



WASHTENAW COUNTY BOARD OF COMMISSIONERS

Wednesday August 1, 2012

RECORD OF PROCEEDINGS

A session of the Washtenaw County Board of Commissioners was held at the Administration Building, in the City of Ann Arbor, Michigan, on Wednesday, August 1, 2012.

The meeting was called to order at 7:55 p.m. by Conan Smith, Chair of the Board.

MEMBERS PRESENT: Comms. Bergman, Gunn, Brabec, Peterson, Ping, Prater, Rabhi, Conan Smith, Dan Smith and Turner

MEMBERS ABSENT: Comm. Sizemore

OTHERS PRESENT: County Administrator, Verna McDaniel; Curt Hedger, Corporate Counsel; Catherine McClary, Treasurer; Greg Dill, Facilities; Bob Tetens, Parks & Recreation; Ben Toole, ITS; Elaine Holleran, County Administration; Peter Simms, Clerk's Office; various citizens; and members of the press.

Roll Call

Pledge of Allegiance

Approval of the Minutes of the Previous Meeting

Comm. Prater seconded by Comm. Ping moved that the minutes of the July 11, 2012 meeting of the Board of Commissioners be approved. Motion carried.

Citizen Participation

Thomas Partridge, Senior Citizen Advocate, stated that he is running for a seat in the Michigan House of Representatives. He called on the board to adopt resolutions and policies to ask for more funding from the Governor's Office. He said that citizens' rights have been restricted as far back as Governor George Romney's tenure. He added that President Barack Obama must be re-elected.

Joel Levitt stated that he has been an Ann Arbor resident for more than 40 years. He said that the health of Washtenaw County depends upon Ann Arbor. He stated that for Ann Arbor to continue to be a county leader it needs improved roads and transportation facilities.

Commissioner Follow-Up to Citizen Participation

None

Communications

Comm. Gunn seconded by Comm. Turner moved that the communications be received and dealt with as recommended. Motion carried.

R-0074 RECEIVED: July 10, 2012. A letter addressed to the Washtenaw County Board of Commissioners from David L. Sponseller, Ph.D., P.E., re: Four Party Agreement on County Transportation Plan, dated July 9, 2012. Received and filed.

R-0075 RECEIVED: July 13, 2012. A letter addressed to the Washtenaw County Board of Commissioners, from Jan Davies McDermott, Owner, Davies House Inn Georgetown, re: Accommodations Excise Tax, dated July 11, 2012. Received and filed.

R-0076 RECEIVED: July 23, 2012. A letter addressed to the Washtenaw County Board of Commissioners, from Ypsilanti Township Planning Committee, re: Notice of Intent to Prepare a Master Plan Amendment Ypsilanti Charter Township, Washtenaw County Michigan, dated July 18, 2012. Received and filed.

NOT INCLUDED IN THE PACKET:

R-0077 RECEIVED: July 25, 2012. An issue of Pipeline magazine addressed to the Washtenaw County Board of Commissioners. Received and filed. Not included in packet due to size.

Liaison Reports

Comm. Turner stated that on June 21st he attended a presentation made to the Dexter area Fire Department. He noted that they were presented with a check to purchase a thermal imager so that the department can track where the fire is within a house. He said that it was used to identify the location of a fire within one of the homes damaged by the tornado.

He noted that he attended two meetings of the Sheriff's Workgroup on Animal Control costs. He stated that he has attended several excellent meetings of the Animal Control Policy Taskforce.

He reported that he attended a Dexter Township meeting. He noted that they have only one tornado siren. He added that they have voted to use reserve funding to install solar powered emergency alert system.

He mentioned that the Homeland Security Taskforce has approximately \$77,000 of funds left over. He stated that money is being considered for use in Scio Township to install a tornado alert system.

He stated that the WCERS and VEBA boards are looking into actuaries. He said that two companies made two very strong presentations. He reported that the final decision about which company to work with will be made at the next meeting.

Comm. Prater stated that he attended the emergency medical committee meeting. He said that in April, May and June they had responded to a little over 3,100 calls. He reported that the University Hospital has 3 emergency survival flight vehicles. He said that capacity has been increased 40%. He added that the helicopters are leased on a 7 year contract.

Comm. Bergman stated that the Area Agency on Aging wants to enter the for profit area by becoming part of tri-state non-profit which could sell shares. She added that she had some misgivings about this. She added that she would keep the board informed.

Report of the Chair of the Board of Commissioners

12-0109 Comm. Dan Smith seconded by Comm. Turner moved that the resolution honoring the Washtenaw Community Concert Band on their 35th Season be approved. This resolution was passed by voice vote of the board.

Special Order of Business

Public Hearing on the proposed second amendment to the Washtenaw County Accommodations Ordinance:
No citizens spoke.

Public Hearing for the Brownfield Plan for 618 S. Main

Dan Ketelaar, developer of the project, stated that he appreciated the Brownfield support for this project. He noted that it had received approval from Ann Arbor City Council in June 2012. He noted that the project was two blocks south from downtown Ann Arbor. He added that it was a full acre of land. He said that most of the new housing was for students. He reported that this was designed specifically for young professionals. He said that they were ten minutes from campus, 5 from downtown and less than 15 from Kerrytown. He said this community had meeting places and activity areas. He reported that a garden was being created to capture 100% of the storm water generated by the site. He noted that the Old West Side association has given this project a letter of approval and support. He said that the garden was in the back to increase the small neighborhood feel. He stated that the face of the building was on Main Street.

Public Hearing on the Four-Party Agreement and Articles of Incorporation

Thomas Partridge, City of Ann Arbor resident, called on the board members to stand up to their constituents and to approve the four-party agreement. He asked that Dan Smith, Alicia Ping and Rob Turner lend their support to the project. He stated that he had read resident letters from many corners of Washtenaw County who had reported that they have high transportation costs.

Charlie Nielsen stated that he was the previous Scio Township Supervisor. He noted that years ago his son had been able to commute to Washtenaw County Community College via the AATA. He said that this is the answer that he looked for as the Supervisor of Scio Township. He stated that the plan makes sense. He added that it is much needed cooperation. He finished by thanking the board for county services.

Waleed Howrani stated that he finds it hard to believe how little is being done for the environment. He reported that car emissions are a huge source of pollution. He stated that he is proud of the AATA. He noted that it would be an enormous convenience to see a transit system like this replicated other places. He said that in addition to convenience buses save lives and reduce pollution.

Tad Wysor stated that he lives in Ypsilanti Township and works in North Ann Arbor and is lucky to have a dependable bus system on both ends of his commute. He said that it seems this plan is an excellent opportunity to improve public transportation in Washtenaw County. He reported that it is hard for him to imagine a more effective action than to expand and improve mass transit.

David Sponseller stated that far more energy is expended by empty buses running around than energy efficient cars. He said that in 1969 he supported the start of a bus system by the City of Ann Arbor. He stated that the bus system has failed to win people over to the bus. He added that the reason is that people are in love with their cars. He said that a high density is needed to support a transit system. He reported that if ridership had not been won in Ann Arbor he did not think it was likely that people in the far corners of the county would embrace it.

Larry Krieg, Former WCCC Staff, stated that the buses do not run their routes empty. He said that if a student's car fails then it is likely that the student will also fail. He reported that many of his students find that they cannot get a job without a car but they can't afford a car because they don't have a job. He stated that he was supporting this for his grandchildren. He said that people who don't want to be burdened by automobile ownership are forced to move to one of the coasts.

Nancy Kaplan stated that connecting the county to Ann Arbor is a great idea. She added that she had concerns with the process. She said that she found the lack of accountability troubling. She stated that there should be a test of the interest that communities have in participating. She said that communities should pay for five years of service as a proper test.

Janet Wright stated that she lives over two miles from the nearest bus line. She reported that she is now 70 years and while she can still use her car she does not know how much longer she will be able to drive. She added that she has a strong concern about climate change. She said that some type of public transportation will become increasingly important.

Matthew Braman said he was there to speak in favor of the four-party agreement. He reported that he grew up in this county and now he is leaving the state because he cannot afford to live in Milan and work in Ann Arbor. He stated that his car broke down in February and while he was able to rent a car it still cost money. He noted that he works to help people reenter society after they emerge from prison. He stated that one of the terms of their release is employment. He said that county wide transit will increase the opportunities for jobs. He noted that he'll be living in New York City where he'll be able to travel for between \$60-80 a month.

Sayan Bhattacharyya stated that he is a graduate student at the University of Michigan. He noted that he had never seen snow or driven before he moved to Ann Arbor. He added that he was scared to drive in the winter. He reported that when he graduates he will be looking for places with good public transportation.

Robert Klingler stated that a year and a half ago he torn the tendon off his knee. He stated that after two operations he really depended on the services of the AATA. He reported that he lives 9/10 of a mile from the nearest bus stop. He added that his bus ride can take 45 minutes one way. He reported that he was thankful for the bus to take him downtown. He said that if more people were connected to the downtown they would come.

Reports of the Standing Committees

Comm. Prater seconded by Comm. Rabhi moved that the following reports be received: Ways and Means Committee, dated July 11, 2012; Working Session, dated July 12, 2012. Motion carried. (Complete reports are on file in the County Clerk/Register's Office.)

Reports of Special Committees

Comm. Prater seconded by Comm. Rabhi moved that the following reports be received: Drain Board, dated May 22, 2012, June 28, 2012; Road Commission, dated June 21, 2012; Social Services Board, dated May 22, 2012; Weapons Licensing Board, dated June 19, 2012. Motion carried. (Complete reports are on file in the County Clerk/Register's Office.)

Other Reports

None

Report of the Treasurer

Catherine McClary, Washtenaw County Treasurer, made a report to the Board of Commissioners on cash and investments, tax collection and foreclosure prevention efforts.

Comm. Conan Smith asked if she benchmarked against the peer counties. Catherine McClary said that she benchmarks against the Fed.

Comm. Dan Smith said that excess proceeds were good and bad. He said that he was glad there was money coming in but he was not happy that people are losing their jobs. Catherine McClary said she was proud of the efforts made by her staff to reduce foreclosure. She said that when properties are sold at auction they are put to productive use.

Comm. Peterson thanked the treasurer for her work. He stated that tax sales have affected his district deeply. He asked how the county could work with the agencies to put people in permanent housing. Catharine McClary said that the trend has been a decrease in tax sales. Comm. Peterson said that with mortgage foreclosures and tax sales his district had suffered tremendously. Catharine McClary said she would sit down with some of her staff and see what the history has been and what has happened with homes sold via tax sales. She noted that they have done several open houses which are very staff intensive and it takes the risk out of the purchase. She received a NACO award on behalf of the City of Ypsilanti and Washtenaw County for the open house program. Comm. Peterson said he was interested in putting people in permanent housing. He reported that he met three people last week on one block who all bought their houses for a small amount of money.

Comm. Brabec seconded by Comm. Gunn moved that the following report be received: Report as of June 30, 2012. (Complete reports are on file in the County Clerk/Register's Office.)

Appointments

12-0110 Comm. Brabec seconded by Comm. Prater moved that the resolution recommending Michelle Mueller for appointment to the Washtenaw County Workforce Development Board be approved. Roll Call Vote: YEAS: 10 NAYS: 0 ABSENT: 1 (Comm. Sizemore) Motion carried.

Resolutions:

12-0111 Comm. Brabec seconded by Comm. Gunn moved that the resolution ratifying the County Administrator's signature on the Program Year 2012 ARRA Weatherization Program Redistribution Agreement to the Michigan Department of Human Services for a total budget of \$289,800 for the program period of April 1, 2012 to March 31, 2013; approval of the budget; authorizing the County Administrator to sign delegate and lease contracts be approved. Roll Call Vote: YEAS: 10 NAYS: 0 ABSENT: 1 (Comm. Sizemore) Motion carried.

12-0112 Comm. Brabec seconded by Comm. Gunn moved that the resolution adopting the Brownfield Plan for the 618 S. Main – An Urban Apartment Community Redevelopment Project, located at 606 and 618 S. Main, Ann Arbor, MI 48104 be approved. Roll Call Vote: YEAS: 8 NAYS: 2 (Comm. Brabec, Rabhi) ABSENT: 1 (Comm. Sizemore) Motion carried.

12-0113 Comm. Brabec seconded by Comm. Gunn moved that the resolution authorizing the Clerk/Register to issue Veteran Photo ID Cards at a fee not to exceed \$10 per card be approved. Roll Call Vote: YEAS: 10 NAYS: 0 ABSENT: 1 (Comm. Sizemore) Motion carried.

12-0114 Comm. Brabec seconded by Comm. Gunn moved that the resolution suspending Washtenaw County's Use of Construction Unity Board Agreements in Bid Specifications and Construction and Renovation Contracts be approved. Roll Call Vote: YEAS: 8 NAYS: 2 (Comm. Peterson, Ping) ABSENT: 1 (Comm. Sizemore) Motion carried.

12-0115 Comm. Brabec seconded by Comm. Gunn moved that the resolution amending the 2012 General Fund Budget be approved. Roll Call Vote: YEAS: 10 NAYS: 0 ABSENT: 1 (Comm. Sizemore) Motion carried.

12-0116 Comm. Brabec seconded by Comm. Gunn moved that the resolution approving the second amendment to the Washtenaw County Accommodation Ordinance to exempt bed and breakfasts, cottages and individuals who periodically lease rooms in their homes from having to pay the Accommodation Excise Tax under the ordinance be approved. Roll Call Vote: YEAS: 10 NAYS: 0 ABSENT: 1 (Comm. Sizemore) Motion carried.

12-0117 Comm. Brabec seconded by Comm. Gunn moved that the resolution authorizing the Chair of the Board to sign a Public Transportation Agreement with the Ann Arbor Transportation Authority, the City of Ann Arbor and the City of Ypsilanti and to further authorize the County Administrator to submit Articles of Incorporation creating a new Public Transportation Authority for Washtenaw County be approved. Roll Call Vote: YEAS: 6 NAYS: 4 (Comms. Ping, Prater, Dan Smith, Turner) ABSENT: 1 (Comm. Sizemore) Motion carried.

Comm. Turner seconded by Comm. Brabec offered the following resolution:

*SECTION 10.01: Amendment – These Articles of Incorporation may be amended only upon a ~~two-thirds (2/3)~~ **UNANIMOUS** vote of the directors appointed and serving on the Authority. All amendments must comply with applicable state and federal laws. All amendments to the Articles of Incorporation become effective only after they are executed jointly by the Chairperson and by the Secretary of the Board of the Authority, filed with the recording officer of the Washtenaw County Clerk, and filed and published in the same manner as the original Articles of Incorporation.*

Comm. Turner said that he wanted to prevent local governments from having the structure of the organization changed after they've joined.

Comm. Gunn said that this agreement has been discussed a number of times. She stated that the problem with amending it now is that it will have to go back to each of the parties. She said that a unanimous vote was too high a bar for the authority to clear. She introduced her amendment to the amendment seconded by Comm. Rabhi.

SECTION 10.01: Amendment – These Articles of Incorporation may be amended only upon a four fifths (4/5) vote of the directors appointed and serving on the Authority. All amendments must comply with applicable state and federal laws. All amendments to the Articles of Incorporation become effective only after they are executed jointly by the Chairperson and by the Secretary of the Board of the Authority, filed with the recording officer of the Washtenaw County Clerk, and filed and published in the same manner as the original Articles of Incorporation.

Comm. Bergman asked if it was legal to have a unanimous vote. Curt Hedger said that as a general rule whatever the parties agreed on would be legal. Comm. Bergman said that it means that one person could be more easily swayed. She stated that it makes the members of the board extremely vulnerable to temptation. She said that she does not want her tax dollar bought assets to dance on the whim of one voter.

Comm. Rabhi stated that he supports Comm. Gunn's amendment. He said that he agrees with Comm. Bergman. He reported that one township paying into the system with one voting member could block everything, which he did not think that was fair. He said it should be a high bar for the Articles of Incorporation to be amended.

Comm. Ping said that she would also support Comm. Gunn's amendment. She said this was the best option for the people of her district.

Comm. Turner said he did not understand why her motion is much different because it will cause the same action as his. He noted that both amendments would mean the articles would have to go for approval by each member of the four-party agreement. He added that he is only pushing for a unanimous vote on the action to change the articles of incorporation.

Comm. Prater stated that much of the discussion has been taken out of context. He said that if these articles of incorporation were written properly then they should last for a long time as they are currently written. He said that everyone should be on board to make a change to the articles of incorporation or it should not happen. He suggested approving Comm. Turner's amendment.

Comm. Peterson said that he was leaning to supporting Comm. Gunn's amendment. He reported that he had spoken with Comm. Turner about his desire to be fair to the out-county areas. He asked Counsel if the articles of incorporation would ever come back to the county. Curt Hedger responded that they would never come back to the BOC. He added that the way it was written originally set up is that it would require 2/3 vote of the board, Comm. Turner's amendment requires unanimity, Comm. Gunn's amendment requires 4/5 vote of the board. Comm. Peterson asked what the opt-out options were. Curt Hedger said you can opt out 30 days after creation, if a millage is passed though you cannot opt out until the millage ends. Comm. Peterson said he was not sure unanimity was the best choice but he would hate to have a community join and then have the rules change.

Comm. Conan Smith said there are 5 substantive items where there is a "shall do" wording. He noted that the first one relates to jurisdictional issues. He said that item could be changed via amendments to the articles of incorporation. He reported that board composition represents two items that might be amended. He noted that the term and compensation level was the third thing that might be amended. He said that the fourth is the right to collective bargaining. He added that the final one is pension protections for the current employees of AATA. He said this demands an extraordinarily high bar. He said those five items are what would be affected by Comm. Turner's amendment. He said that setting the unanimity level for those 5 items that define the institution being created is a fair and reasonable request in his mind. He said appointed bodies have great capacity to reach consensus. He said that this system of government should let the county have a fair say.

Comm. Gunn stated that she was concerned that her amendment would send the articles back to the other parties but she thought that a unanimous vote was an unreasonable bar to clear. She said that a 4/5 vote of the board should be able to work.

Comm. Prater said that it should not be a problem if this document goes back to the other parties. He said that Ann Arbor has a large amount of capital in place. He noted that nobody was using anything that they are not paying for.

Comm. Bergman called the question seconded by Comm. Gunn. Vote to call the question not needed because there was no objection.

Roll Call Vote to approve Comm. Gunn's amendment to Comm. Turner's proposed amendment to Section 10.01 of the Articles of Incorporation: YEAS: 6 NAYS: 4 (Comms. Brabec, Prater, Conan Smith, Turner) ABSENT: 1 (Comm. Sizemore) Motion carried.

Roll Call Vote to approve Comm. Gunn's amendment to Section 10.01 of the Articles of Incorporation: YEAS: 10 NAYS: 0 ABSENT: 1 (Comm. Sizemore) Motion carried.

Comm. Dan Smith said that the board has a ministerial role and they need to ensure that the articles of incorporation are solid. He added that it was not the board's role to weigh in on whether or not public transportation is good or bad. He said he is not satisfied with the articles as they stand.

Comm. Prater said this process is 2 years in the making. He added that the four-party agreement is the result of the AATA's work. He said that the request should be denied until the service and funding plans have been published. He noted that the articles fail to state a date when the organization will become active. He added that the section concerning the dissolution of the authority should be removed. He stated that he is a supporter of public transportation where there is a need. He then read aloud the following statement titled "The proposed Washtenaw County Transit Authority":

This process has been in the making for about two years. AATA has spent 6 to 7 hundred thousand dollars, mostly from grants (Federal and State) of tax payer's dollars, contracting with an off shore company to do work that should have been American jobs. The 4-party agreement and the Articles of Incorporation, which is before the County Commission, is the result of their work. In the 4-Party Agreement, that's before the Commission this evening, I find it ironic, that in paragraph #2, titled "Authority Formation": in the third line down, that states: "Prior to the submission of any request by AATA to the County to initiate formation of a Public Authority, all of the following must occur: (i) AATA will publish details of the service and funding plan in newspapers of general circulation in Washtenaw County." As of today, compliance with the 4-party agreement as stated has not occurred. This request should be denied until AATA complies in accordance with its own rule. Without the details, it is like buying 'A PIG IN A POKE'. One does not know what they have purchased, until they see it. The political subdivisions and County Commission need the service and funding plans in order to make an informative decision, relative to this proposal. Regarding, Articles of Incorporation, Section 3.05, Effective Date: Validity Presumed – The Articles of Incorporation fail to state a date that the Public Authority shall become operative and the Articles of Incorporation become effective as required by MCLA 124.455 Section 5.2. Not setting the date is a violation of the statute. This information is critical for decisions to be made by Political Subdivisions that would want to opt out of the Authority and those that plan and prepare for the New Transit Authority. The proposed 4-party agreement and Articles of Incorporation have provisions to dissolve (for certain reasons) the New Transit Authority by Washtenaw County and by the City of Ann Arbor. (4-party agreement #12-b & c) (Article of Incorporation Sec. 10.02) These sections addressing dissolution of the New Transportation Authority should be removed. They have no standing in Public Act #196. Former, Michigan Attorney General, Frank J. Kelly gave an opinion dated December 23, 1998 stating: The dissolution of a transportation authority organized under the Public Transportation Authority Act requires an act of the Legislature and may not be accomplished by the unilateral action of the city in which it was established. These issues should be corrected by the County Board before adoption of the 4-party Agreement and the Articles of Incorporation. If not, they will linger and become an impediment. It is clear that some members of the 4-party Agreement are attempting to foist this New Authority on the backs of some of the Political Subdivisions in the County. Already 5 or 6 have opted out of the P.A. 7 agreements. After adoption by the County Board, they will be back in the New Authority and will have to opt out again. I am a supporter of Public transit where there is a need. It should be Cities, Townships and Villages that decide the level of service they need, not Washtenaw County and the other members of the 4-party Agreement.

Comm. Turner said that all he has heard tonight is how much Ann Arbor has put in and sacrificed. He noted that it does not sound like a county authority so much as an Ann Arbor authority that they're letting people in on. He stated that he is going to have to go to the governing bodies in his district and let them know about the dangers of joining this authority. He said he was saddened by this because he had had every intention of voting yes.

Comm. Bergman noted that she would have a tax increase if this was approved. She added that she has skin in the game.

Comm. Conan Smith said he agreed that a different form of governance would have guaranteed certain things but he had faith in the people involved.

Comm. Brabec thanked Comm. Turner for his words. She added that she understands his sentiments. She noted that the leadership in her district are excited by the prospect. She said that she hoped his concerns will be laid to rest as the process unfolds.

Comm. Prater said that even though AATA prepares and publishes a plan for service and funding it will not mean much because the board can do whatever they like once they assume leadership.

12-0118 Comm. Brabec seconded by Comm. Prater moved that the resolution authorizing payment of claims commencing with the last previously approved claim and continuing through the date of July 13, 2012 be approved. Roll Call Vote: YEAS: 10 NAYS: 0 ABSENT: 1 (Comm. Sizemore) Motion carried.

Items for Current/Future Discussion

Comm. Conan Smith said that Comm. Rabhi had raised points about the Brownfield project which are incredibly valid. He said that there should be a conversation about the desired outcome of a Brownfield project.

Comm. Rabhi reminded the board that tomorrow's working session will be on Head Start.

Report of the County Administrator

None

Adjournment

Comm. Peterson seconded by Comm. Rabhi moved to adjourn until Wednesday, September 5th, 2012, at 6:45 p.m. in the Board Room, Washtenaw County Administration Building. Motion carried.

The meeting adjourned at 10:30 p.m.

Conan Smith, Chair

Lawrence Kestenbaum, Clerk/Register

By: Peter Simms, Deputy Clerk

Board Approved: 9/5/12