

**Ann Arbor Charter Township
FARMLAND AND OPEN SPACE PRESERVATION BOARD MEETING MINUTES
Monday, November 27, 2023
Township Offices, 3792 Pontiac Trail, Ann Arbor MI**

I. Welcome Farmland and Open Space Preservation Board Member Cynthia Stiles

New member Stiles attended as a member of the public via ZOOM.

II. 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 7:30pm.

Present: John Allison
Tom Bartoshesky
Ken Judkins
Jeremy Moghtader

Absent: Alex Cacciari
Ali Kawsan
Cynthia Stiles

Also in attendance: Land Preservation Consultant Barry Lonik

III. Approval of Minutes of Regular Meeting of September 25, 2023

MOTION by Judkins, support by Allison, to approve the minutes of the Regular September 25, 2023 meeting as submitted.

Motion passed unanimously by voice vote.

IV. Public Comments – None

V. Newsletter Update

A version of the Twenty-Year Report will go in the next Township newsletter. In the meantime, the Report will be posted to the FOSPB website.

VI. Blight and dumping easement language

In response to discussion at the September 25 meeting, and referencing his November 24, 2023 memorandum, Consultant Lonik explained that federal grants do not require language about dumping in the Minimum Deed Terms that must be inserted into conservation easements. However, most municipalities will include such language, and Ann Arbor Township has historically inserted a dumping paragraph.

The November 24, 2023 memo included paragraphs related to dumping in the Bayer easement from 2010, the Moehrle easement in 2021, and language used in Scio and Webster Township easement agreements.

The Board discussed issues that related specifically to farm blight vs. a neatly kept farm “boneyard.” At what point does equipment become unusable? Can the language speak to what is meant in a farmland capacity? It was noted that the Township blight ordinance will apply in many cases.

ACEP (Federal Agricultural Conservation Easement) coordinators (originally Jim Marshall and subsequently Brian Thomas) have advised that a rule of thumb is that conserved properties should be clean enough at any time “for Senator Stabenow to visit”, and that boneyard “stuff” should be kept in the building envelope on conserved easements. However, the Township had some properties that did not have building envelopes.

After discussion, and noting that the language should be useful in terms of enforcement, the following language was suggested for future easements, with new language as underlined and italicized added to that used in the Moehrle easement:

Motion by Moghtader, support by Judkins, to submit the following language for inclusion in future easement agreements, to the Township attorney for review:

Dumping. Processing, storage, dumping or disposal of liquid or solid waste, refuse or debris or junk, including, for all intents and purposes, unusable farm implements and equipment, on the Property is prohibited. This provision shall not be construed to preclude the disposal, composting or use of plant and animal waste, provided such disposal and use is done in accordance with applicable Federal, State and local laws and regulations. Consolidated scrap implements may be allowed in an appropriate building envelope.

Motion passed unanimously by voice vote.

VII. Bayer property discussion

Status of a wetland permit application to Township

Ms. Bayer has not yet applied for a wetland permit application from the Township. This is required if she wants to move forward with her plans to expand the lake.

Building Permit

Ms. Bayer has not yet applied for a building permit.

VIII. Project Updates – Consultant Lonik

- Lake Erie RCPP
The Greenbelt-led initiative to dedicate \$7.4M of matching federal funds for smaller properties is still not moving forward. The latest word is that there might be potential use for properties that have streams running through them. This has been an enormously frustrating process.

- Fall monitoring is complete with no issues.
- Draft 20 year report is in the packets.
 - 1st paragraph, 2nd sentence should be modified to reflect actual purpose of the millage, which is to preserve the rural nature/character of Ann Arbor Township, rather than ~~should be kept undeveloped forever.~~
 - Correct spelling 1st page, next to last paragraph, 2nd line: totaling
 - Page 2, 1st full paragraph, fill in line: Cloudberry Farm
 - Add graphics, including a map showing locations of conserved land
 - Add links to each property's website and/or pictures of each property
- State grant deadline/PA 116 change
 - State grant deadline is January 6, 2024
 - PA 116 tax benefits

There has been a change in interpretation of PA 116, which provides certain significant tax benefits for farm landowners that enter into an agreement with the state that ensures that the land remains in agricultural use for a minimum of 10 years and up to 90 years. Landowners representing millions of acres in Michigan have taken advantage of this incentivizing law. However, if a contract expires or is not renewed, or if there is a lien placed on the property and the property is sold, there is a "look back" that requires the landowner to pay back the last 7 years of tax credits.

The new interpretation is if a landowner is pursuing a perpetual easement, the PA 116 agreement is terminated and not renewable. This interpretation is causing concern among conservationists as a tremendous disincentive to participate. The State Agricultural Department is being asked for clarification.

Allison asked Consultant Lonik to provide documentation regarding this issue that would assist the Township in formally objecting to the new interpretation.

- Zeeb property for sale

This property is 84 acres divided by Nixon Road south of Pontiac Trail. The Township has an easement. Consultant Lonik has sent the listing information to people who have been looking for land, and also to his farm link. Swisher Commercial is the listing agent. See: <https://www.swishercommercial.com/properties/pontiac-trail/>
- Dumping memo - Discussed above.
- MTA millage doc

There is one more collection on the millage, on this winter's tax bill. The date for millage renewal still needs to be clarified; this should be done soon. The official language states: "the proper time to place a question to renew the millage on the ballot is in the calendar year following its last levy." Board members are uncertain how the "calendar year of the last levy" is defined.

- FOSPB policies: easement monitoring, building envelopes, fiscal, affirmative CEs, legal defense
 - In response to discussion at the September 25, 2023 meeting, Consultant Lonik provided FOSPB policies for easement monitoring, building envelopes, and fiscal policy.
 - Allison will provide the policy for affirmative conservation easements.
 - There was no legal defense policy.

The Board suggested that all policies and similar information, such as a new member orientation folder, be placed in an easily accessible location on the Township server.

- 2024 rate increases: \$110/hour project work (\$5 increase), \$70/hour baseline (\$10 increase, first time ever), monitoring no change.

Consultant Lonik said that his rates would be increasing in 2024 as stated.

After brief discussion, the following motion was offered:

MOTION by Allison, support by Moghtader, to recommend to the Board of Trustees approval of the consultant's rates as follows for 2024:

\$110/hour project work; \$70/hour baseline; monitoring no change

Motion passed unanimously by voice vote.

IX. End of Millage and New Millage Discussion - Discussed above.

X. Matters Arising - None

XI. Closed Session

MOTION by Moghtader, support by Judkins, 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, Judkins, Moghtader. Nays – none. Motion passed 4-0.

The Board went into closed session at 8:46pm.

XII. Re-enter Open Session

MOTION by Allison, support by Moghtader, to enter open session at 9:48pm.

Motion passed unanimously by voice vote.

Motion by Allison, support by Moghtader, to approve closed session minutes from September 25, 2023, as read tonight in closed session.

Roll call vote: Ayes – Allison, Bartoshesky, Judkins, Moghtader. Nays – no. Motion passed 4-0.

XIII. Adjournment

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

Motion passed unanimously by voice vote.

The meeting adjourned at 9:51pm.