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**RULE OF THE CHAMBER**

Any person wishing to address City Council shall step up to the lectern, state their name and address in an audible tone of voice for the record, and unless further time is granted by the presiding officer, shall limit their address to three (3) minutes. A person may not give up or relinquish all or a portion of their time to the person having the floor or another person in order to extend a person's time limit in addressing the Council.

Any person who does not wish to address Council from the lectern, may print their name, address and comment/question which he/she would like brought before Council on a card provided by the Clerk/Treasurer and return the card to the Clerk/Treasurer before the meeting begins. The Clerk/Treasurer will address the presiding officer at the start of Citizen Comments on the Agenda, notifying him of the card comment, and read the card into the record for response.

Those who want to use audio and image recording equipment in Council Chambers that requires a monopod, tripod or other auxiliary equipment for the audio and image devices shall notify the City Clerk before the meeting begins. Arrangements will be made to accommodate the request in a manner that minimizes the possibility of disrupting the meeting. No additional illuminating lights may be used in Council Chambers unless a majority of City Council members consent. Additionally, cell phones and pagers should be set to vibrate or silent mode when inside Council Chambers.

Should any person fail or refuse to comply with any Rules of the Chamber, after being informed of such noncompliance by the presiding officer, such a person may be deemed by the presiding officer to have committed a breach of the peace by disrupting the public meeting, and the presiding officer may then order such person excluded from the public meeting under Section 3 (6) of Open Meetings Act, Act 267 of 1976.

You will notice a numbering system under each heading. There is significance to these numbers. Each agenda item is numbered consecutively beginning in January and continues through December of each calendar year.

The City of Monroe will provide necessary reasonable auxiliary aids and services to individuals with disabilities at the meeting/hearing upon one week's notice to the City Clerk/Treasurer. Individuals with disabilities requiring auxiliary aids or services should contact the City of Monroe by writing or calling: City of Monroe, City Clerk/Treasurer, 120 E. First St., Monroe, MI 48161, (734) 384-9138. The City of Monroe website address is [www.monroemi.gov](http://www.monroemi.gov).

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**AGENDA - CITY COUNCIL REGULAR MEETING  
TUESDAY, JANUARY 4, 2011  
7:30 P.M.**

- I. CALL TO ORDER.**
- II. ROLL CALL.**
- III. INVOCATION/PLEDGE OF ALLEGIANCE.**
- IV. CONSENT AGENDA.** (All items listed under the Consent Agenda are considered to be routine by Mayor and Council and will be approved by one motion, unless a Council member or citizen requests that an item be removed and acted on as a separate agenda item)
  - A. Approval of the Minutes of the Council Work Session held on Wednesday, December 15, 2010, the Minutes of the Joint Council Work Session held on Wednesday, December 15, 2010, the Minutes of the Special Council Meeting held on Monday, December 20, 2010 and the Minutes of the Regular Council Meeting held on Monday, December 20, 2010.
  - B. Approval of payments to vendors in the amount of \$\_\_\_\_\_.  
Action: Bills be allowed and warrants drawn on the various accounts for their payment.
  - 1. Medical Marihuana Moratorium.
    - 1. Communication from the Interim Director of Planning & Recreation, submitting a proposed resolution to establish a moratorium regarding sale and dispensing of medical marihuana. In order to enable the City of Monroe ample time to review the Michigan Medical Marihuana Act, and develop a policy based upon this research and investigation, the Planning & Recreation Department recommends adoption of the moratorium for a period of 180 days commencing immediately.
    - 2. Supporting documents.
    - 3. Action: Accept, place on file and the resolution be adopted.

2. Wilfred L. LePage Raw Water Pumping Station Pump Addition Phase One –Bid Award

1. Communication from the Director of Engineering & Public Services, reporting back on bids received for the Wilfred L. LePage Raw Water Pumping Station Addition Phase One, and recommending that Council award the contract to Monroe Plumbing & Heating Co., in the amount of \$518,653.00, and that a total of \$570,000 be encumbered to include a 10% project contingency, and further recommending that the Mayor and Clerk-Treasurer be authorized to sign the contracts on behalf of the City of Monroe.

**IT IS FURTHER RECOMMENDED** that a contract be awarded to Jones & Henry Engineers, Ltd. for construction engineering services in the amount of \$57,500 and that the Director of Engineering and Public Services or his designee be authorized to execute it on behalf of the City.

**IT IS FINALLYRECOMMENDED** that the Finance Director be authorized to transfer up to \$80,000 from Raw Water Partnership Retained earnings to fund this project as necessary.

2. Supporting documents.
3. Action: Accept, place on file and the recommendation be carried out.

V. **MAYOR'S COMMENTS.**

VI. **CITY MANAGER COMMUNICATION.**

VII. **COUNCIL COMMENTS.**

XIII. **CITIZEN COMMENTS**

IX. **ADJOURNMENT.**



# CITY COUNCIL AGENDA FACT SHEET

**RELATING TO:** Adoption of moratorium regarding sale and dispensing of medical marihuana

**DISCUSSION:** In 2008, 63% of Michigan's residents voted for an initiative to decriminalize the use of medical marihuana for persons having debilitating conditions as defined in the Michigan Medical Marihuana Act (MMMA). Since that time, communities throughout Michigan have taken diverse paths at addressing the issue of medical marihuana locally based upon their interpretations of the law. Actions have included adopting ordinances that permit the cultivation, dispensing, and use of medical marihuana; prohibiting the use of medical marihuana (typically based upon federal law); taking no action (maintaining the status quo, whatever that might be); or, implementing moratoriums. These actions reflect the angst of the varied communities regarding "...certain provisions and omissions in the Act [that] give rise to a legitimate basis for local...concern for the protection of important public interests." (Fisher, *White Paper: A Local Government View of the Michigan Medical Marihuana Act*, p.3) Again, it should be stressed that the MMMA does not legalize the use of marihuana, it decriminalizes it possession and use under certain, specific conditions called out in the Act. It should also be noted that "...the cultivation of marihuana continues to be a crime under federal law, even if for state sanctioned medicinal reasons...." (Forsyth, Lansing MML Conference, March 2010)

While Grand Rapids has taken a proactive stance on medical marihuana passing legislation allowing registered caregivers to operate as home occupations within residential neighborhoods, other communities prefer commercial zoning districts as locations for dispensing medical marihuana, and others still have taken actions that reflect the opposite end of the spectrum from the Grand Rapids' approach. The cities of Birmingham, Bloomfield Hills, and Livonia, all communities that adopted similar ordinances prohibiting the use or possession of marihuana that was not consistent with or was contrary to federal law, have recently been named in a suit filed by the American Civil Liberties Union (ACLU Michigan). The ACLU has taken the position that local ordinances are preempted by state law; and as local governments are entities of the state, they lack the authority to enforce federal law. Municipal regulations must demonstrate a reasonable relationship or nexus between the exercise of a community's police power and the public's health, safety, morals, and general welfare; however, it is a generally accepted principle that "a court cannot interfere with the discretion of a legislative body so long as the body's action is not contrary to law or opposed to sound public policy." (*Veldman v City of Grand Rapids*, 275 Mich 100 (1936)) But it is here that communities are finding it difficult to discern what is or is not contrary to the law and what is sound public policy related to medical marihuana.

Given the inconsistencies and uncertainties that now exist in the Michigan Medical Marihuana Act many communities have let caution guide them in how they approach the issue. A moratorium, which is essentially a suspension of action or activity for a defined period of time, in this case so that the law and policies surrounding medical marihuana can be further investigated, may be the answer. In August of this year at least 20 communities had adopted moratoriums or were considering adoption. As of December another half-dozen are studying the concept. Elected officials in communities throughout Michigan have expressed hope that state lawmakers will clarify the statute in the coming months, but given the complexities of amending or repealing an initiative measure, the state will probably not see major changes or amendments to the law forcing communities to develop policies based upon their own interpretation of the Act and any clarification that might be provided through the courts.

Therefore, in order that the City of Monroe has ample time to review the Michigan Medical Marihuana Act and and develop a policy based upon this research and investigation, the Department of Planning & Recreation is submitting a moratorium prepared by the City Attorney for consideration. The Planning Office recommends adoption of the moratorium for a period of 180 days commencing immediately.

**CITY MANAGER RECOMMENDATION:**

- For
- For, with revisions or conditions
- Against
- No Action Taken/Recommended

**APPROVAL DEADLINE:** January 4, 2011

**REASON FOR DEADLINE:** N/A

**STAFF RECOMMENDATION:**  For  Against

**REASON AGAINST:** N/A

**INITIATED BY:** The City Manager's Office and the Planning Office

**PROGRAMS, DEPARTMENTS, OR GROUPS AFFECTED:** Zoning, Planning, Building, Police, and Fire

## FINANCES

**COST AND REVENUE PROJECTIONS:**

Cost of Total Project	\$N/A
Cost of This Project Approval	\$N/A
Related Annual Operating Cost	\$N/A
Increased Revenue Expected/Year	\$N/A

<b>SOURCE OF FUNDS:</b>	City	Account Number	Amount
			\$N/A
			\$
			\$
			\$
			\$
	<u>Other Funds</u>		\$N/A
			\$
			\$
			\$

Budget Approval: \_\_\_\_\_

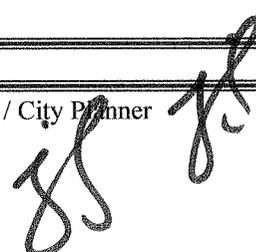
**FACT SHEET PREPARED BY:** Jeffrey Green, AICP - Interim Director / City Planner

**DATE:** 12.23.10

**REVIEWED BY:** Jeffrey Green, AICP - Interim Director / City Planner

**DATE:** 12.23.10

**COUNCIL MEETING DATE:** January 4, 2011



## RESOLUTION

1           **WHEREAS**, on December 4, 2008 the Michigan Medical Marijuana Act (MMMA),  
2 MCL 333.2641 et seq., took effect; and

3           **WHEREAS**, the MMMA required the Michigan Department of Community Health to  
4 adopt rules within 120 days; and

5           **WHEREAS**, on April 4, 2009 the Michigan Department of Community Health adopted  
6 rules for the implementation of the Michigan Medical Marijuana Program (MMMP); and,

7           **WHEREAS**, neither the MMMA nor the MMMP authorizes or regulates dispensaries for  
8 medical marijuana; and,

9           **WHEREAS**, the City is exploring how best to regulate the distribution or dispensing of  
10 medical marijuana, which may require amendment to the Zoning Ordinance, as well as  
11 implementation of other regulations.

12           **NOW, THEREFORE, BE IT RESOLVED**, that a moratorium of 180 days,  
13 commencing upon adoption of this resolution, is hereby declared on consideration or action to be  
14 taken by the City on any proposal for the establishment of a medical marijuana dispensary in the  
15 City, and that during the moratorium medical marijuana dispensaries shall not be permitted in the  
16 City.



# CITY COUNCIL AGENDA FACT SHEET

**RELATING TO:** WILFRED L. LePAGE RAW WATER PUMPING STATION PUMP ADDITION PHASE ONE - BID AWARD

**DISCUSSION:** The Wilfred L. LePage Raw Water Pump Station is located on Pointe Aux Peaux Road in Frenchtown Township and provides the sole source of raw water for both the City of Monroe and Frenchtown Charter Township. By agreement, the City is responsible for 18/26 of the ownership and capital costs of the Station, based on its relative share of the pumping capacity, and the City is the entity responsible for programming and administering any capital projects funded by the Partnership.

One of the projects that has been contemplated for some time is the addition of two raw water pumps within the 1994 raw water station expansion such that the facility has been designed to accommodate the additional pumps, as only two of the four wetwells currently have pumps in them. With the new pumps installed, our ability to pump raw water from the intakes will match the rated treatment capacity of the plant, which is up to 18 million gallons per day. Installation of these additional pumps is necessary to allow for varied flow levels during: peak demands; vary flows during catastrophic events such as freeze-up of the intakes (as has happened recently on a few occasions); or increase / reduce flows during raw water supply line shutdowns where system reserves may be low and additional water must be pumped to meet regular daily demands. Funding for the first of these two additions has been provided with past Capital Improvements Program (CIP) funding, with the remaining for the second of two planned to come from future CIP over the next few years.

The Engineering Department opened bids for this project on Monday, December 13, 2010. There were four (4) bidders and a bid tabulation is attached for your review. The low bidder is Monroe Plumbing & Heating Co. of Monroe. Their low bid of \$518,653.00 is 13% over the Engineer's Estimate of \$457,000.00. They are capable of performing the work and appear to be able to meet all Labor Harmony requirements, as this is a condition of the bid award. We have reviewed the low bid with the Engineering firm preparing the drawings, and they have indicated that after discussions with the bidders, their initial estimate of general conditions and mobilization was likely too low given the site complications. Also, it appears that when the estimate was put together, the installation and supply cost from the pump manufacturer was quoted in a lesser amount to the Engineering firm than it was to the bidders by the time bids were received, so this further increased the costs from expected. There appears to be little chance that re-bidding this project would result in bidder pricing, and given uncertainties in material pricing, it seems prudent to award the bid at this point. The Director of Utilities has indicated that there are adequate funds in retained earnings to cover the difference in needed funding, and up to \$80,000 is being requested to be transferred into the project by the Finance Director upon award of the project.

Jones & Henry Engineers, Ltd. is the consulting firm that has assisted us on the design of this particular project under a \$16,785 contract approved December 21, 2009, and we are also recommending that they assist us with construction engineering and oversight as well. They have provided a proposal (attached) and have proposed a "Not to Exceed" fee of \$57,500. This is within the normal range for this type of activity (14% of construction cost for all Engineering services), so it is recommended that this contract be awarded as well.

**IT IS RECOMMENDED** that the City Council award the above contract to Monroe Plumbing & Heating Co. in the amount of \$518,653.00, and that a total of \$570,000 be encumbered to include a 10% project contingency. **IT IS FURTHER RECOMMENDED** that the Mayor and Clerk-Treasurer be authorized to sign the contracts on behalf of the City of Monroe. **IT IS FURTHER RECOMMENDED** that a contract be awarded to Jones & Henry Engineers, Ltd. for construction engineering services in the amount of \$57,500 and that the Director of Engineering and Public Services or his designee be authorized to execute it on behalf of the City. **IT IS FINALLY RECOMMENDED** that the Finance Director be authorized to transfer up to \$80,000 from Raw Water Partnership Retained earnings to fund this project as necessary.

**CITY MANAGER RECOMMENDATION:**

- For
- For, with revisions or conditions
- Against
- No Action Taken/Recommended

**APPROVAL DEADLINE:** As soon as possible

**REASON FOR DEADLINE:** Some of the equipment needed has an extremely long lead time from order date

**STAFF RECOMMENDATION:**           X For            Against

**REASON AGAINST:** N/A

**INITIATED BY:** Department of Engineering and Public Services

**PROGRAMS, DEPARTMENTS, OR GROUPS AFFECTED:** City Council, Water Department, all water customers in City of Monroe and Frenchtown Water Systems

## FINANCES

### COST AND REVENUE PROJECTIONS:

Cost of Total Project	\$644,285*
Cost of This Project Approval	\$627,500**
Related Annual Operating Cost	\$ N/A
Increased Revenue Expected/Year	\$ N/A

\*Includes design costs previously expended (\$16,785) plus this award.

\*\*Includes contract costs, 10% contingency, and construction engineering.

### SOURCE OF FUNDS:

<u>City</u>	<u>Account Number</u>	<u>Amount</u>
PAP Add. Pumps (Bldg. Imp.)	599-40.521-975.000 05W09	\$570,000.00
PAP Add. Pumps (Contract.)	599-40.521-818.020 05W09	\$ 57,500.00

Other Funds

Budget Approval: \_\_\_\_\_

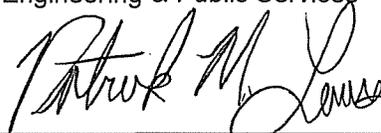
**FACT SHEET PREPARED BY:** Patrick M. Lewis, P.E., Dir. of Engineering & Public Services

**DATE:** 12/28/10

**REVIEWED BY:**

**DATE:**

**COUNCIL MEETING DATE:** January 4, 2011



**Wilfred L. Lepage Raw Water Pumping Station Pump Addition - Phase One**

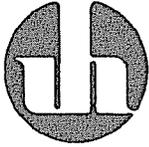
**BID TABULATION**

**BIDS DUE: Monday, December 13, 2010**

**Page 1 of 1**

No.	Item	# units	Units	0 - Engineer's Estimate		1 - Monroe Plumbing & Heating		2 - Process Piping & Equip, Co.	
				Unit Price	Amt.	Unit Price	Amt.	Unit Price	Amt.
1	ALL PROJECT WORK	1.00	LS	457,000.00	<u>457,000.00</u>	518,653.00	<u>518,653.00</u>	522,000.00	<u>522,000.00</u>
	Total				<u>457,000.00</u>		<u>518,653.00</u>		<u>522,000.00</u>

No.	Item	# units	Units	3 - Hank's Plumbing & Heat.		4 - Posen Cosntruction		Unit Price	Amt.
				Unit Price	Amt.	Unit Price	Amt.		
1	ALL PROJECT WORK	1.00	LS	573,829.00	<u>573,829.00</u>	575,612.00	<u>575,612.00</u>		<u>0.00</u>
	Total				<u>573,829.00</u>		<u>575,612.00</u>		<u>0.00</u>



# Jones & Henry Engineers, Ltd.

2000 WEST CENTRAL AVENUE, TOLEDO, OHIO 43606 • 419/473-9611  
www.jheng.com FAX • 419/473-8924

November 9, 2010

Barry S. LaRoy, P.E.  
Director of Water & Utilities  
City of Monroe  
120 East First Street  
Monroe Michigan 48161-2169

Subject: Proposal to Provide Engineering Bidding, Office and Field  
Services During Construction of the Raw Water Pump  
Station-Pump Addition

Dear Mr. LaRoy:

Jones & Henry has completed the design for the addition of a raw water vertical turbine pump and appurtenances and has been submitted to MDNRE for approval. The project is now ready to proceed with bidding and construction pending regulatory approval.

In accordance with our discussions, Jones & Henry Engineers Ltd. proposes to perform construction engineering services for the City of Monroe Michigan which are specifically stated as follows:

## **Bidding Phase**

Assist the City in advertising the project, issue addenda as appropriate, and attend the bid opening if requested.

After the bid opening Jones & Henry will review the bids, make inquiries concerning the apparent low bidder's qualifications and make recommendations to the City for award of Contract.

The City will review and approve all insurance requirements

## **Office Engineering**

Jones & Henry will attend the preconstruction meeting and all other construction meetings which will be conducted by the City at City offices. The City will prepare and issue minutes of those meetings to all attendees.

We will review all shop drawing submittals received by the City and forwarded to us. When submittals meet the intent of the Contract documents we will issue construction bulletins to the appropriate parties.

Make periodic on-site visits appropriate to the work.

Review Contractor's applications for payment and make recommendation to the City for payment.

Prepare change orders if necessary and issue for execution by the Engineer, Contractor, and City.



Barry S. LaRoy, P.E.  
November 9, 2010  
Page 2

Assist the city in closing out the project and making final payments

### **Field Engineering**

The project duration is expected to take up to 10 months due to the lengthy time for some of the key equipment to be manufactured and delivered after shop drawing approval. Actual time for the Contractor to be on site is expected to be much shorter.

We will provide full time on-site observation at critical times of construction. Most of the time we expect that daily short term visits will be sufficient.

### **Payment**

Jones & Henry proposes to provide the above services on a time and expense basis with a fee not to exceed \$57,500 without prior approval by the City.

All of the above-mentioned services will be performed by or under the direct supervision of a professional engineer. The standard of care for all professional engineering performed by Jones & Henry Engineers, Ltd. will be the care and skill ordinarily used by members of the profession practicing under similar circumstances at the same time and in the same locality. Jones & Henry makes no warranties, express or implied, in connection with the services described in this Agreement.

If you are in agreement with the above we will send you a standard Engineering Service Agreement for your signature. If you want us to modify the above proposal, please call so we can better meet your needs. We thank you for your confidence in Jones & Henry, and we look forward to serving you.

Sincerely,

JONES & HENRY ENGINEERS, LTD.

Thomas C. Metcalf, P.E.  
Principal

TCM/bjm