



To: Priya Tamilarasan, Shannon Hamons

From: Sean McCarter

Re: NCA Process

Date: February 2, 2024

Introduction:

- 1. The first step to form a new community authority involves the City of Gahanna Council determining at a Council Meeting whether or not that the petition filed by the developer complies with the requirements of R.C. 349.03.**
- 2. The second step, if Council determines at the Council Meeting that the petition sets forth the required information in R.C. 349.03, then Council is to fix the time and place of a hearing on the petition not less than 30 nor more than 45 days from the petition filing date (see highlighted section below for notice requirements).**
- 3. The third Monday of February is February 19, 2024 which is President's Day and is a regular session day for Gahanna City Council. We presume that the meeting will occur on Tuesday February 20, 2024. This date could be the hearing date on the NCA petition.**

R.C. 349.03, Initiation of proceedings for organization of new community authority, sets forth the process of establishing a new community authority:

The process is initiated by petition filed by developer with "organizational board of commissioners". The petition may be signed by each proximate community.

Here, as the proposed new community district is located entirely within the boundaries of a municipal corporation, the City of Gahanna, the Gahanna City Council acts as the organizational board of commissioners. Pursuant to R.C. 349.01(M)(2), the City of Gahanna is also the "proximate community".

The statute sets forth the items that must be in the petition.

Upon filing of the petition, the Gahanna City Council determines whether such petition complies with the requirements of R.C. 349.03.

Upon determination of Council that a sufficient petition has been filed, Council shall fix the time and place of a hearing on the petition for the establishment of the proposed new community authority.

Such hearing shall be held not less than 30 nor more than 45 days after the petition filing date. The organizational board of commissioners is the legislative authority of the only proximate community for the proposed new community district. **The clerk of Council shall give notice by publication once each week for three consecutive weeks in a newspaper of general circulation in any county of which a portion is within the proposed new community district.**

Upon hearing, if Council determines by resolution that the proposed new community district will be conducive to the public health, safety, convenience, and welfare, and is intended to result in the development of a new community, the board shall by its resolution, declare the new community authority to be organized and a body politic and corporate with the corporate name designated in the resolution, and define the boundary of the new community district. In addition, the resolution shall provide the method of selecting the board of trustees of the new community authority and fix the surety for their bonds in accordance with R.C. 349.04.

If Council finds that the establishment of the district will not be conducive to the public health, safety, convenience, or welfare, or is not intended to result in the development of a new community, it shall reject the petition thereby terminating the proceedings for the establishment of the new community authority.

R.C. 349.04, Method of selecting board of trustees:

Within 10 days after the new community authority has been established, an initial board of trustees shall be appointed as follows: Gahanna City Council shall appoint by resolution at least three, but not more than six, citizen members of the board of trustees to represent the interests of present and future residents and employers of the new community district and one member to serve as a representative of local government, and the developer shall appoint a number of members equal to the number of citizen members to serve as representatives of the developer.

Members shall serve two-year overlapping terms, with two of each of the initial citizen and developer members appointed to serve initial one-year terms. Gahanna City Council shall adopt, by further resolution adopted within one year of such resolution establishing such initial board of trustees, a method for selection of successor members thereof which determines the projected total population of the projected new community and meets the following criteria:

- (A) The appointed citizen members shall be replaced by elected citizen members according to a schedule established by Gahanna City Council calculated to achieve one such replacement each time the new community district gains a proportion, having a numerator of one and a denominator of twice the number of citizen members, of its

projected total population until such time as all of the appointed citizen members are replaced.

- (B) Representatives of the developer shall be replaced by elected citizen members according to a schedule established by Gahanna City Council calculated to achieve one such replacement each time the new community district gains a proportion, having a numerator of one and a denominator equal to the number of developer members, of its projected total population until such time as all of the developer's representatives are replaced.
- (C) The representatives of local government shall be replaced by an elected citizen member at the time the new community district gains three-quarters of its projected total population.

Elected citizen members of the board of trustees shall be elected by a majority of the residents of the new community district voting at elections held at the times and in the manner provided in a resolution of Gahanna City Council. Each citizen member except an appointed citizen member shall be a qualified elector who resides within the new community district. Gahanna City Council, by resolution, may adopt an alternative method of selecting or electing successor members of the board of trustees. If the alternative method provides for the election of citizen members, the elections may be held at the times and in the manner provided in the petition or in a resolution of Gahanna City Council, and the elected citizen members shall be qualified electors who reside in the new community district.

Citizen members shall not be employees of or have financial interest in the developer. If a vacancy occurs in the office of a member other than a member appointed by the developer, Gahanna City Council may appoint a successor member for the remainder of the unexpired term. Any appointed member of the board of trustees may at any time be removed by Gahanna City Council for misfeasance, nonfeasance, or malfeasance in office. Members appointed by the developer may also at any time be removed by the developer within a showing of cause.

Each member of the board of trustees, before entering upon official duties, shall take and subscribe to an oath before an officer authorized to administer oaths in Ohio that the member will honestly and faithfully perform the duties of the members' office. Such oath shall be filed in the office of the clerk of Gahanna City Council. Upon taking the oath, the board of trustees shall elect one of its number as chairperson and another as vice-chairperson, and shall appoint suitable persons as secretary and treasurer who need not be members of the board. The treasurer shall be fiscal officer of the authority. The board shall adopt by-laws governing the administration of the affairs of the new community authority. Each member of the board shall post a bond for the faithful performance of official duties and give surety therefor in such amount, but not less than ten thousand dollars, as the resolution creating such board shall prescribe.

All of the powers of the new community authority shall be exercised by its board of trustees, but without relief of such responsibility, such powers may be delegated to committees of the board or its officers and employees in accordance with its by-laws. A majority of the board shall constitute a quorum, and a concurrence of a majority of a quorum in any matter within the board's duties is sufficient for its determination, provided a quorum is present when such

concurrence is had and a majority of those members constituting such quorum are trustees not appointed by the developer. All trustees shall be empowered to vote on all matters within the authority of the board of trustees, and no vote by a member appointed by the developer shall be construed to give rise to civil or criminal liability for conflict of interest on the part of public officials.

R.C. 349.06 sets forth the power and authority of the new community authority. The payment of the community development charge is described in R.C. 349.07.