federal law. Said petitioner shall, in writing directed to the Township Clerk, request a hearing that describes the grounds for the request. The hearing shall be held at a Township Board meeting within thirty (30) days of receipt of the request. Upon concluding a hearing, the Township Board shall determine whether the petitioner has made the required demonstration and if so, shall grant relief from the moratorium.

5. “High volume hydraulic fracking” is defined for purposes of this moratorium as oil, gas and hydrocarbon operations which would utilize more than one million (1,000,000) gallons of water in order to complete a well.

RESULT: ADOPTED [UNANIMOUS]

MOVER: Shirley Kautman-Jones, Township Supervisor
SECONDER: Barry June, Trustee
AYES: Onica, Kautman-Jones, June, Moore
ABSENT: Major

12. ATTORNEY REVIEW

None