

**ANN ARBOR CHARTER TOWNSHIP
BOARD OF TRUSTEES MEETING
MINUTES OF MEETING – MONDAY, MARCH 18, 2024
TOWNSHIP OFFICES - 3792 PONTIAC TRAIL, ANN ARBOR MI**

I. CALL TO ORDER, ESTABLISH QUORUM

Supervisor O’Connell called the Ann Arbor Charter Township Board of Trustees meeting to order at 7:30 pm on March 18, 2024.

Present: Supervisor Diane O’Connell
Clerk Rena Basch
Treasurer Carlene Colvin-Garcia
Trustee John Allison
Trustee Michael Moran
Trustee Kristine Olsson
Trustee Rodney Smith

Absent: None

Also Present: Township Attorneys Gabis and Dupes, Bodman PLC
Fire Chief Nicholai
Utilities Director Judkins

II. APPROVAL OF BOARD OF TRUSTEES MINUTES

A. Regular Meeting February 19, 2024

MOTION by Olsson, support by Colvin-Garcia, to approve the February 19, 2024 regular meeting minutes as submitted.

Motion passed unanimously by voice vote.

B. Special Meeting February 21, 2024, Open Session

MOTION by Allison, support by Olsson, to approve the February 21, 2024 special meeting open session minutes as submitted.

Motion passed unanimously by voice vote.

C. Special Meeting February 21, 2024, Closed Session

MOTION by Colvin-Garcia, support by Allison, to approve the February 21, 2024 special meeting closed session minutes as submitted.

Motion passed unanimously by voice vote.

III. CITIZEN PARTICIPATION

Peter Kotila, Township resident and Planning Commission Chair, spoke to the difficulty of communicating with Township residents for the March 12, 2024 Master Plan Public Engagement Meeting (Agenda Item VI.D.2). The Township used what tools it had for this event, including placing the event on the Township calendar, blasting an email out to those on the Township email list that referenced the Township website, announcements on the website, and last, using staff and Township officers to help create and print postcards – a significant effort – which arrived in most Township mailboxes 24-48 hours before the event. Mr. Kotila suggested there might be a better, less expensive, updated way to reach Township residents, which was to leverage social media tools. His research regarding similar municipalities in the county showed that several had an active Facebook presence, with a variety of followers (from 320 – 3,800). The City of Ann Arbor’s Facebook page has 14,000 followers. Several municipalities also use Twitter. Ann Arbor Township sets examples followed by other Townships throughout the state, but in the area of communicating with constituents, the Township lags. There was opportunity to better reach residents through engagement via social media.

Trustee Smith noted that the Climate Resilience Committee had run into the same issues when trying to communicate with Township residents.

IV. APPROVE THE AGENDA AND CONSENT AGENDA

MOTION by Basch, support by Allison, to amend and approve the agenda as follows:

- **Move Item V.F, *Resolution Regarding Interest on Private Wastewater System (PWS) Deposits and Escrows Account*, to V.A**
- **Add new Item V.B: *Consider entering closed session pursuant to MCL 15.268(1)(e) to discuss litigation or settlement strategy in relation to Ann Arbor Township vs. WSG Properties et al., Washtenaw County Circuit Court Case 23-001234-CE.***
- **Re-letter remaining items under V. accordingly.**

Motion passed unanimously by voice vote.

MOTION by Moran, support by Smith, to approve the consent agenda as published.

Motion passed unanimously by voice vote.

Consent Agenda:

- A. Claims Listing 02-17-24 to 3-14-24 for \$ 614,115.00.
- B. Approve Ann Arbor Technology Park 2023 member payment of \$138.94.
- C. Approve Fire Department Purchase request of \$21,640 from R & R Fire Truck Repair, Inc. for Battery Operated Positive Pressure Fans.

V. ANNEXATIONS, ORDINANCES, ZONING, RESOLUTIONS

A. Resolution Regarding Interest on Private Wastewater System (PWS) Deposits and Escrows Accounts

Supervisor O'Connell introduced this agenda item. So far the private wastewater system (PWS) for the Northbrooke development was the Township's only private system. There was a very large escrow attached to this system, representing 50% of the necessary funds to repair, redesign, and/or rebuild the PWS in the case of a catastrophic failure. Recently there had been discussion as to how the escrow interest could be used to best benefit the Northbrooke PWS. The Resolution before the Board this evening states that for any PWS system, the interest attached to the escrow would go back into the escrow, instead of the General Fund, in order to continually build the fund amount in the escrow. While the interest might not keep pace with inflation, putting the interest into the escrow meant that in the event the escrow must be used, there had been some growth in the fund. The escrow fund must exist into perpetuity.

Utilities Director Judkins added that a system that was funded a decade or more ago would have lost value due to inflation, while the actual repair/replace costs would have gone up. By keeping the interest attached to the fund, that inflationary loss could be somewhat offset. Utilities Director Judkins also pointed out that a new application for a PWS would likely be brought to the Board in the near future.

Supervisor O'Connell further noted that should the escrow fund drop below the 50% repair/replace amount, the Township can require the developer to add in more money to reach the minimum 50% balance. However, there was no process in place to actually do the kind of inspection that would show when a PWS' fund percentage had dropped. The amount should be recalculated on a recurring schedule.

Should a catastrophic event related to the PWS occur, ultimately the developer or homeowners' association was responsible for the repair and/or replacement cost. If for whatever reason the developer and/or the HOA could not pay for the repairs, after the escrow funds were used up, the Township could be held liable to finish the project, although the ultimate financial responsibility would always belong to the developer or the HOA, and they would be held liable for returning any moneys the Township expended for this purpose.

The Township Comptroller had affirmed that keeping the interest with the escrow would not be difficult to manage.

Discussion also included the following:

- There would be no guaranteed rate of interest, which rate would follow the market.
- The Board could move on the Resolution provided this evening, and later revisit the Ordinance and Development Agreement relative to other issues, including requiring recalculating the 50% amount on a regular basis – perhaps annually.
- If this change was approved, adding interest to the escrow could start as of January 2024.

After further discussion and amendment, the following motion was offered:

MOTION by Basch, support by Smith, that the Ann Arbor Charter Township Board Trustees approve the RESOLUTION REGARDING INTEREST ON PRIVATE WASTEWATER SYSTEM (PWS) DEPOSITS AND ESCROWS, DATE: March 18, 2024, with the following changes:

- **P. 2, under RESOLUTION, item 1, line 1, add after the word reference, "as of January 1, 2024 . . ."**

Trustee Moran said while he supports the motion in principle, he could not support action tonight based on the written information before the Board; he believed that more research should be done regarding the necessary changes in policy and procedures that would be required to support this change.

Roll call vote:

Smith	yes
Moran	no
Allison	yes
Olsson	yes
Basch	yes
O'Connell	yes
Colvin-Garcia	yes

Motion passed 6-1.

- B. Consider entering closed session pursuant to MCL 15.268(1)(e) to discuss litigation or settlement strategy in relation to Ann Arbor Township vs. WSG Properties et al., Washtenaw County Circuit Court Case 23-001234-CE.**

As the Township litigation attorney was present this evening, and as the stay from the Circuit Court in the referenced case ended in two days, the following motion was made:

MOTION by Olsson, support by Allison, that the Ann Arbor Charter Township Board of Trustees go into closed session pursuant to MCL 15.268(1)(e) to discuss litigation or settlement strategy in relation to Ann Arbor Township vs. WSG Properties et al., Washtenaw County Circuit Court Case 23-001234-CE, because discussion in open session would have a detrimental financial effect on the litigating or settlement position of the Township.

Roll call vote:

Smith	yes
Moran	yes
Allison	yes
Olsson	yes
Basch	yes
O'Connell	yes
Colvin-Garcia	yes

Motion passed 7-0.

The Board of Trustees went into closed session at 7:41pm, and returned to open session with the following motion at 9:34pm:

MOTION by Basch, support by Olsson, to adjourn the closed session and return to open session.

Motion passed unanimously by voice vote.

C. Resolution Establishing Moratorium on Mining Applications

Township Attorney Gabis explained that since the Township is embarking upon a review of the mining provisions in the Zoning Ordinance, the Resolution before the Board will impose a moratorium on any applications for mining activity for a maximum period of 7 months, with the moratorium initially being for 4 months with a permitted 3 month extension. This moratorium will allow the Township to undertake the review without a concern that a new mining operation may come in during the process, without the full review of the ordinance provisions completed.

After discussion and amendment, the following motion was offered:

MOTION by Allison, support by Olsson, that the Ann Arbor Charter Township Board of Trustees approve RESOLUTION ESTABLISHING MORATORIUM ON MINING APPLICATIONS, DATE: MARCH 18, 2024, with the following changes:

- Under Recital D., line 2, strike "~~namely,~~" and replace with "including", and strike "~~hazardous~~", so that Recital D reads:

D. Recently, very serious consequences have resulted from mining activity in the Township, including the depletion of underground freshwater resources. Reliable evidence demonstrates that numerous residential wells required for potable water have gone dry due to nearby mining activity.

Motion passed unanimously by voice vote.

D. Washtenaw County Mutual Aid Interlocal Agreement – Chief Mark Nicholai

Fire Chief Nicholai gave the background for this agenda item, which item was for information and discussion only; a formal presentation would be made at the next Board meeting.

- The Washtenaw Area Mutual Aid (WAMA) Association was currently listed as a non-profit organization. WAMA is concerned that its members have no governmental immunity when operating vehicles, training, and emergency response services when acting as part of WAMA.
- The answer is to create the Washtenaw Area Mutual Aid Council (WAMAC), a quasi-government organization that will provide for some governmental immunity. An interlocal agreement has been drafted, and is currently being reviewed by the Township Attorney.

Board Discussion:

- The proposed interlocal agreement has some major changes over the existing WAMA agreement, including location of equipment, and a variety of cooperative arrangements. A red-lined version showing proposed changes would be helpful.
- Township Attorney Gabis has talked with the drafting attorney, and is waiting to hear if there are options in terms of the negotiability of the agreement.
- When WAMA was formed there was no equipment involved. Post 9-11, WAMA received equipment and vehicles, and funding for additional training.

- Chief Nicholai did not foresee any Township funding that would go toward equipment, procurement, or vehicles. There should be no budgetary impact to the Township, except for the annual membership fee (currently \$4,000).
- The proposed agreement should clarify that the public body (not WAMAC members) could modify the agreement.
- The biggest change between what is existing (a non-profit mutual aid association) and the proposed Washtenaw Area Mutual Aid Council (a government organization) is that government immunity would be provided for the members.

E. Resolution of Support to Pursue a Michigan Natural Resources Trust Fund Grant to Complete Trail Construction for the Dixboro Pathway Gap – Rick Judkins and Eric Humesky, Stantec

Utilities Director Judkins explained that the goal was to apply for funding that would complete the Dixboro Pathway Gap. The deadline for the application was in June. Grant decisions will be made in August or later.

MOTION by Smith, support by Allison, that the Ann Arbor Charter Township Board of Trustees support the RESOLUTION OF SUPPORT TO PURSUE A MICHIGAN NATURAL RESOURCES TRUST FUND GRANT TO COMPLETE TRAIL CONSTRUCTION FOR THE DIXBORO PATHWAY GAP DATE: March 18, 2024.

Motion passed unanimously by voice vote.

F. Cross Connection Control Program – Rick Judkins

Utilities Director Judkins gave the background for this discussion item. The State required that the Township’s cross-connection plan be updated, specifically having to do with sprinkler systems. This had been done and submitted to EGLE (Michigan Department of Environment, Great Lakes, and Energy).

In the Township, commercial applications do their own cross connection inspections and report back to the Township. The Township is responsible for residential inspections. There are about 100 residential properties that have municipal water and a sprinkler backflow device; these have to be inspected.

The most efficient way to handle residential inspections is to hire a plumber, who can do 10-15 inspections per day, and that is what the Township is doing, saving both the Township and residents money. For the residents, the \$90 “show-up” fee is waived entirely, only the \$90 test fee applies, along with any repairs that must be made, which repairs often can be made by the plumber on the spot.

The state-mandated residential inspection requirement is new. The inspection will occur continuously over 3-year cycles. The requirement and process have been reviewed by the Utilities Committee. The new process will be an ordinance change, and needs to go through the normal process for ordinance amendment (2 readings). Draft language will be brought to the BOT at a future meeting.

G. CARD Resolution to establish a residential testing program – Michael Moran

Trustee Moran explained that the Resolution before the Board was actually not a CARD (Coalition for Action on Remediation of Dioxane) resolution but an Ann Arbor Township resolution. Trustee Moran had drafted the CARD resolution, which was provided as an example. Scio Township had recently passed a resolution that was virtually identical to the one before the Board this evening.

The Resolution asks that EGLE be asked to establish a system for testing residential wells, paid for by Gelman, for individual homeowners to qualify for funds for testing their drinking water for dioxane; with the various provisions in B, C, D, and E as parts of the test.

When Scio adopted their resolution two months ago and sent it to EGLE, EGLE responded that they could not institute this testing because the Gelman money was all disbursed in 2014, and that further testing requirements were prohibited by the Fourth Consent Judgment. Yet the Consent Judgment stated that EGLE and Gelman agreed that “notwithstanding any other provision in this consent judgment, EGLE reserves the right to institute proceedings in this action or in a new action seeking to require Gelman to perform any additional response activity at the site, and reserves the right to institute proceedings in this action or a new action seeking to reimburse EGLE for the response costs incurred by it.”

In other words, EGLE is wrong in its interpretation that they cannot require new activity of Gelman.

MOTION by Allison, support by Moran, that the Ann Arbor Charter Township Board of Trustees approve RESOLUTION TO REQUEST MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY (EGLE) ESTABLISH A RESIDENTIAL WELL TESTING PROGRAM DATE: March 18, 2024.

Motion passed unanimously by voice vote.

Trustee Moran noted that additional Method 522 testing by Scio Township had demonstrated that the Gelman plume was moving, and that dioxane levels were increasing in certain wells.

Trustee Moran also pointed out that the Gelman site was closer to being put on the EPA Superfund list – this could occur as soon as late spring 2024 – and he updated the Board on that process.

VI. REPORTS, DISCUSSIONS

A. Supervisor’s Report – O’Connell

- The Board discussed various road improvement projects as provided in the Board packets.
- 2025-2028 County Road Millage information is in the Board packets. The County is seeking support for the millage, which will be on the August 2024 ballot.
- County Public Safety Millage will also be on the August ballot.
- Ann Arbor SPARK presented legislative priorities at its Legislative Breakfast on March 1, with much discussion regarding affordable housing.
- Very busy Board of Review last week, with 37 appointments.

- Township received \$107K Washtenaw Water Resources Grant for the Warren Road culvert; this was less than the hoped for \$200K. With the \$30K from ARPA (American Rescue Plan Act) the Township now had \$137K to go toward its share of the total \$400K culvert replacement. The Board will need to decide what it wants to do.
- Township Hall recently participated in active shooter training.

B. Clerk’s Report – Basch

Written report in the Board packets. Next election is August 6. Deadline for people running for re-election to submit forms is Tuesday, April 23.

C. Treasurer’s Report – Colvin-Garcia

Winter taxes complete.

D. Planning Commission – Allison

1) March 4, 2024 Regular Meeting

Trustee Allison reviewed the March 4 meeting. Draft minutes were in the packets.

2) March 12, 2024, Public Engagement Meeting

Meeting attended by about 20-23 residents; it was a good session.

E. Committee Report

1) Farmland Open Space and Preservation Board Report - Allison

Meeting next week

2) Utility Committee - Judkins

Committee met today and looked at bids for the SCADA (Supervisory Control and Data Acquisition) Logic PLC (Programmable Logic Controller) System. The Committee recommends to approve the bid for \$65,950.00.

This is a badly needed update.

MOTION by Basch, support by Colvin-Garcia, to approve the bid for the SCADA Logic PLC system in the amount of \$65,950.00

Motion passed unanimously by voice vote.

3) Climate Resilience Committee – O’Connell

(a) Community Energy Management Grant

The Committee is asking for authority for the Climate Action Committee, on behalf of the Township, to apply for a Community Energy Management Grant for an amount up to \$100K. These funds, if received, will fund an ASHRAE (American Society of Heating, Refrigerating and Air-Conditioning Engineers) audit of Township buildings, and will help create a \$4,000 - \$6,000 revolving fund to be used for such things as light bulb replacement, etc. \$40K will be set aside to use to implement ASHRAE requirements, after Board approval.

MOTION by Allison, support by Smith, to authorize the Climate Resilience Committee to apply for a Community Energy Management grant in an amount up to \$100,000.

Motion passed unanimously by voice vote.

4) Zoning Board of Appeals – Basch

Did not meet

5) Public Safety Committee

Did not meet

6) Roads Committee – Smith

People who live on the paved portions of Blueberry Lane, Danbury Lane, and Englave Drive are in the process of collecting signatures for a Special Assessment District.

F. Utilities Department Report - Judkins

Written report in the Board Packets.

Invoice received for February water break repair on Goss Road.

MOTION by Moran, support by Colvin-Garcia, to approve the invoice for water main repair on Goss Road in the amount of \$24,214.67.

Motion passed unanimously by voice vote.

G. Public Safety Report

1) Washtenaw County Sheriff's Department

Report in the Board packets

2) Fire Department – Chief Mark Nicholai

Chief Nicholai reviewed the written February 2024 Fire Department Report, and answered questions from the Board.

H. Building Department Report

Report in the Board packets.

VII. INFORMATION ONLY ITEMS - None

VIII. NON-AGENDA ITEMS - None

IX. PUBLIC COMMENT - None.

X. ADJOURNMENT

MOTION by Moran, support by Olsson, to adjourn the meeting.

Motion passed unanimously by voice vote.

The meeting was adjourned at 10:47pm.