

CONCORD TOWNSHIP BOARD OF TRUSTEES

September 23, 2014

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The Concord Township Board of Trustees held a work session on Tuesday, September 23, 2014 at the Concord Township Administrative Building. Chairman Karen Koch called the work session to order at 9:40 a.m. In attendance were Trustees Karen Koch, Joe Garrett, and Bart Johnson; Delaware County Assistant Prosecuting Attorney's David Moser and Aric Hochstetler; Fiscal Officer Jill Davis; and several Concord Township citizens.

Ms. Koch stated the purpose of the special session was informational in nature, regarding the effect a community authority has on development within the Township. The session was conducted in a question and answer (Q&A) format. There are a few development plans being considered by the township zoning and Trustee boards, that may be affected by a community authority. Mr. Hochstetler (AH) was instrumental on the County Commissioner's side when the Concord-Scioto Community Authority (CA) began, and knows how the CA is intended to operate in concept. Trustees were previously sent the CA's declaration.

Mr. Johnson began by asking what are the powers and role of the CA.

AH: Under Ohio law, a CA is a development tool that is formed, and petitions the County Commissioners, and if approved becomes a functionally, inter-related community. The development is inter-related, not contiguous. The CA would provide for residential development and services. The current CA was driven by, and morphed into, a sewer master plan for this portion of the county. It is a sewer-focused development tool. As the CA formed, it had to have 1,000 acres to develop. If it continues to build out, it could be potentially as big as the current sewer area.

Mr. Garrett asked if the state law changed or the CA, regarding being contiguous.

AH: The CA was formed in 2007, but under the current changes to the law to form a CA, the State added 1-a few development charges, 2-the CA can collect money in different ways than before, and 3-it requires fewer than 1,000 acres to set up a CA. The changes will sunset March 2015.

Mr. Johnson asked about residents with an existing home where the CA has no authority. As of November 1, 2007, if the resident splits off a lot, would the lot have to go under the CA?

AH: No, it is a choice to join the CA. If yes, there is a 10.2 mil charge, of which 2 mil goes to the county, to get sewer. Or the new lot would pay an upfront improvement fee to the county. The CA does not include water service. He recommends separate legal counsel to review details. The water line in the original county agreement was to supply water to the sewer plant.

Mr. Johnson: So if a resident does a fifty house development with no sewer service then what?

AH: He does not represent the CA, but the CA agreement is not triggered if a development doesn't connect to sewer. A developer will take the cheaper route; they make the choice.

Ms. Koch asked how does the sewer line make it to the developments.

AH: 1-The private development created construction, 2-the county projected the construction, and 3-the CA constructed the plant. It was a complicated deal, and the county dedicated a large block of taps to the CA to sell county-wide to pay for the CA construction cost. The county bought them back to sell. The CA has no revenue now, but does have expenses.

Mr. Johnson heard the county wouldn't construct sewer lines, only developments, but they did up SR315 to Sawmill Parkway. There is no CA over there. If the county ran lines, since the CA had nothing to do with running the extension, the Liberty area won't have to pay the 10.2mil like our area will.

AH: Yes, but the tap cost is \$5,900 per tap currently, plus two surcharges. They still won't match up to what's paid here, but ultimately there are charges to pay for the cost of the

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sewer service. Their boundary is Steitz Road. Scioto Reserve was exempted from the CA (millage) since they have their own package plant.

Mr. Garrett asked how did the CA get to the 10.2 mil amount, and can the CA board change that. What's to stop it from going to 15 mil?

AH: The original amount was calculated to construct infrastructure and existing facilities. The Commissioners do not set the amount. The amount is roughly equal to the improvement fee.

Mr. Johnson noted there will be sewer lines run by the CA from Scioto Reserve, to the Butts Road pump station, then under the river. Additional lines will be run to Clark Shaw, Yinger property and Price property developments. Now that there are lines to be run, can a private property owner develop on their own, or do they have to go through the CA and Don Kenny's group? Is it correct they do not have to join the CA? Can the developer stop someone from tapping in?

AH: The CA doesn't replace zoning, or regional planning or the engineer's office. Where the CA comes in is only for sewer service. They (CA) are a separate governmental entity. A couple developments were exempted since they were add-ons to Scioto Reserve. The developer maintained rights to add certain properties. It may cost the owner more to connect to sewer that to join the CA. Through the county it is currently \$5900 base sewer tap fee per lot, \$1500 surcharge, \$6500-\$7000 improvement fee. The Commissioners can change the fees. The CA is its own government body, can could change charges too, and could do parks, water plants, new development, etc.

Mr. Johnson inquired about Article 3 says "does not require homeowner consent."

AH: There are two different documents. That references amendment of the CA district, would go through the county commissioners, with hearings, etc. The declaration is issued by the CA once it is created. Additional property within the district, than was originally set, would affect the declaration.

Ms. Koch clarified, it would be cheaper up-front to join the CA, than all the fees and surcharges - more cost effective for the developer?

AH: Yes, but the developer would have already made that decision and passed onto the homeowner. He does not know how much of a choice it really is.

Mr. Johnson asked, since 200 homes are proposed for the new Clarkshaw Moors property, and the road is narrow, can the township force the CA to widen the road as an infrastructure improvement due to the development? Or as a township, as a zoning plan, can we require?

AH: No and no.

David Moser will look into for the township, but his initial reaction is no.

Mr. Johnson continued, so CA's can build schools and fire stations, etc, but can they do roads? Should current township taxpayers have to foot the bill for the development road improvements?

AH: The CA does not have funds to do roads. The 8 mil they receive is also to further the development plan (on file). Maybe it could be negotiated. The CA is supposed to operate the same way, like a township, using common funds from millage to further its development plan. The CA board has county representatives on it. Those appointments are replaced by elected members on a schedule. The developer appoints three members, and the county commissioners are currently looking for individuals for the board. To try to keep the CA board balanced, it consists of developer 3 members, commissioners 3 members, local government 1 member.

Mr. Johnson noted the CA and the developer are one in the same.

AH: The CA is operated by an LLC, and the developer is an LLC, but yes, it's the same person.

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Mr. Garrett asked if 2 mil of the 10.2 mil CA fee goes to county, how is the 8 mil dispersed. How can it be spent and allocated, and what can the CA do without the approval from any local board?

AH: Aric does not know. The CA is a board, has discretion to chair, to enter into contracts, etc. They are a government entity, so are subject to open records requirements. There can be a construction management fee to the developer.

Mr. Garrett said on any property, the developer still gets paid on every deal, but some homeowners do not even know they are paying the extra 10.2 mil, or where it is going.

AH: He does not know what the developer gets from the millage, but the improvements to the pump station would be affected. The county contracts with the CA, and the CA contracts with the developer, then the developer with a contractor. The developer has a three percent management fee for the pump station, and had a ten percent management fee for the sewer plant.

A resident (Jeff) asked who monitors the legal authority of the CA? Once the Commissioners approve, there is no oversight. It is its own entity, and not subject to anyone's oversight. How do they run lines through all the properties?

AH: The CA still has to go through procedures, submit plans, EPA approvals, etc. They could use eminent domain, or appropriate, or take easement for public use of property, i.e. park, etc.

Mr. Garrett asked if a CA can appropriate land outside the CA to take for lines. If the developer is trying to acquire right-of-way, would they have the ability to take it? Mr. Johnson also asked is the CA district is the same as the sewer overlay, and tributary effect.

AH: The CA district has set boundaries, the same as was set in 2007. The agreement with the county defines the sewer district service area. The county can expand its sewer district area. It is a different area than the CA district boundaries. The CA cannot appropriate outside of the county sewer area. The CA can purchase property, but cannot eminent domain with the district boundary. He doesn't think they can take.

Mr. Johnson believes homeowners land will be worth more once sewer is in front of it.

AH: He cannot give legal advice to homeowners, but those sewer lines ultimately are dedicated to the county, to the county facility. The property homeowners can develop as they wish. His only concern is there may be a narrow time frame to make the decision to hook up if the health department could require hookup where it is available. His ten year experience has been they only ordered connection if a system was failing. The Ohio EPA favors centralized sewer.

A resident asked, after a developer lays out sewer line and they are dedicated to the county then how soon would have to make a decision for an adjacent property to connect?

AH: After completion, and past inspection, the developer maintains for five years, but is county owned. Probably 1.5 years from start of construction.

Mr. Garrett said if the developer goes through another property, the previous owner cannot connect to it.

AH: There is always frontage somewhere, just more money. It cannot be land locked. Property owners can prevent easements, but the county will not appropriate for a private lateral line.

Ms. Koch asked, as far as township zoning, if development approval was contingent on sewer getting there, and it didn't, would the development just "go away?"

AH: The zoning would still be good, just waiting for sewer.

Mr. Johnson noted our zoning approval is good for three years, then can be extended or renewed if needed.

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Mr. Moser added to make zoning decisions, take the sewer plans at face value. It is an expected connection to the development, and the decision shouldn't hinge on that. The decision is only if the development meets the zoning code.

Mr. Garrett asked what if the developer says the county is putting in the sewer, about the county says no they aren't?

AH: When it comes to development, there is tension between the townships and the county sanitary engineer. What is the township looking for?

Mr. Johnson noted the county sanitary engineer will say (the development) "falls within the service area."

Mr. Garrett added the township zoning code says "sewer must be available." What's it all mean?

AH: The township decides what is acceptable. The engineer cannot. The zoning has to come first, then the developer can take that info to the engineer. If no zoning answer, it forces the developer into a no-win cycle. The resolution only commits them to the idea, but no contract. "This area is to be served in this way."

Resident Frank Niday asked about the Butts Road sewer line and the properties over to Section line Road. What it would cost if an existing home wants to connect to sewer?

AH: They would pay the sewer base tap fee (only) to the county (currently \$5900), plus whatever the sewer user rate would be, and the cost of lateral lines to connect.

Mr. Johnson asked where is all the information available on the CA?

AH: 1-The original petition is at the county records office, only available on paper. 2-The CA is subject to public records requests at their 470 Olde Worthington Road office. 3-Any agreements with the county are available electronically. 4-The CA declarations are on file at the county recorder's office. 5-The CA is required to hold annual meetings, the next being September 30, 2014 at 8:00 am.

Mr. Johnson asked if the "community development charge" at Tappan^{4th} Fields is the 10.2 mil CA charge.

AH: Tartan is exempted since it has its own sewage package plant. The CA millage is collected the same as regular taxes, attached to the property, and go to the county Auditor and distributed.

Mr. Garrett asked if the CA can provide EMS services? Or trash and electric?

AH: They can only provide utility and safety services if not available. Fire or police excluded. Mr. Moser will also look into details. In reference, the Powers of Community Authority are per Ohio Revised Code, statute §349.06.

As there were no further questions, the session ended at 11:30am.

ATTEST

BOARD OF TRUSTEES


Fiscal Officer, Jill Davis

Karen Koch

Joe Garrett

Bart Johnson