

Ann Arbor Charter Township
FARMLAND AND OPEN SPACE PRESERVATION BOARD MEETING MINUTES
Monday, September 25, 2023
Township Offices, 3792 Pontiac Trail, Ann Arbor MI

I. Call to Order, Establish Quorum

Chair Bartoshesky called to order the regular meeting of Ann Arbor Charter Township Farmland and Open Space Preservation Board at 7:36 pm.

Present: John Allison
Tom Bartoshesky
Alex Cacciari
Ken Judkins
Jeremy Moghtader (arrived 7:48pm)

Absent: Ali Kawsan

Also in attendance: Land Preservation Consultant Barry Lonik

II. Approval of Minutes of Regular Meeting of July 24, 2023

MOTION by Allison, support by Cacciari, to amend and approve the minutes of the Regular July 24, 2023 meeting as follows:

- P. 3, under Spring monitoring: Bayer, 3rd paragraph, 3rd line, add: One of the Board of Trustees conditions . . .
- P. 4, 1st bullet point, 4th line, add: . . . County, State, City and Federal government.

Motion passed unanimously by voice vote.

III. Public Comments - None

IV. Newsletter Update

Work on the newsletter update is ongoing. Lonik will check with the Supervisor and Treasurer regarding timing of the next newsletter.

Lonik is drafting a Twenty-Year Report to Citizens, which will replace the Ten-Year Report on the website. The information from the *Farming Summary* included in tonight's packets will be folded in to the Twenty-Year Report, with abstracted information to be used for the newsletter update.

V. Vella Pit Increased Water withdrawal application update

The Board discussed the current situation relative the Mid Michigan Materials (MMM) Vella Pit. The gravel mining operation has caused several nearby wells to go dry. MMM

had applied for an increased water withdrawal permit to be able to withdraw up to 4.8MGD, but had subsequently withdrawn their permit application rather than have it denied by EGLE (Michigan Department of Environment, Great Lakes, and Energy). In the meantime EGLE had issued almost a dozen violations against MMM relative to wetland protections. MMM will have to remove the pump they had already installed that was capable of pumping 4.8MGD. MMM is still allowed to pump 2MGD without a withdrawal permit.

Allison said that at its last Board meeting, the Board of Trustees had found that MMM had 13 violations against the Conditional Use Permit, the Conditional Use Agreement, and the Township Ordinances, and had directed the Township Attorneys to initiate legal action.

Allison said the Vella Pit operational issues had highlighted groundwater issues generally. There was discussion regarding the Township doing its own groundwater study of the northern tier, in order to better understand the Township's groundwater supply, and understand how new developments might impact groundwater capability.

Board members discussed instances they knew where wells had been affected, and where pond levels had significantly dropped.

VI. Bayer property discussion

- **Status of a wetland permit application to Township**
No wetland permit application to the Township had been submitted by Ms. Bayer.
- **Steps to address unsigned monitoring report and blight clean up requests**
Monitoring report had been signed and returned. Ms. Bayer had asked Lonik for clarification regarding what had to be cleaned up, and he had responded to her via email and USPS mail, with copies to the Supervisor.

Per the July motion by the FOSPB, Zoning Enforcement Officer Swope has also been in contact with Ms. Bayer relative to blight issues on the conservation easement.

The Board discussed the need for clarity regarding issues of blight on conservation easements and farmland properties, including a definition of dumping.

Lonik and Judkins had both worked with ACEP (Agricultural Conservation Easement Program) at different times regarding blight issues on easements. ACEP's position was that if something was not in use, and/or was not capable of being used, it cannot be stored on the property. On the other hand, how is "not capable of being used" defined? How is "dumping" defined? In terms of agriculture use, some things are clear-cut. Others, not so much.

The language across easements was not always consistent. Current language for some easements (but not all) read: ". . . the dumping or accumulation of waste, or other unsightly or offensive material is prohibited except that the composting, burning, or the use of plant and animal waste produced on the property is permitted, provided

that it's done in accordance with all applicable federal, state and local laws and regulations and sound agricultural practices.”

However, to participate in ACEP funding, a property had to meet ACEP’s standards, as determined by the Federal Program Coordinator. The Coordinator has an expectation that the Township is monitoring the easements to keep them free of blight, again per ACEP standards. This is a basic stewardship issue – is the Township, and the easement owner, being a good steward of the land?

Board Members discussed ensuring that a building envelope is included in all future easements – or at least clearly brought up, in order to address storage for necessary farming equipment and tools. This is essential if the land is going to be farmed into the future.

Bartoshesky asked Lonik to send out current easement language regarding blight and dumping, for purposes of discussion at the next FOSPB meeting, so that the Board with Lonik could potentially draft new language or clean up existing language, in order to provide clarity regarding these issues.

It came out in discussion that there was no precedent for amending a conservation easement, and no easements anywhere had successfully received approval to amend. However, in Ms. Bayer’s case, the easement language said that a building could be constructed with Township approval, and ACEP signed off on that.

Board Members also discussed the need to provide a written policy statement and checklists, so that future Board members, consultants, and others can clearly understand the standards being used, and the processes being followed, in terms of farmland conservation preservation agreements. Such policy and checklists – perhaps kept within a best practices document (or a “lessons learned” document) – would ensure that future conversations would include important components, such as the need to have a building envelope, and would provide consistency for years to come.

VII. Project Updates – Consultant Lonik

- Lake Erie RCPP

There has been some small progress made relative to the Lake Erie RCPP money. Staff at the Greenbelt Program said that recipients in Michigan had discovered they were not the only ones having problems getting funding disbursed – this was occurring in Wisconsin as well. Greenbelt Program staff is working with the State Conservationist, who is now somewhat more engaged.

- Mailing

The mailing is ready to go out this week to the list of 36 property owners of the remaining open space lands, farmland and natural areas in the Township.

- Spring monitoring: Bayer

Discussed above.

- Farming summary/20 year report

The Farming Summary showed how things had turned around from 20-25 years ago, when many people thought there was no future for agriculture in Ann Arbor Township. The six small farms operating on conserved land had been a dramatic turnaround.

VIII. End of Millage Update

Lonik will confirm with the Township Attorney that a millage renewal – per MTA (Michigan Townships Association) – can be put on the ballot up to a year past its expiration date, as long as the millage language is unchanged. This would give the Township until November 2024 to put the millage renewal before the voters.

IX. New Member Nominations/Applications

None.

X. Matters Arising

Judkins reported that the Washtenaw County Parks were having significant problems with deer eating their seeds and newly planted young trees. Washtenaw County Parks was asking people with adjacent property if they would be willing to hunt deer on Parks land. This would not be open to the general hunting public.

Another example of deer impact is that recently a Michigan State research facility reported that their data was unusable because of the deer populations on the land.

XI. Closed Session

MOTION by Moghtader, support by Allison, that the Ann Arbor Township Farmland and Open Space Preservation Board go into closed session under Sec. 8(d) of the Open Meetings Act, to consider the purchase of real property.

Roll call vote: Ayes – Allison, Bartoshesky, Cacciari, Judkins, Moghtader. Nays – none. Motion passed 5-0.

The Board went into closed session at 8:37pm and re-entered open session at 9:15p.m.

XII. Re-enter Open Session

MOTION by Cacciari, support by Moghtader to enter open session.

Motion passed unanimously by voice vote.

Motion by Allison, support by Cacciari, that the Farmland and Open Space Preservation Board recommend appraisal, survey, and environmental site assessment for Property Application 2023-1.

Motion passed unanimously by voice vote.

MOTION by Moghtader, support by Cacciari, that the Farmland and Open Space Preservation Board recommend an environmental assessment for Property Application 2022-1.

Motion passed unanimously by voice vote.

XIII. Adjournment

MOTION by Judkins, support by Moghtader to adjourn the meeting.

Motion passed unanimously by voice vote.

The meeting adjourned at 9:21pm.