

July 12, 2024

TO: Members of the Board of Trustees of
Etna Township New Community Authority District A

Ryan Davis	Hayley Feightner
Alexis Fitzsimmons	John Wesley Haynes
Barbara Langel	Phillip Ronald Sabatino
Ronald Joseph Sabatino	

FROM: Kip Wahlers, Ice Miller LLP

SUBJECT: Special Meeting of Etna Township New Community Authority District A on
Wednesday, July 16, 2024, commencing at 5:00 p.m., at the Etna Township Hall,
81 Liberty Street, Etna Ohio

The special meeting for Etna Township New Community Authority District A will be held on Wednesday, July 16, 2024, commencing at 5:00 p.m., at the Etna Township Hall, 81 Liberty Street, Etna Ohio

Enclosed please find a revised agenda, the revised minutes of the April 24, 2024 meeting, resolutions (2024-1 revised) relating to the levy of community development charges.

ETNA TOWNSHIP NEW COMMUNITY AUTHORITY DISTRICT A

BOARD OF TRUSTEES

AGENDA FOR SPECIAL MEETING

Tuesday, July 16, 2024 5:00 pm

Etna Township Hall, 81 Liberty Street, Etna, Ohio

1. Meeting called to order.
2. Roll call of Trustees present.
3. Certificate of public notice submitted.
4. Approval of Minutes of April 24, 2024 meeting.
5. Reports and communications.
6. Old Business
 - a. Discussion of due formation of the Authority and Authority legal obligations.
 - b. Resolution 2024-1 - "LEVYING COMMUNITY DEVELOPMENT CHARGES AND AUTHORIZING ACTIONS TO BILL AND COLLECT SUCH CHARGES. "
7. New Business
8. Public Comment
9. Meeting schedule
10. Adjournment.
 - a. Motion to Adjourn.
 - b. Second to Motion.
 - c. Vote on Motion.

ETNA TOWNSHIP NEW COMMUNITY AUTHORITY DISTRICT A
Minutes of the April 24, 2024
Meeting of the Board of Trustees

The Board of Trustees of the Etna Township New Community Authority District A (the “Board”) held an organizational meeting commencing at 6:01 p.m. on Wednesday, April 24, 2024 at Etna Township Hall 81 Liberty Street, Etna Ohio, pursuant to notice of the meeting having been given by public posting and delivery to a newspaper published in Newark Ohio.

Ryan Davis, serving as Chair, called the meeting to order and then conducted a roll call. The following Trustees were present for the roll call and the remainder of the meeting:

Ryan Davis (Citizen Member)
Alexis Fitzsimmons (Local Government Member)
Hayley Feightner (Citizen Member)
John Wesley Haynes (Developer Representative)
Ronald J. Sabatino (Developer Representative)
Phillip Ronald. Sabatino (Developer Representative)

Barbara Langel (Citizen Member) was absent. Also present in person was Kip Wahlers (Ice Miller LLP), Secretary of the Board.

Mr. Wahlers reported that notice of the meeting was provided to the Newark Advocate and was posted at the offices of the Etna Board of Township Trustees and at the offices of the Licking County Board of Commissioners.

Mr. Davis asked if there were any reports or communications. Ms. Fitzsimmons as Treasurer reported that according to the most recent bank statement, the Authority held \$224,627.26. Since the last meeting, the Authority had paid \$174,000 to Etna Township and had received an invoice of \$2,242 from the Township. From charges levied in 2023, the Authority had received almost \$400,000.

Ms. Davis announced that the next order of business was to elect officers of the Board, commencing with the Chair of the Board of Trustees. Mr. PR Sabatino made a motion to nominate Mr. Davis as Chair of the Board. Mr. RJ Sabatino seconded the nomination. There being no further nominations, the motion was approved as follows: Ayes: Davis, Feightner, Fitzsimmons, Haynes, PR Sabatino, RJ Sabatino. Nays: None. Mr. Wahlers declared the motion adopted and Mr. Davis elected Chair of the Board.

Mr. Davis continued the meeting as Chair of the Board of Trustees and asked for nominations for Vice Chair. Mr. Haynes nominated P. Ronald Sabatino. Ms. Fitzsimmons seconded the nomination. There being no further discussion and no further nominations, the motion was approved as follows: Ayes: Davis, Feightner, Fitzsimmons, Haynes, Langel, PR Sabatino, RJ

Sabatino. Nays: None. Mr. Wahlers declared the motion passed and Mr. P. Ronald Sabatino elected Vice-Chair of the Board.

Mr. Davis then requested nominations for Secretary of the Board of Trustees. Mr. PR Sabatino nominated Mr. Wahlers. Ms. Fitzsimmons seconded. There being no further discussion, and no further nominations, a roll call vote was held and the motion passed as follows: Ayes: Davis, Feightner, Fitzsimmons, Haynes, PR Sabatino, RJ Sabatino. Nays: None. Mr. Wahlers declared the motion passed and Mr. Wahlers elected Secretary of the Board.

Mr. Davis then stated that the next order of business was to elect a Treasurer of the Board of Trustees. Ms. Feightner nominated Ms. Fitzsimmons. Ms. Feighner seconded. There being no further nominations, the motion was approved as follows: Ayes: Davis, Feightner, Fitzsimmons, Haynes, Langel, RJ Sabatino. Nays: None. Mr. Wahlers declared the motion passed and Ms. Fitzsimmons elected Treasurer of the Board.

Ms. Fitzsimmons noted that the Board needed to approve the minutes of the meeting of the Board of Trustees held on September 20, 2023. Mr. Davis asked for a motion to approve. Ms. Fitzsimmons so moved. The motion was seconded by Ronald John Sabatino. A roll call vote was held and the motion passed as follows: Ayes: Davis, Feightner, Fitzsimmons, Haynes, PR Sabatino, RJ Sabatino. Nays: None.

Mr. Davis then advised the Board that the next order of business was to consider Resolution 2024-1 entitled "LEVYING COMMUNITY DEVELOPMENT CHARGES AND AUTHORIZING ACTIONS TO BILL AND COLLECT SUCH CHARGES." Mr. PR Sabatino noted that he had received advice from his counsel, Chris Connelly, that as a result of Mr. Sabatino being unable to obtain permits to develop his residential property, that the NCA was improperly formed. A discussion followed, with the result being that Mr. Wahlers indicated that he would contact Mr. Connelly to discuss any concerns. Mr. Wahlers did indicate that such a result would be surprising as the T&R Properties property was zoned residential at the time the Petition was submitted to the County Commissioners. Mr. PR Sabatino made a motion to table the motion. Ms. Fitzsimmons seconded. There being no further discussion, the motion was approved as follows: Ayes: Davis, Feightner, Fitzsimmons, Haynes, PR Sabatino, RJ Sabatino. Nays: None.

Mr. PR Sabatino also requested that Mr. Wahlers explore whether the bipartisan Corporate Transparency Act of 2021 would require the Authority to make a filing. Mr. Wahlers indicated that he recalled that government authorities were expressly excluded from FinCen reporting but that he would confirm.

Mr. Davis advised the Board that the next order of business was to consider Resolution 2024-2, "APPROVING AND AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH WILSON, SHANNON AND SNOW INC. TO PROVIDE ACCOUNTING SERVICES TO THE ETNA TOWNSHIP NEW COMMUNITY AUTHORITY DISTRICT A." Ms. Fitzsimmons indicated that at the request of the Board that she had informally solicited proposals for accounting services for the Authority by contacting approximately ½ dozen providers and as a result recommends to the Board that the Authority engage Wilson, Shannon & Snow to provide these services. She presented to the Board WS&S's letter of engagement for services. Ms. Feightner

made a motion to adopt Resolution 2024-2. Ms. Fitzsimmons seconded. A roll call vote was held, and the motion was approved as follows: Ayes: Davis, Feightner, Fitzsimmons, Nays: Haynes, RJ Sabatino. Abstentions: PR Sabatino.

Mr. Davis announced that the next order of business was consideration of Resolution 2024-3 “APPROVING CERTAIN REIMBURSEMENTS TO ETNA TOWNSHIP AS CONTEMPLATED IN AN INTERGOVERNMENTAL AGREEMENT.” Ms. Fitzsimmons indicated that the Township was seeking reimbursement for \$2242.00 of expenses incurred. Mr. Wahlers said that the Intergovernmental Agreement obligated the Authority to reimburse the Township for such expenses provided that such expenses would not result in the funds of the Authority being drawn below \$25,000. Mr. PR Sabatino indicated that he did not believe it was proper to reimburse the Township until the issue of the formation of the NCA was resolved. Mr. Davis moved to approve Resolution 2024-3. Ms. Feightner seconded. There being no further discussion, the motion was approved as follows: Ayes: Davis, Feightner, Fitzsimmons, Nays: None;, Abstentions, PR Sabatino, RJ Sabatino, Haynes.

The next item on the agenda was a discussion of an agreement between T&R Properties and the Authority for disbursement of the Residential Assessed Valuation Charges. As those charges are not levied until certificates of occupancy are issued, at this point the issue is not pressing. It was suggested that this issue be taken up at a later date.

Ms. Feightner indicated that Gary Burkholder, Trustee of Etna Township, had provided plans for High Point Park as a project the costs of which the Authority could pay or reimburse the Township. The Township has not made a formal request for such funds. After discussion, the consensus of the Board was that such requests would be considered at a later date when additional funds would be available.

Mr. Davis indicated that the next order of business was to approve the financial statements of the Authority prepared by Wilson, Shannon & Snow. Ms. Fitzsimmons indicated that the statements were very simple as the activities of the Authority during the period in question were minimal. Ms. Feightner moved to approve the financial statements. Mr. Davis seconded. There being no further discussion, the motion was approved as follows: Ayes: Davis, Feightner, Fitzsimmons, Nays: Haynes, RJ Sabatino. Abstentions: PR Sabatino.

Mr. PR Sabatino raised the issue of the investment of Authority funds, indicating that he thought that they should be invested more aggressively in order to get additional interest. Ms. Fitzsimmons indicated that she thought that it could be possible to have funds invested in interest-bearing accounts if the funds were in savings. Mr. PR Sabatino moved to direct the Treasurer to investigate whether it would be possible for Authority funds, except for an amount required for current expenses, to be invested in an interest-bearing savings account. RJ Sabatino seconded. There being no further discussion, a roll call vote was held, and the motion was approved as follows: Ayes: Davis, Feightner, Fitzsimmons, Nays: Haynes, RJ Sabatino. Abstentions: PR Sabatino.

In other business, Mr. Davis indicated that Ms. Langel had moved out of Etna Township and he questioned whether she was still eligible to serve on the Board. Mr. Wahlers responded that there is no residency requirement for Board members.

The Board discussed the meeting schedule; Mr. Wahlers indicated a board meeting would need to be held to levy charges, assuming that it is confirmed that the Authority is duly formed. Ms. Fitzsimmons indicated that at some point the Board will want to consider Township requests for Project funding. The Board tentatively agreed to hold a meeting on October 25, 2024 at which time hopefully all funds from levies during calendar year 2024 will be received.

There being no further business before the Board, Ms. Fitzsimmons moved to adjourn. Mr. Haynes seconded. The motion carried unanimously on a voice vote and the meeting was adjourned at 7:15 p.m.

Kristopher Wahlers, Secretary
Etna Township New Community Authority
District A

Wahlers, Kristopher

From: Connelly, Chris L. <cconnelly@taftlaw.com>
Sent: Tuesday, June 11, 2024 8:26 AM
To: Wahlers, Kristopher
Subject: Re: Etna Township discussion

That is consistent with our conversation, yes.

On Jun 7, 2024, at 3:31 PM, kip.wahlers@icemiller.com wrote:

Dear Chris,

I got a call from our Board Chair – the NCA does need to hold a meeting so that it can levy charges.

I wanted to confirm our discussion. As I noted to you, the NCA was legally formed as it included property that is intended to be residential. Further I indicated, and you agreed, that even though T&R Properties is having difficulties in developing that property right now, that fact does not affect the legal status of the NCA.

Thanks so much – please let me know if I have characterized this correctly, as I think our board will want to assure itself that this is not an issue.

Best regards,

Kip

Kip Wahlers | Partner

<image001.png>

P 614-462-1074 **C** 614-256-2442 **F** 614-462-5135

250 West Street Suite 700 Columbus, OH 43215

Kip.Wahlers@icemiller.com | icemiller.com

CONFIDENTIALITY NOTICE: This E-mail and any attachments are confidential and may be protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of this E-mail or any attachment is prohibited. If you have received this E-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system.

Thank you.

ICE MILLER LLP



Chris L. Connelly

Partner

cconnelly@taftlaw.com

Dir: 614.334.7108 | **Cell:** 614.634.2936

Tel: 614.221.2838 | **Fax:** 614.221.2007

We've Moved!

41 South High Street, Suite 1800

Columbus, OH 43215-6106

taftlaw.com

This message may contain information that is attorney-client privileged, attorney work product or otherwise confidential. If you are not an intended recipient, use and disclosure of this message are prohibited. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

It was moved by _____ and seconded by _____ that the following resolution be adopted:

RESOLUTION NO. 2024-1

LEVYING COMMUNITY DEVELOPMENT CHARGES AND
AUTHORIZING ACTIONS TO BILL AND COLLECT SUCH
CHARGES.

WHEREAS, the Etna Township New Community Authority District A (the “Authority”) has heretofore been duly created pursuant to the authority contained in Chapter 349 of the Ohio Revised Code (the “NCA Act”), following the filing of a petition in the office of the Clerk of the Licking County Board of County Commissioners (the “Petition”) and the passage by the County Commissioners of a resolution approving the Petition and establishing the Authority; and

WHEREAS, on May 11, 2023, Etna Statutory Developer LLC (the “Statutory Developer”) an Ohio limited liability company with the consent and agreement of Ashley Furniture Industries, LLC, C5 Etna 2, LLC, US FSDF PROPCO, LLC, Sealy Southgate Parkway, L.L.C., and T&R Holding Company (collectively, the “Initial Owners”) filed the Declaration of Covenants, Restrictions, and Agreements for Etna New Community Authority District A (Properties) in the County of Licking Ohio, dated May 9, 2023 (the “Original Declaration”) caused the recording of the Declaration in the real estate records of Licking County Ohio with Instrument ID number of 202305120008360, with respect to the property identified therein (the “Property”) (the Original Declaration as supplemented is referred to herein as the “Declaration”); and

WHEREAS, consistent with the Petition, the Declaration establishes for the benefit and use of the Authority in accordance with the Petition, as a charge on each Chargeable Commercial Parcel (to the extent provided in the Declaration), an annual Community Development Charge consisting of a Uniform Square Footage Charge equal to nine cents (.09) per Leasable Square Foot beginning in calendar year 2022, to cover all or part of the cost of acquisition, development, construction, operation and maintenance of land, land development and Community Facilities, the debt service thereof and all other costs incurred by the Authority in the exercise of its powers under the NCA Act; and

WHEREAS, consistent with the Petition, the Declaration establishes for the benefit and use of the Authority in accordance with the Petition, as a charge on each Chargeable Residential Parcel (to the extent provided in the Declaration), an annual Community Development Charge consisting of an Assessed Valuation Charge equal to the product of (i) the Assessed Valuation for such Chargeable Parcel, multiplied by (ii) .002 (i.e. two mills) beginning in tax year 2022, to cover all or part of the cost of acquisition, development, construction, operation and maintenance of land, land development and Community Facilities, the debt service thereof and all other costs incurred by the Authority in the exercise of its powers under the NCA Act; and

WHEREAS, the Declaration contemplates that Community Development Charges may be levied to cover all or part of the cost of land acquisition, the development, construction, operation and maintenance of land, land development and community facilities, the debt service therefor and any other cost incurred by this Authority in the exercise of its powers pursuant to

Chapter 349 (including, without limitation, the reimbursement of loans, advances or expenditures made by Etna Township (the “Township”) for such purposes, in accordance with and subject to the Petition and the Intergovernmental Agreement, dated June 29, 2022 between the Township and the Authority (the “Intergovernmental Agreement”) (collectively “Eligible Costs”);

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Etna Township New Community Authority that:

Section 1. The Fiscal Year 2024 Uniform Square Footage Charge (for collection in 2024) is hereby levied at a rate on each Chargeable Commercial Parcel calculated (1) as the product of (a) nine cents (.09) times (b) the Leasable Square Footage of each Chargeable Commercial Parcel, with the Leasable Square Footage determined, on January 1, 2024, provided that in the case of any newly constructed or newly-expanded building, Leasable Square Footage shall be determined as of the date of issuance of the initial temporary certificate of occupancy for such building. This Board determines that the Leasable Square Footage for Fiscal Year shall be determined pursuant to a certificate delivered to the Authority by the Township, declaring the determination by the Township of the Leasable Square Footage, as determined pursuant to the Declaration and this resolution. The Uniform Square Footage Charge for Fiscal Year is payable directly to the Authority and is payable in one installment on October 15, 2024. The Treasurer of this Board (the “Treasurer”) or its designee is authorized and directed to send invoices to each Owner of a Chargeable Commercial Parcel for payment of the Uniform Square Footage Charge. All payments must be made to the Treasurer at the Authority’s principal office or as otherwise designated by the Treasurer or its designee. Any Uniform Square Footage Charge for any Chargeable Commercial Parcel, or any portion thereof, that is unpaid after the applicable due date will bear penalty and interest as set forth in Section 5.06 of the Declaration. The Treasurer is hereby authorized and directed to certify any such delinquent Uniform Square Footage Charges (plus penalties and interest thereon) to the Licking County Auditor for collection on tax bills or take such other collection actions as the Treasurer deems appropriate and are permitted by the Declaration.

Section 2. The Assessed Valuation Charge for Tax Year 2023 (collection in 2024) is hereby levied on each Chargeable Residential Parcel at a rate equal to equal to two mills for each \$1.00 of Assessed Valuation on each Chargeable Residential Parcel. This Board determines that the Assessed Valuation for Tax Year 2023 shall be the assessed valuation of the Property as determined by the Licking County Auditor, adjusted to equal 35% of the true value. The Assessed Value Charge for Tax Year 2023 is payable directly to the Authority and is payable in one installment on October 15, 2024. The Treasurer of this Board (the “Treasurer”) is authorized and directed to send invoices to each Owner of a Chargeable Residential Parcel for payment of the Assessed Valuation Charge. All payments must be made to the Treasurer at the Authority’s principal office. Any Assessed Valuation Charge for any Chargeable Parcel, or any portion thereof, that is unpaid after the applicable due date will bear penalty and interest as set forth in Section 5.06 of the Declaration. The Treasurer is hereby authorized and directed to certify any such delinquent Assessed Valuation Charges (plus penalties and interest thereon) to the Licking County Auditor for collection on tax bills or take such other collection actions as the Treasurer deems appropriate and are permitted by the Declaration.

Section 3. This Board hereby determines that the collection of the Community Development Charges in the amounts and as otherwise provided in this resolution is necessary to

pay all or part of the cost of the acquisition, development, construction, operation and maintenance of land, land development and Community Facilities and other costs incurred and to be incurred by the Authority in the exercise of its powers under the NCA Act. This Board hereby further determines that its actions in this resolution are taken with reference to the fiscal requirements of the Authority for the period for which the Community Development Charge is to be collected.

Section 4. This Board hereby finds and determines that it is necessary and in the best interest of the Authority to take such actions as may be necessary to secure a Depository for funds of the Authority, in accordance with and subject to the provisions of applicable law, including but not limited to Chapters 135 and 349 of the Ohio Revised Code. Any two of the Treasurer or any other member of this Board are authorized to execute and deliver such agreements, sign certifications, and to take such other actions as may be necessary to secure a Depository.

Section 5. It is found and determined that all formal actions of this Authority concerning and relating to the adoption of this resolution were taken and adopted in an open meeting of this Authority, and that all deliberations of this Authority that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Revised Code.

Section 6. All capitalized terms used in this resolution and not defined herein have the meanings assigned to them in the Declaration.

Section 7. Effective Date. This resolution shall be in full force and effect immediately upon its adoption.

The foregoing motion having been put to vote, the result of the roll call was as follows:

Ryan Davis	- _____	Hayley Feightner	- _____
Alexis Fitzsimmons	- _____	John Haynes	- _____
Barbara Langel	- _____	P. Ronald Sabatino	- _____
Ronald Joseph Sabatino - _____			

The undersigned, Secretary of the Board of Trustees of the Etna Township New Community Authority, does hereby certify that the foregoing is a true and correct copy of a resolution of that Authority, duly adopted July 16, 2024, and appearing upon the official records of that Board.

Adopted: July 16, 2024

Dated: July 16, 2024

Attest: _____
Secretary, Board of Trustees
Etna Township New Community Authority