

**SPECIAL JOINT MEETING
ST. JOHNS CITY COMMISSION & BINGHAM TOWNSHIP BOARD
PROPOSED AGENDA**

**Tuesday, December 3, 2024, 5:30 p.m.
Room #2200, 2nd Floor – Clinton County Courthouse**

Due to reconstruction at the south entrance, please use the north entrance door and proceed to the single elevator on the left to get to the 2nd floor.

***Listen to Meeting Via Telephonic Conference**

Dial 1 929 205 6099

<https://zoom.us/j/2050014286>

Meeting ID: 205 001 4286

***Please note, you will not be able to make public comments through Zoom; only in-person attendees will be able to participate in public comments.**

(Times for agenda items are estimated times)

- 1. Call to Order (Bingham Township Trustees, then St. Johns Commission)**
(5:30 pm – 5:32 pm)
- 2. Invocation**
(5:32 pm – 5:33 pm)
- 3. Pledge of Allegiance**
(5:33 pm – 5:34 pm)
- 4. Approval of Agenda (Bingham Township Trustees, then St. Johns Commission)**
(5:34 pm – 5:36 pm)
- 5. Review of Progress from October 22, 2024 (Silm and Gamble)** *(5:36 pm – 5:40 pm)*
- 6. Introduction of 2nd Draft of Proposed Collaboration Agreement (Foster Swift – Homier)** *(5:40 pm – 5:48 pm)*
- 7. Initial Feedback and Discussion of 2nd Draft of Collaboration Agreement**
(5:48 pm – 7:10 pm)
- 8. Review of Roadmap Objectives and Timeline** *(7:10 pm – 7:20 pm)*
- 9. Setting Objectives for Next Meeting** *(7:20 pm – 7:30 pm)*

- a. Reminder of Upcoming Meetings**
 - i. January 7, 2025, 5:30 p.m.**
 - ii. February ?, 2025**

10. Public Comments (7:30 pm – 7:40 pm)

11. Adjournment (*Bingham Township Trustees, then St. Johns Commission*) (7:40 pm)

NOTICE: People with disabilities needing accommodation for effective participation in this meeting should contact the city clerk 989-224-8944 at least two working days in advance of the meeting. An attempt will be made to provide reasonable accommodation.

ARTICLES OF INCORPORATION OF

ST. JOHNS-BINGHAM SEWER AND WATER AUTHORITY

These Articles of Incorporation are adopted by the incorporating municipalities under the provisions of the Urban Cooperation Act, MCL 124.501, et seq., and the Municipal Sewage and Water Supply Systems Act, MCL 124.281, et seq.

ARTICLE 1

The name of this corporation is “St. Johns-Bingham Sewer and Water Authority.”

ARTICLE 2

Constituent Municipalities

- A. **Constituent Municipalities.** The names of the municipalities included in this corporation are:

City of St. Johns, located in Clinton County, Michigan
Bingham Township, located in Clinton County, Michigan

- B. **Adding a Municipality.** A new municipality may, upon unanimous consent of the existing municipalities, be added to ~~this agreement~~these Articles as a new constituent municipality. The new municipality agrees to be bound by the terms and conditions of these Articles. No new municipality may be added until a feasibility analysis has been performed by a provider selected by the ~~corporation~~Authority, paid for by the proposed new municipality, and it is determined that the addition of a new constituent municipality member will not have a negative impact on the financial condition of the ~~corporation~~Authority, or the level of services provided to the municipalities.

All newly added municipalities shall appoint one member and may appoint an alternate to the ~~Authority Board~~Board of Trustees. All newly added municipalities must contribute a sum of money and/or assets equal to a prorated share of the assets of the ~~corporation~~Authority at the time the municipality is added and may be required to contribute a sum of money and/or assets that may be necessary to serve the additional municipality with sewer and/or water. The valuation of the assets of the corporation and the proposed new municipality are to be determined by an appraiser selected by the corporation in its sole discretion and such cost of appraisal shall be paid by the proposed new municipality. The new municipality shall also contribute to the budget of the corporation as set forth in ~~this agreement~~these Articles on an annual basis provided, however, that in the year of entry the allocation of contribution to the budget shall be prorated based upon the date of entry within the fiscal year.

ARTICLE 3

Purposes

The Authority is established for the purpose of acquiring, constructing, financing, maintaining, operating a water supply system, a sewage disposal system, or both, to serve the residents and businesses of Bingham Township and the City of St. Johns. The Authority shall have the power to plan, acquire, improve, enlarge, extend, operate, and maintain these systems in accordance with applicable laws and regulations.

ARTICLE 4

General Powers

This corporation is a body corporate with power to sue or to be sued in any court of this state. It includes all of the territory within the City of St. Johns and Bingham Township. The territory of the Authority may be expanded if new municipalities are added pursuant to Article 2.B. ~~its constituent municipalities.~~ It possesses all the powers granted by statute and by these Articles, and all powers necessary to carry out the purposes herein set forth, as well as those incident thereto. The enumeration of any powers herein shall not be construed as a limitation upon its general powers unless the context shall clearly indicate otherwise. The Authority shall not have any zoning or planning authority in any constituent municipality but may consult with constituent municipalities as needed for planning sewer and water infrastructure to serve anticipated development and redevelopment. Costs related to consultation shall be borne by the Authority.

Commented [MH1]: This is probably better suited for bylaws, but wanted to place it here so that we did not overlook it.

ARTICLE 5

Term

This corporation will continue in existence in perpetuity until dissolved by act of the parties or by law. The corporation may not be dissolved if such dissolution would operate as an impairment of any of its contracts or other debts and liabilities then outstanding.

ARTICLE 6

Fiscal Year

The fiscal year of the corporation commences on the first day of July of each year and ends on the 30th day of June of the following year.

ARTICLE 7

Authority Board of Trustees

- (a) Governing Body. The governing body of this corporation is a Board of Trustees, sometimes referred to as the “Board,” which is charged with the management of its business and affairs. Members of the Board shall be appointed by the constituent municipalities pursuant to these Articles.
- (b) How Constituted. ~~Except in the case of a newly added municipality, the Board shall consist of _____7 members, five of whom shall be appointed by the City of St. Johns and two by Bingham Township. No member of the Authority shall also hold elected office on the city commission and no member of the Authority shall hold elected office on the township board. Members appointed shall be residents of the City of St. Johns or Bingham Township and both the City and Township may appoint members that reside in either jurisdiction. appointed by the constituent municipalities. The members appointed to the Board by each constituent municipality shall be in a whole number equal as nearly as possible to the percentage of its share of the assets of the corporation. Members serving on the Board shall be appointed by the constituent municipalities immediately after approval of these Articles and thereafter on or before the first day of June at the first regular meeting each year and shall serve during the next fiscal year following appointment or until a successor is appointed, whichever is later. Any municipality entitled to appoint a member to the Board may also designate an alternate member who may participate and have all the powers and duties of the regular member, but only in the absence of the regular member. The terms of alternates shall be annual to coincide with the terms of regular members on the Board.~~
- (c) Organization. At its ~~first~~ regular meeting ~~in June of~~ each year the Board of Trustees shall elect the following officers: Chairperson, Vice-Chairperson, Secretary and Treasurer, all of whom shall be members of the Board of Trustees.
- (d) Vacancies. In the event of a vacancy on the Board, the governing body of the municipality represented by the vacancy shall fill the vacancy for the unexpired term.
- (e) Removal. A Board member may be removed only by the municipality who appointed that member.

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ARTICLE 8

Bylaws

The Board of Trustees may adopt bylaws and rules for the transaction of business, which may be amended, modified, or repealed at any time.

ARTICLE 9

Meetings and Notice

Meetings of the Board of Trustees shall be held at least ~~monthly~~ quarterly at such times and places as shall be prescribed by the bylaws or by resolution of the Board. Special meetings of the Board may be called by the Chairperson, or any three Board members, by providing written notice of the

time, place and purpose thereof upon each member of the Board personally or by fax, email or other electronic means, at least 18 hours prior to the time of such meeting.

Special meetings of the Board at which all members are present are valid even if no written notice is given as above provided. Any member of the Board may waive notice of any meeting either before or after the meeting. A majority of all the members of the Board appointed and serving (or their designated alternate) is required for a quorum. The Board shall act by motion or resolution. Passage of any motion or resolution requires the affirmative vote of a majority of the members of the Board present, except where a larger vote is required by these Articles.

All meetings must comply with the Michigan Open Meetings Act, MCL 15.261 et seq.

ARTICLE 10

~~Executive Director~~Employees and Consultants

The Board of Trustees may hire employees or contract for services, including but not limited to ~~appoint an executive director who shall be charged with the management and administration of the corporation and legal counsel, and who shall receive such compensation as the Board of Trustees shall determine and who shall serve at the pleasure of the Board of Trustees. The executive director shall not be a member of the Board of Trustees.~~

ARTICLE 11

Officers

The Chairperson of the Board shall be the presiding officer. Except as herein otherwise provided, he or she shall not have any executive or administrative functions other than as a member of the Board. In the absence or disability of the Chairperson, the Vice-Chairperson shall perform the duties of the Chairperson. The Secretary shall be the recording officer of the Board and the Treasurer shall be custodian of the funds of the corporation, and subject to the approval of the Board, may employ such assistants and consultants as the Board may deem to be necessary. All moneys shall be deposited in banks, to be designated by the Board and all checks or other forms of withdrawal in excess of \$5,000 shall be signed by at least two persons, one of whom shall be a Board member, as designated by the Board from time to time. Checks or other forms of withdrawal less than \$5,000 shall be signed by such persons as designated by the Board from time to time. All persons handling funds or authorized to write checks or withdraw funds shall be bonded in an amount to be determined by the Board. The officers of the Board ~~or the executive director~~ shall have such additional powers and duties as may be conferred upon them by the Board.

ARTICLE 12

Property

The corporation may acquire property by purchase, construction, lease, grant, gift or devise, either within or without the area served by Authority and may hold, manage, control, sell, exchange or lease such property.

ARTICLE 13

Fees and Contracts

Fees and Contracts. The corporation shall have the authority to enter into contracts with any constituent municipality in its discretion and charge such fees and enter contracts for water or sewer services or both as necessary for operations, maintenance and otherwise to provide funds to meet the obligations of the corporation.

ARTICLE 14

Audit

The Board of Trustees shall cause an audit to be conducted of its financial transactions and affairs at the end of each fiscal year (or more often if required by law) and shall furnish a copy to each constituent municipality.

ARTICLE 15

Liability

- (a) Director and Officer Liability. No member of the Board of Trustees who is a volunteer director, as that term is defined in the Michigan Nonprofit Corporation Act (the "Act"), or a volunteer officer, shall be personally liable to this corporation for monetary damages for any action taken as a director or volunteer officer, except for liability for any of the following:
 - 1. The amount of a financial benefit received by a director or a volunteer officer to which he or she is not entitled.
 - 2. Intentional infliction of harm on the Corporation.
 - 3. For any violation of Section 551 of the Act.
 - 4. An intentional criminal act.
 - 5. A liability imposed under Section 497(a) of the Act.

- (b) Assumption of Volunteer Liability. The corporation assumes all liability to any person for the acts or omissions of a volunteer director, volunteer officer or other volunteer occurring

on or after the effective date of these Articles, provided that all of the following conditions are met:

1. The volunteer was acting or reasonably believed that he or she was acting within the scope of his or her authority.
2. The volunteer was acting in good faith.
3. The volunteer's conduct did not amount to gross negligence or willful and wanton misconduct.
4. The volunteer's conduct was not an intentional tort.
5. The volunteer's conduct was not a tort arising out of the ownership, maintenance, or use of a motor vehicle for which tort liability may be imposed under Section 3135 of the Insurance Code of 1956, 1956 PA 218, MCL 500.3135.

- (c) Amendment of Liability Law. For purposes of these Articles, a volunteer director shall mean a director who does not receive anything of more than nominal value from this corporation for serving as a director other than reasonable per diem compensation and reimbursement for actual, reasonable, and necessary expenses incurred by the volunteer director in his or her capacity as a director.

For purposes of these Articles, a volunteer officer shall mean an officer who does not receive anything of more than nominal value from this corporation for serving as an officer other than reasonable per diem compensation and reimbursement for actual, reasonable, and necessary expenses incurred by the officer in his or her capacity as an officer.

If the Act is amended after the filing of these Articles with the Michigan Department of Licensing and Regulatory Affairs, Bureau of Commercial Services, to authorize corporate action further eliminating or limiting the personal liability of volunteers, then the liability of volunteers of this corporation shall be eliminated or limited to the fullest extent permitted by the Act, as so amended, except to the extent such limitation or elimination is inconsistent with the status of this corporation as a nonprofit corporation.

Any repeal, modification, or adoption of any provision in these Articles inconsistent with this Article shall not adversely affect any right or protection of a volunteer of this corporation existing at the time of such repeal, modification or adoption.

ARTICLE 16

Dissolution

Withdrawals

A participating member municipality may withdraw from the corporation upon delivery to the Secretary of the Board of Trustees at least ~~one~~two years prior to the end of the current fiscal year by use of a certified copy of a Resolution of Withdrawal duly adopted by such member municipality, in which case the same shall be effective at the end of ~~such~~the second fiscal year. In the event of withdrawal by a participating municipality, its representatives shall be deemed to have resigned from the Board of Trustees on the date of delivery of the Resolution and the Board of

Trustees shall be automatically reduced by the number of representatives appointed by the withdrawing municipality.

Any municipality withdrawing from the corporation shall pay the corporation an amount equal to its share of all outstanding obligations of the corporation upon the effective date of the withdrawal. For the avoidance of doubt, it is the intent of this Article to obligate a withdrawing municipality to any obligation, including any cost of disconnection of the facilities, between the time the Resolution for Withdrawal is delivered and the effective date of withdrawal. Such amount shall be paid in full on or before the effective date of such withdrawal. The calculation of the withdrawing municipality's payment shall be based on the allocation of population and contributions under Article 18. A withdrawing municipality shall have no further interest in the assets of the corporation and shall not be responsible for any liabilities or debts incurred after the effective date of the withdrawal.~~If the corporation is dissolved, either by agreement of the constituent municipalities or by any other means, the assets of the corporation shall be liquidated and, after payment of all debts of the corporation, the balance shall be divided among those municipalities who are constituent members at the time of dissolution. Division shall be made according to the population and each constituent municipality shall receive the share of the assets that its population at the time of dissolution bears to the total population of all constituent municipalities at the time of dissolution.~~

ARTICLE 17

Dissolution~~Withdrawals~~

If the corporation is dissolved, either by agreement of the constituent municipalities or by any other means, the infrastructure of the corporation (i.e. pumps, pipes, treatment facilities and other hard assets) shall remain the property of the municipality in whose jurisdiction the infrastructure is located. All other assets and debts of the corporation shall be divided based on the allocation of population and contributions under Article 18.~~A participating member municipality may withdraw from the corporation upon delivery to the Secretary of the Board of Trustees at least one year prior to the end of the current fiscal year by use of a certified copy of a Resolution of Withdrawal duly adopted by such member municipality, in which case the same shall be effective at the end of such fiscal year. In the event of withdrawal by a participating municipality, its representatives shall be deemed to have resigned from the Board of Trustees and the Board of Trustees shall be automatically reduced by the number of representatives appointed by the withdrawing municipality.~~

Any municipality withdrawing from the corporation shall pay the corporation an amount equal to its share of all outstanding obligations of the corporation. Such amount shall be paid in full on or before the effective date of such withdrawal. The calculation of the withdrawing municipality's payment shall be based on the allocation of population and contributions under Article 18. A withdrawing municipality shall have no further interest in the assets of the corporation and shall not be responsible for any liabilities or debts incurred after the effective date of the withdrawal.

ARTICLE 18

Contributions

It is the intention that the Authority will be an enterprise entity whose costs and expenses shall be covered by the rates and charges for the service. The Authority shall be obligated to set rates and charges in a sufficient amount to meet the proportional costs and expenses for providing sewer and water service. Notwithstanding, ~~C~~contributions to finance all or any part of the operating expenses of the corporation shall ~~may~~ be made to the corporation by the ~~participating members~~constituent municipalities on the basis of ~~population~~ metered flow capacity of sewer and/or water service provided within the City and within the Township, which means that each participating member shall ~~may~~ contribute a percentage equal to ~~the the percentage or proportion that the population of service~~ the participating municipality is receiving and bears to the total population service of all participating municipalities, ~~population being based upon the latest Federal decennial census. Further, contributions may be required by any municipality contracting with the Authority for services.~~

ARTICLE 19

Annual Budget

The ~~Executive Director~~Authority shall annually present a proposed line-item operating budget to the corporation for tentative approval. ~~Prior to final approval of the budget~~The Authority shall not adopt a final budget prior to, ~~the corporation must~~ providing the constituent municipalities with a copy of the proposed budget and allowing the constituent municipalities ~~21~~ no less than sixty (60) days for review and comment.

ARTICLE 20

Needs Assessment

Beginning in 2030 and continuing every five years thereafter, the corporation shall engage an independent third-party to provide a thorough assessment of the corporations' current and future operations and capital asset needs, including a cost analysis. The corporation, in consultation with the constituent municipalities, shall review the needs assessment every five years to determine whether a new needs assessment is necessary or desirable.

ARTICLE 21

Amendments

Amendments to these Articles shall become effective when adopted by each and every constituent municipality. Any such amendment shall be published and become effective as of the date specified in such amendment.

ARTICLE 22

Effective Date

This corporation shall become effective upon the filing of copies of these Articles, as provided in the preceding Article and the laws of the State of Michigan.

These Articles have been duly adopted at a public meeting by the several constituent municipalities as hereinafter set forth, and in witness whereof each municipality has caused these Articles to be signed in its name by its Mayor and Clerk and each Township has caused these Articles to be signed by its Supervisor and Clerk, and all parties have affixed their corporate seals as of the date indicated by their respective signatures.

CITY OF ST. JOHNS

Dated: _____, 2024 By: _____
By:
Its: Mayor

Dated: _____, 2024 By: _____
By:
Its: City Clerk

BINGHAM TOWNSHIP

Dated: _____, 2024 By: _____
By:
Its: Supervisor

Dated: _____, 2024 By: _____
By:
Its: Clerk

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