

LIVINGSTON COUNTY BOARD OF COMMISSIONERS

MEETING MINUTES

April 22, 2019, 7:30 p.m.

304 E. Grand River, Board Chambers, Howell MI 48843

Members Present: Donald Parker, Dennis Dolan, William Green, Wes Nakagiri, Douglas Helzerman,
Robert Bezotte, Carol Griffith, and Gary Childs

Members Absent: Kate Lawrence

1. CALL MEETING TO ORDER

The meeting was called to order by Chairperson Donald Parker at 7:30 p.m.

2. PLEDGE OF ALLEGIANCE

All rose for the Pledge of Allegiance to the Flag of the United States of America.

3. ROLL CALL

Roll call by the Clerk indicated the presence of a quorum.

4. CORRESPONDENCE

1. Bay County Resolution 2019-88 Opposing Slashing Federal Funding for the Great Lakes Restoration Initiative
2. Antrim County Resolution 17-2019 Support Legislators to Commence Revising the Medicare Prescription Drug Bill of 2003

Motion to receive and place on file the correspondence.

It was moved by W. Green

Seconded by D. Dolan

MOTION Carried (8-0-1)

5. CALL TO THE PUBLIC

Bob Potocki, Brighton Township, provided a handout and addressed the Board regarding a 2017 study on the Brighton Township sewer.

6. APPROVAL OF MINUTES

1. Minutes of Meeting Dated: April 9, 2019
2. Minutes of Meeting Dated: April 17, 2019

Motion to approve the minutes as presented.

It was moved by C. Griffith

Seconded by G. Childs

MOTION Carried (8-0-1)

7. TABLED ITEMS FROM PREVIOUS MEETINGS

None.

8. APPROVAL OF AGENDA

Motion to approve the agenda as presented.

It was moved by C. Griffith
Seconded by D. Dolan

MOTION Carried (8-0-1)

9. REPORTS

9.a Certificate of Recognition

Peggy Toms, Circuit Court Administrative Coordinator

Chairperson Parker presented Peggy Toms a certificate of recognition for her over 40 years of service.

9.b Environmental Health Update

Matt Bolang, Director of Environmental Health

Matt Bolang, Director of Environmental Health, updated the Board regarding the PFAS contamination and vapor intrusion situations and answered questions from the Board.

9.c SEMCOG Update

Kathleen Lomako, Executive Director

Kathleen Lamako, Executive Director, and Amy Malmer, Membership Manager at SEMCOG, provided the SEMCOG update to the Board and answered questions from the Board.

10. APPROVAL OF CONSENT AGENDA ITEMS

Resolutions 2019-04-050 through 2019-04-057

10.a 2019-04-050

Resolution Authorizing Submission of the FY 2020 Community Corrections Grant Application, Agreements, and other Supporting Documents - Circuit Court

10.b 2019-04-051

Resolution Amending Resolution 2018-03-049 Authorizing a Supplemental Appropriation and Fund Transfer for New 911 Facility Owner Responsibilities – Central Dispatch

10.c 2019-04-052

Resolution Authorizing an Agreement with Aon Related to Discount Database Disclosure - Human Resources

10.d 2019-04-053

Resolution Authorizing the Signing of a Service Agreement with Navia Benefit Solutions, Inc. for Flexible Spending Account and Cobra Administration Services – Human Resources

10.e 2019-04-054

Resolution Authorizing Livingston County to Participate in the FY 2018 Homeland Security Grant Program (HSGP) and to Sign the FY-2018 HSGP Agreement - Emergency Management

10.f 2019-04-055

Resolution Authorizing Funds for the Purchase of Mobile Data Computers for Livingston County Law Enforcement and Fire Services Utilizing FY 18 Homeland Security Grant Program Funds Over \$25,000.00 Dollars –Emergency Management

10.g 2019-04-056

Resolution Authorizing an Agreement with CC Sports to Provide Two Loaner Sea-Doos during 2019 Marine Safety Program - Sheriff

10.h 2019-04-057

Resolution Authorizing an Agreement with Vance Outdoors, Inc. to Provide Ammunition Supply Services for the Livingston County Sheriff's Office – Sheriff

Motion to approve the resolutions on the Consent Agenda.

It was moved by D. Helzerman

Seconded by D. Dolan

Roll Call Vote: Yes (8): D. Helzerman, R. Bezotte, C. Griffith, G. Childs, D. Parker, D. Dolan, W. Green, and W. Nakagiri; No (0): None; Absent: (1): K. Lawrence

MOTION Carried (8-0-1)

11. RESOLUTIONS FOR CONSIDERATION

Resolutions 2019-04-058 through 2019-04-060

11.a 2019-04-058 (Roll Call)

Resolution Authorizing the Issuance of not to Exceed \$11,500,000 Refunding Bonds, Series 2019 - Administration

Motion to adopt the Resolution.

Discussion

It was moved by D. Helzerman

Seconded by G. Childs

Roll Call Vote: Yes (8): D. Helzerman, R. Bezotte, C. Griffith, G. Childs, D. Parker, D. Dolan, W. Green, and W. Nakagiri; No (0): None; Absent (1): K. Lawrence

MOTION Carried (8-0-1)

11.b 2019-04-059 (Roll Call)

Resolution to Authorize a First Quarter Supplemental Appropriation to the Fiscal-Year 2019 Budget – Fiscal Services

Motion to adopt the Resolution.

It was moved by C. Griffith

Seconded by G. Childs

Roll Call Vote: Yes (8): C. Griffith, G. Childs, D. Parker, D. Dolan, W. Green, W. Nakagiri, D. Helzerman, and R. Bezotte; No (0): None; Absent: (1): K. Lawrence

MOTION Carried (8-0-1)

11.c 2019-04-060

Resolution Approving Appointments to the Livingston County Building Authority - Board of Commissioners

Motion to adopt the Resolution.

It was moved by W. Green
Seconded by G. Childs

Discussion

Roll Call Vote: Yes (7): W. Green, D. Helzerman, R. Bezotte, C. Griffith, G. Childs, D. Parker, and D. Dolan;
No (1): W. Nakagiri; Absent: (1): K. Lawrence

MOTION Carried (7-1-1)

12. CALL TO THE PUBLIC

Commissioner Bezotte attended last Wednesday's Veterans Board meeting and updated the Board in regards to the Veterans Court Counselor position.

Sheriff Murphy thanked all those who attended the LCSO's annual awards ceremony held last week. He also stated he believes MDOT is planning to address the reconfiguration of several high traffic accident areas in Brighton in 2025.

Karen Pierce, Hamburg Township, wished everyone a happy Earth Day and updated the Board on the Livingston Area Environmental Coalition/Sierra Club past and upcoming events. She also provided a handout to the Board on PFAS.

Chairperson Parker advised the Board of the upcoming groundbreaking ceremony for Fillmore County Park on April 30, 2019 at 5:30 p.m. and prompted the Board to attend. Chairperson Parker is unable to attend as he has a MAC function that evening.

13. ADJOURNMENT

Motion to adjourn the meeting at 8:49 p.m.

It was moved by D. Helzerman
Seconded by G. Childs

MOTION Carried (8-0-1)

Elizabeth Hundley, Livingston County Clerk

Livingston County Building Authority: Resolution 2019-04-22
Analysis by Wes Nakagiri, Commissioner, District 3, Livingston County Board of Commissioners

Background

A resolution approving appointments to the Livingston County Building Authority (Resolution 2019-04-060) is on the agenda for the April 22, 2019 meeting of the Livingston County Board of Commissioners.

I have read the pertinent sections documents pertaining to the Livingston County Building Authority (LCBA). These documents include Act 31 of 1948 (1st Executive Session), the Articles of Incorporation of the LCBA, and the Bylaws of the LCBA.

In my opinion, approving Resolution 2019-04-060 enables the LCBA, a governmental entity, to regain its ability to raise taxes. I base my opinion on the two portions of Act 31 of 1948 (1st Executive Session) shown below. The first portion is from the first paragraph of ACT 31, and describes the general provisions of the Act. The second portion is from 123.958b of the Act, and describes a funding mechanism for LCBA contracts. The most significant phrases are highlighted in yellow.

Voting in favor of Resolution 2019-04-060 fully staffs the LCBA with 5 members, thus enabling the LCBA to conduct business, including that of raising taxes. Voting against Resolution 2019-04-060 prevents the LCBA with having a quorum to conduct business, therefore, the LCBA could not raise taxes.

I spoke with Tim Perrone of Cohl-Stoker on Monday 4/22/19 about this subject. I specifically wanted to know, from a legal expert, what taxing authority the LCBA has. Some of the questions I asked included: 1) Does the LCBA have the ability to raise taxes without the consent of the Board of Commissioners? 2) Does the LCBA have the ability to raise taxes without a vote of the electorate? 3) Does the LCBA have the ability to force a tax referendum vote without the consent of the Board of Commissioners? 4) What is the overall scope of the taxing authority of the LCBA?

While Mr. Perrone was helpful, I did not gain full answers to my questions.

Below are excerpts from the documents cited above.

BUILDING AUTHORITIES

Act 31 of 1948 (1st Ex. Sess.)

AN ACT to provide for the incorporation of authorities to acquire, furnish, equip, own, improve, enlarge, operate, and maintain buildings, automobile parking lots or structures, transit-oriented developments, transit-oriented facilities, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of any county, city, village, or township, or for the use of any combination of 2 or more counties, cities, villages, or townships, or for the use of any school district and any city, village, or township wholly or partially within the district's boundaries, or for the use of any school district and any combination of 2 or more cities, villages, or townships wholly or partially within the district's boundaries, or for the use of any intermediate school district and any constituent school district or any city, village, or township, wholly or partially within the intermediate school district's boundaries; to provide for compensation of authority commissioners; to permit transfers of property to authorities; to authorize the execution of contracts, leases, and subleases pertaining to authority property and the use of authority property; to authorize incorporating units to impose taxes without limitation as to rate or amount and to pledge their full faith and credit for the payment of contract of lease obligations in anticipation of which bonds are issued by an authority; to provide for the issuance of bonds by such authorities; to validate action taken and bonds issued; to provide other powers, rights, and duties of authorities and incorporating units, including those for the disposal of authority property; and to prescribe penalties and provide remedies.

[http://www.legislature.mi.gov/\(S\(gfvki0mo1ttenonm31mxxn1m\)\)/mileg.aspx?page=GetMCLDocument&objectname=mcl-Act-31-of-1948-1st-Ex-Sess-&queryid=12780509](http://www.legislature.mi.gov/(S(gfvki0mo1ttenonm31mxxn1m))/mileg.aspx?page=GetMCLDocument&objectname=mcl-Act-31-of-1948-1st-Ex-Sess-&queryid=12780509)

Livingston County Building Authority: Resolution 2019-04-22
Analysis by Wes Nakagiri, Commissioner, District 3, Livingston County Board of Commissioners

BUILDING AUTHORITIES (EXCERPT)
Act 31 of 1948 (1st Ex. Sess.)

123.958b Contract of lease; full faith and credit general obligation; resolution submitting contract to vote of electors; effective date; notice of intention; referendum petition; election.

Sec. 8b.

(1) The governing body of an incorporating unit may, by a majority vote of its members, authorize the execution of a full faith and credit general obligation contract of lease with an authority.

(2) The governing body may adopt a resolution submitting the contract to a vote of the electors. If the governing body adopts the resolution submitting the contract to a vote of the electors, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The contract shall be submitted at the next general or primary election to be held not earlier than the twelfth Tuesday after the date of the resolution or at a special election to be held not earlier than the twelfth Tuesday after the date of the resolution as determined by the clerk of the incorporating unit subject to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The clerk shall also determine the ballot language of the question.

(3) If the governing body does not adopt a resolution submitting the contract to a vote of the electors, the contract shall become effective 60 days after a notice of intention of entering into the contract has been published in a newspaper of general circulation in the incorporating unit or units unless a sufficient petition for referendum requesting an election on the contract is filed with the clerk of the incorporating unit within 45 days after the notice is published. A referendum petition shall be signed by not less than 10% or 15,000 of the registered electors of the incorporating unit, whichever is less. If a sufficient petition is filed, the contract shall not take effect unless approved by a majority of the electors of the incorporating unit voting on the question. The clerk of the incorporating unit shall determine the date of the election and the ballot language as provided under subsection (2). The notice of intention of entering into contract shall be directed to the electors and taxpayers of the incorporating unit, shall be published in a newspaper which is determined by the governing body of the incorporating unit to be the newspaper reaching the largest number of persons to whom the notice is directed, and shall state the maximum amount of bonds authorized to be issued, the purpose thereof, source of payment and right of referendum thereon, and such other information as the governing body of the incorporating unit may consider necessary to adequately inform the taxpayers and electors of the incorporating unit of the nature of the contractual obligation. Signatures on the petition shall be verified by the circulator under oath as the actual signatures of the persons whose names are signed on the petition and the clerk or other recording officer of the incorporating unit shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in any incorporating unit shall be determined by its registration records, or, if it does not take registrations, by the appropriate city and township registration records. A notice of intention and publication is not required if the contract of lease states that it is not a full faith and credit obligation of the incorporating unit or units.

(4) An election under this section shall not be included in any statutory or charter limitation on the number of special elections to be called within a particular period of time.

History: Add. 1973, Act 110, Imd. Eff. Aug. 19, 1973 ;-- Am. 1995, Act 147, Imd. Eff. July 11, 1995 ;-- Am. 2013, Act 256, Eff. Apr. 26, 2014

[http://www.legislature.mi.gov/\(S\(nhz2u0qvdcq1cvf3xfe0lb5r\)\)/mileg.aspx?page=getObject&objectName=mcl-123-958b](http://www.legislature.mi.gov/(S(nhz2u0qvdcq1cvf3xfe0lb5r))/mileg.aspx?page=getObject&objectName=mcl-123-958b)

Supvr. Arnold presented the following Articles of Incorporation as recommended by Miller, Canfield, Paddock and Stone:

OF

These Articles of Incorporation are adopted, signed and acknowledged by the incorporating unit for the purpose of forming a nonprofit County Building Authority under the provisions of Act 31, Public Acts of Michigan, 1948 (First Extra Session), as amended, the Articles being as follows:

ARTICLE I

The name of this corporation and authority is the LIVINGSTON COUNTY BUILDING AUTHORITY.

ARTICLE II

The incorporating unit is the County of Livingston, State of Michigan, a municipal corporation of the State of Michigan.

ARTICLE III

This authority is incorporated for the purpose of acquiring, furnishing, equipping, owning, improving, enlarging, operating and maintaining a building or buildings, automobile parking lots or structures, recreational facilities, and the necessary site or sites therefor for the use of the County of Livingston.

ARTICLE IV

POWERS AND DUTIES

Section 1. The authority shall be a body corporate with power to sue and to be sued in any court of the State of Michigan.

Section 2. The authority and the incorporating unit shall have the power to enter into a contract or contracts whereby the authority will acquire property necessary to accomplish the purposes of this incorporation and contemplated by the terms of the enabling act, and lease said property to the incorporating unit for a period not to exceed forty (40) years.

Section 3. The authority shall have power to increase the consideration specified in any contract of lease with the incorporating unit whenever during the term of the lease or leases an increase of rent is necessary to provide funds to meet its obligations.

Section 4. For the purpose of accomplishing the objects of its incorporation, the authority may acquire property by purchase, construction, lease gift, devise or condemnation, and for the purpose of condemnation it may proceed under the provisions of Act No. 149, Public Acts of Michigan, 1911, as now or hereafter amended, or any other appropriate statute.

Section 5. For the purpose of acquiring, improving and/or enlarging any such building or buildings, automobile parking lots or structures, recreational facilities, and the necessary site or sites therefor, and furnishing and equipping the same, the authority may issue self-liquidating revenue bonds in accordance with and subject to the provisions of Act No. 94, Public Acts of Michigan, 1933, as now or hereafter amended: Provided, that such bonds shall be payable solely from the revenues of such property, which revenues shall be deemed to include payments made under any lease or other contract for the use of such property; and provided further, that no such bonds shall be issued unless the property whose revenues are pledged has been leased by the authority for a period extending beyond the last maturity of the bonds. For the purpose of Section 33 of said act, the limits of the authority shall be deemed to coincide with those of the County of Livingston. If a sufficient referendum petition shall be filed, as provided in said section, requesting a referendum upon the question of the issuance of revenue bonds by the authority, then such question shall be submitted by the commission of the authority at any general or special election to be held in the County.

Section 6. When all bonds issued pursuant to the provisions of the enabling act under which the authority is incorporated shall have been retired, the authority shall convey title to the property acquired thereunder to the incorporating unit in accordance with any agreement adopted with the governing body of the incorporating unit.

Section 7. All property owned by the authority shall be exempt from taxation by the State or any taxing unit therein.

Section 8. The authority shall possess all the powers necessary to carry out the purpose of its incorporation, including the incidental powers necessary thereto. The powers herein granted shall be in addition to those granted by any statute or charter, and the enumeration of any power, either in these Articles of Incorporation or in the enabling act, shall not be construed as a limitation upon such general powers.

LIVINGSTON COUNTY SUPERVISORS RECORDS, VOL. 8

(602)

... excerpt from minutes of Supervisor's Meeting, 9-17-68

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OF
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Section 9. The term of this corporation and authority shall be fifty (50) years.