

TOWNSHIP OF SCIO

MORATORIUM RESOLUTION REGARDING OIL AND GAS OPERATIONS IN TOWNSHIP

At a special meeting of the Township Board of the Township of Scio held at the Township Hall, August 20, 2014.

WHEREAS, Scio Township (the "Township"), a General Law Township under the laws of Michigan, 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 and other mineral leasing activity has been noted within the Township and surrounding area; and

WHEREAS, The Township on May 27, 2014 passed a Resolution opposing oil drilling for the reasons that:

oil and/or gas exploration and drilling can produce significant air pollution, heavy truck traffic and the risk for the release of hazardous substances above and below ground which have the possibility of traveling into or impacting Scio Township and/ or its primary source of drinking water, the Huron River; and

the citizens of Scio Township have a quality of life which is profoundly enhanced by its natural attributes such as the Huron River's recreational opportunities, the river's provision of drinking water to multiple municipalities, and its scenic character, all of which could be at risk from the said oil exploration and drilling; and

the proposed drilling location is in an area of the Township planned for low density residential uses, including agricultural, open space, and land preservation uses; and numerous residential uses exist in proximity to the proposed drilling location which have been gradually replacing agricultural uses in the Township; the area is served by gravel roads which are not capable of handling significant motor vehicle use; public water and sewer is not available to residential or any other uses this area; this area has significant high tension power lines served by a proximate power substation; the nearby Wing Drain flows into Honey Creek and the Huron River; and the site includes an MDEQ designated wetland. All of the foregoing would be negatively impacted by oil and gas exploration and development, let alone should an environmental spill or other accident occur on the site; and

the Constitution of the State of Michigan calls for "the protection of the air, water and other natural resources of the state from pollution, impairment and destruction"; and

the Michigan Zoning Enabling Act (Act 110) of 2006 specifically removed from counties and townships the right to "regulate or control the drilling, completion, or operation of oil or gas wells" as well as "jurisdiction with reference to the issuance of permits"; and

although representatives of West Bay Exploration have indicated they would be willing to include a prohibition on hydraulic fracturing in future leases, such a provision may not have been included in all leases signed to date; and

in October 2013 the Ann Arbor Environmental Commission passed a resolution calling for a statewide and national moratorium on horizontal hydraulic fracturing for natural gas; and

the affects of the proposed oil and gas drilling upon the existing Pall/Gelman 1-4 Dioxane plume, a long standing and as yet un-remediated contamination of the ground water, are unknown and could further impact the dispersion of the plume.

WHEREAS, Township residents have brought to the attention of the Township Board the residents' position that oil wells and ancillary uses and activities create local public health, safety, and welfare effects that are incompatible with nearby residential districts, residential uses and natural resources, leading to risks and concerns regarding adverse impacts resulting from uncontrolled exploration and extraction activities within the Township, and the local effects of current drilling activity which recently commenced is creating an immediate and urgent need to regulate the effects in the Township; and

WHEREAS, the Township has existing ordinances addressing environmental concerns, however the Township has not previously been faced with the prospect of significant oil and gas exploration activity, and the Township Zoning Ordinance and other ordinances may not satisfactorily regulate such activities to address the local public health, safety, and welfare concerns; and

WHEREAS, Michigan townships have broad police power to adopt resolutions and ordinances to protect the local public health, safety, general welfare, and property in the Township; and

WHEREAS, the Michigan Zoning Enabling Act authorizes townships to regulate land for the purposes of ensuring the land is situated in appropriate locations and relationships, but also contains some limitation on the Township's ability to regulate and control the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes; and

WHEREAS, the Township needs to conduct additional investigation into the likely effects of oil and gas operations on the local public health, safety, and welfare, in order to review the effectiveness of existing regulation and to determine the extent to which existing and/or additional or amended Zoning Ordinance and other ordinance

provisions can or should regulate oil and gas operations in a manner consistent with Township authority to address the local public health, safety, and welfare effects of the oil and gas operations; 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, certain aspects of oil and gas operations remain subject to Township regulation; and

WHEREAS, now in light of recent exploratory drilling activity in the Township, the Township now recognizes that applicable State of Michigan statutes and regulations are likely not sufficient to protect, among other things the local effects of oil and gas operations on the health, safety and wellbeing of Township residents, so certain aspects and activities associated with oil and gas development remain or must be subject to Township regulation; and,

WHEREAS, in order to allow the Township an opportunity to investigate and develop appropriate regulations upon those aspects of oil and gas operations which the Township is authorized to regulate, it is in the public interest to adopt a moratorium upon the issuance of permits and other approvals by the Township for oil and gas activities; and

WHEREAS, this moratorium is a temporary measure designed to preserve the status quo and will last only as long as necessary to develop and enact the comprehensive regulatory system.

NOW THEREFORE, BE IT HEREBY RESOLVED:

1. BE IT RESOLVED that effective upon adoption of this Resolution and for a period of six (6) months from the date hereof, a moratorium is hereby established on the consideration, review or action by all Township entities, officials, employees and/or agents on applications, proposals, requests, permits, approvals, zoning compliance or certificates regarding of any oil and/or natural gas drilling operations in the Township that might be proposed or presented to the Township, and that during the moratorium period, no drilling operation shall be allowed in the Township.
2. This moratorium is not intended to infringe upon the jurisdiction to the extent it has been reserved and sufficiently implemented by state or federal agencies that have concurrent jurisdiction over such subjects.
3. The Township shall proceed promptly in due course to investigate likely effects of oil and gas operations on the local public health, safety, and welfare; and consider appropriate regulations upon 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 and/or conduct a comprehensive analysis of its activities and demonstrate that there are no detrimental effects from the operation on local public, health, safety, and welfare. Said petitioner shall, in writing and directed to the Township Clerk, request a hearing that describes the grounds for the request. The hearing shall be held at a regular 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.

Motion by _____, seconded by _____, that the above Resolution be adopted.

YEAS:

NAYS:

ABSENT:

The Resolution was declared and adopted.

SCIO TOWNSHIP

By: Nancy J. C. Hedberg
Its: Clerk

**SCIO TOWNSHIP
BOARD OF TRUSTEES**

PLAN OF ACTION REGARDING

OIL EXPLORATION AND DRILLING IN SCIO TOWNSHIP

WHEREAS the Scio Township Board of Trustees passed a Resolution Opposing Oil Exploration and Drilling in Scio Township on May 27, 2014, for all of the reasons set forth therein, and

WHEREAS the Scio Township Board of Trustees passed a further Resolution on May 27, 2014, authorizing the hiring of legal counsel to assist in reviewing the ability of the Township to safeguard the public health, safety, and welfare by enacting appropriate regulations to address the issues presented by oil and gas exploration and drilling which remain within the Township's ability to control and regulate, and

WHEREAS the Scio Township Board of Trustees passed a further Resolution on August 20, 2014, imposing a moratorium on oil and gas operation within the Township in order that the Township might have the opportunity to explore all issues relating to oil and gas exploration and extraction within the Township, and

WHEREAS the Scio Township Board of Trustees has had the benefit of public comment and input at several public forums and at several Board of Trustees meetings, as well as extensive verbal, written, and electronic communications from residents, and

NOW therefore, the Township intends the following course of action:

1. The Township Board will continue its comprehensive review of its master plan, zoning and police power ordinances, to consider the likely effects of oil and gas operations in the Township upon local public health, safety and welfare concerns.
2. It is the intention of the Township Board to draft reasonable regulations relative to oil and gas extraction activities to the full extent permitted by Michigan law in order to protect the health, safety and welfare of this community.
3. The Scio Township Board will adopt, as soon as feasibly possible, ordinances which will impose reasonable regulation upon oil extraction

which are and remain within the jurisdiction of the Township to regulate, including but not limited to the following:

- zoning regulations applicable to ancillary activities, such as transport pipelines and surface structures;
 - regulations which protect surrounding land uses from development impacts;
 - additional ordinances that regulate location, height, and setback of ancillary structures, including uses or activities such as driveways, roads, waste hauling, storage, and handling areas, pipelines, water wells, and certain surface facilities and pipelines;
 - Site Plan or Special Use provisions and criteria that minimize incompatibility of ancillary activities with surrounding land uses and that address noise, odors, release of gases and emissions into the atmosphere, and use of hazardous substances, including a requirement for analysis of the effects the ancillary activities related to oil and gas operation on certain matters of local concern, and feasible and prudent alternatives for location of the activities
 - Authority to impose conditions and escrow requirements on the approval of these special uses in a manner designed to protect the public health, safety, and welfare from the identified risks of the activity;
 - Provisions requiring ancillary uses to comply with any conditions in a Part 615 permit, such that if the operator fails to comply with the permit, it would be considered a nuisance per se under the zoning ordinance, such that the restrictions could potentially be enforced by a neighbor adversely affected by the violation.
4. The Scio Township Board will further adopt, with all due haste, ordinances intended to protect the public health, safety and welfare from the likely impacts of extraction activities, including but not limited to the following:
- a general police power ordinance for oil and gas operations that would require a review of the likely impacts of the activity and whether there are feasible and prudent alternatives to the current proposed drilling plan;
 - regulations pertaining to ancillary activities related to oil and gas wells, such a truck traffic, hazardous material transport, pipelines and surface support structures for wells, environmental impact

statements or reports, disclosure of toxic chemical handling and hauling requirements, and air emission or water loss and removal standards.

2. The Scio Township Board of Trustees will take immediate action to notify West Bay Exploration that it will be held responsible for Township ordinance violations, and that it is currently in violation of certain existing ordinances, including Section 36-313 9 (c).

3. The Scio Township Board of Trustees will take immediate action to schedule meetings with the Township's Zoning Enforcement Officer at Carlyle Wortman and Associates, and the Washtenaw County Sherriff, to establish an effective means of enforcing ordinance violations.

**SCIO TOWNSHIP
BOARD OF TRUSTEES**

**RESOLUTION OPPOSING OIL EXPLORATION AND DRILLING IN SCIO
TOWNSHIP, MICHIGAN**

Whereas, oil and/or gas exploration and drilling is proposed in Scio Township within two miles from the Ann Arbor City limits and less than one mile from the Huron River under MDEQ permit application #A140053; and

Whereas, oil and/or gas exploration and drilling can produce significant air pollution, heavy truck traffic and the risk for the release of hazardous substances above and below ground which have the possibility of traveling into or impacting Scio Township and its sources of drinking water being both the ground water aquifer and the Huron River; and

Whereas, the citizens of Scio Township have a quality of life which is profoundly enhanced by its natural attributes such as the Huron River's recreational opportunities, the river's provision of drinking water to multiple municipalities, and its scenic character, all of which could be at risk from the said oil exploration and drilling; and

Whereas, the proposed drilling location is in an area of the Township planned for low density residential uses, including agricultural, open space, and land preservation uses; numerous residential uses exist in proximity to the proposed drilling location which have been gradually replacing agricultural uses in the Township; the area is served by gravel roads which are not capable of handling significant motor vehicle use; public water and sewer is not available to residential or any other uses this area and any negative impacts on groundwater flows would immediately affect residential users; this area has significant high tension power lines served by a proximate power substation, and a high pressure gas transmission line runs closely proximate to the proposed location; the nearby Wing Drain flows into Honey Creek and the Huron River; and the site includes an MDEQ designated wetland. All of the foregoing would be negatively impacted by oil and gas exploration and development, let alone should an environmental spill or other accident occur on the site; and

Whereas, the Constitution of the State of Michigan calls for "the protection of the air, water and other natural resources of the state from pollution, impairment and destruction"; and

Whereas, although representatives of West Bay Exploration have indicated they would be willing to include a prohibition on hydraulic fracturing in future leases, such a

provision may not have been included in all leases signed to date; and

Whereas, in October 2013 the Ann Arbor Environmental Commission passed a resolution calling for a statewide and national moratorium on horizontal hydraulic fracturing for natural gas; and

Whereas, the effects of the proposed oil and gas drilling upon the existing Gelman 1-4 Dioxane plume, a long standing and as yet un-remediated contamination of the ground water, are unknown and could further impact the dispersion of the plume; further, given the contamination of multiple aquifers resulting from the Gelman discharges, were there to occur contamination of the Township's water supplies within the aquifers and/or the Huron River from oil and gas drilling, there would remain no source of clean water for the many residents in the area; therefore it is

RESOLVED, that the Scio Township Board of Trustees expresses its opposition to permitting said oil exploration and drilling, and any future oil exploration and drilling in any residential or environmentally sensitive areas of the Township such as proposed; and

RESOLVED, that the Scio Township Board of Trustees requests that the Michigan Department of Environmental Quality require an environmental impact assessment, including impacts to surrounding natural resources, and public health, safety and welfare, prior to any final agency decision making on permit application #A140053; and

RESOLVED, that the Scio Township Board of Trustees expresses its support for a statewide and national moratorium on horizontal hydraulic fracturing for natural gas and oil until such time as it can be shown to be safe for the environment and a thorough regulatory framework is established to ensure safety and disclosure; and

RESOLVED, that the Scio Township Board of Trustees hereby requests that the State of Michigan strengthen the ability of local units of government to safeguard the public health, safety, and welfare by amending the Zoning Enabling Act to expand the power of townships and counties to regulate drilling, mining, and other extractive industries within their jurisdictions;

RESOLVED, The Scio Township Clerk shall distribute copies of this resolution to State Representatives Zemke, Irwin, Rutledge, and Driskell and State Senators Warren and Richardville; Michigan Department of Environmental Quality Director Dan Wyant; Director of Office of Oil, Gas, and Minerals Harold Fitch; and the Michigan Townships Association.

NOW, THEREFORE, UPON MOTION BY TRUSTEE GREEN, SUPPORT BY CLERK HEDBERG, IT WAS RESOLVED that the Scio Board of Trustees hereby adopts the

incorporated resolution and expresses its opposition to any oil exploration and drilling in Scio Township, Michigan

Roll Call:

Yes: Clark, Hedberg, Green, Read, Palmer and DeLong

No: none

Absent: Knowles

MOTION DECLARED ADOPTED this 27th day of May, 2014



Nancy J. C. Hedberg, Scio Township Clerk

CERTIFICATION

I hereby certify that the above is a true and correct copy of a Resolution adopted by the Township of Scio Board of Trustees at its Regular Meeting of 27th day of May, 2014.



Nancy J. C. Hedberg, Scio Township Clerk
5/27/2014