

**OSHTEMO CHARTER TOWNSHIP BOARD
7275 West Main Street
Kalamazoo, MI 49009**

August 24th, 2021

Refer to www.oshtemo.org home page for Virtual Meeting Information

**REGULAR MEETING
6:00 P.M.
AGENDA**

1. Call to Order
2. Roll Call & Remote Location Identification
3. Pledge of Allegiance
4. Public Comment on Non-Regular Session Items

WORK SESSION ITEMS

5. Discussion on Township Logo Options (Continued)
6. Discussion on 2022 Budget (Continued)
7. Other Updates & Business

BREAK (Time Permitting) – 7:05 P.M.

REGULAR SESSION ITEMS – 7:15 P.M.

8. Consent Agenda
 - a. Approve Meeting Minutes – August 10th & August 23rd, 2021
 - b. Receipts & Disbursements Report
 - c. Board/Committee Appointment (DDA)
9. Presentation of Oshtemo Rotary Park Pavilion Donation
10. Consideration of Section 57.90- Sidewalks Text Amendment – First Reading
11. Update on Current Mandatory Sewer Connections
12. Request to Enter Into Closed Session to Discuss Written Opinion of Counsel
13. Update on Sewer Expansion Communication & Process
14. Other Township Business & Question Updates
15. Public Comment
16. Board Member Comments
17. Adjournment

**Policy for Public Comment
Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official or staff member to respond at a later date. More complicated questions can be answered during Township business hours through web contact, phone calls, email (oshtemo@oshtemo.org), walk-in visits, or by appointment.

b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be Board discussion prior to call for a motion. While comments that include questions are important, depending on the nature of the question, whether it can be answered without further research, and the relevance to the agenda item at hand, the questions may not be discussed during the Board deliberation which follows.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name, but it is not required.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which does not follow these guidelines.

(adopted 5/9/2000)
(revised 5/14/2013)
(revised 1/8/2018)

Questions and concerns are welcome outside of public meetings during Township Office hours through phone calls, stopping in at the front desk, by email, and by appointment. The customer service counter is open from Monday-Thursday 8:00 am- 5:00 pm, and on Friday 8:00 am-1:00 pm. Additionally, questions and concerns are accepted at all hours through the website contact form found at www.oshtemo.org, email, postal service, and voicemail. Staff and elected official contact information is provided below. If you do not have a specific person to contact, please direct your inquiry to oshtemo@oshtemo.org and it will be directed to the appropriate person.

Oshtemo Township Board of Trustees		
<u>Supervisor</u>		
Libby Heiny-Cogswell	216-5220	libbyhc@oshtemo.org
<u>Clerk</u>		
Dusty Farmer	216-5224	dfarmer@oshtemo.org
<u>Treasurer</u>		
Clare Buszka	216-5260	cbuszka@oshtemo.org
<u>Trustees</u>		
Cheri L. Bell	372-2275	cbell@oshtemo.org
Kristin Cole	375-4260	kcole@oshtemo.org
Zak Ford	271-5513	zford@oshtemo.org
Kizzy Bradford	375-4260	kbradford@oshtemo.org

Township Department Information			
<u>Assessor:</u>			
Kristine Biddle	216-5225	assessor@oshtemo.org	
<u>Fire Chief:</u>			
Mark Barnes	375-0487	mbarnes@oshtemo.org	
<u>Ordinance Enf:</u>			
Rick Suwarsky	216-5227	rsuwarsky@oshtemo.org	
<u>Parks Director:</u>			
Karen High	216-5233	khigh@oshtemo.org	
Rental Info	216-5224	oshtemo@oshtemo.org	
<u>Planning Director:</u>			
Iris Lubbert	216-5223	ilubbert@oshtemo.org	
<u>Public Works:</u>			
Marc Elliott	216-5236	melliott@oshtemo.org	

Zoom Instructions for Participants

Before a videoconference:

1. You will need a computer, tablet, or smartphone with a speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. If you are going to make a public comment, please use a microphone or headphones with a microphone to cut down on feedback, if possible.
3. Details, phone numbers, and links to videoconference or conference call are provided below. The details include a link to “**Join via computer**” as well as phone numbers for a conference call option. It will also include the 11-digit Meeting ID.

To join the videoconference:

1. At the start time of the meeting, click on this link to [join via computer](#). You may be instructed to download the Zoom application.
2. You have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

You may also join a meeting without the link by going to [join.zoom.us](#) on any browser and entering this Meeting ID: **863 8017 5506**

If you are having trouble hearing the meeting or do not have the ability to join using a computer, tablet, or smartphone then you can join via conference call by following instructions below.

To join the conference by phone:

1. On your phone, dial the teleconferencing number: **1-929-205-6099**
2. When prompted using your touchtone (DTMF) keypad, enter the Meeting ID number: **863 8017 5506#**

Participant controls in the lower-left corner of the Zoom screen:



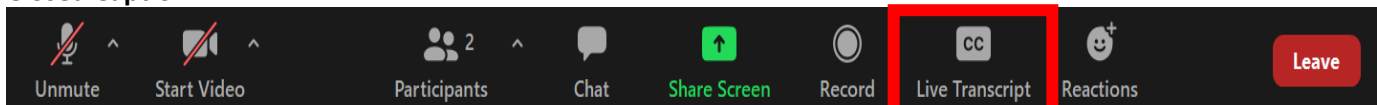
Using the icons at the bottom of the Zoom screen, you can (some features will be locked to participants during the meeting):

- Participants – opens a pop-out screen that includes a “Raise Hand” icon that you may use to raise a virtual hand. **This will be used to indicate that you want to make a public comment.**
- Chat – opens pop-up screen that allows participants to post comments during the meeting.

If you are attending the meeting by phone, to use the “Raise Hand” feature **press *9 on your touchtone keypad.**

Public comments will be handled by the “Raise Hand” method as instructed above within Participant Controls.

Closed Caption:

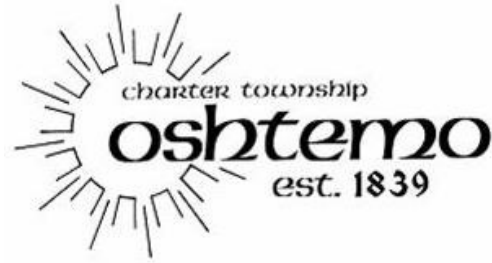


Turn on Closed Caption:

Using the icons at the bottom of the Zoom screen:

1. Click on the “Live Transcription” button.
2. Then select “Show Subtitle”.

Memorandum



Date: 7/23/2021 (Continued discussion 8/24)

To: Township Board

From: Logo Committee: Dusty Farmer, Libby Heiny-Cogswell, Karen High

Objective:

To select a logo for the Township to be used on the new website and for other materials containing the Township logo moving forward.

Process:

The Logo Committee, a subcommittee of the Website Committee, met multiple times to review logo possibilities from a consultant graphic designer, Sandy Wachowski. The committee narrowed the logo choices to the following three options.

Option #1		
Option #2		
Option #3		

The public was invited to provide feedback to the Township Board through a survey on social media and the Township website from June 29, 2021 to July 16, 2021 in a ranked vote format. Although 421 people opened the survey, 102 chose to respond, and only 77 people ranked all 3. The results are below.

Results:

Logo #	Rank 1	Rank 2	Rank 3
Logo 1	32	15	35
Logo 2	28	26	28
Logo 3	32	36	26

In ranked voting, the item with a clear majority (50% +1) wins. There was no clear majority in the results for the logo survey. Without a clear majority, the item with the fewest first rank votes is eliminated and all the second rank votes for that item are lifted as first rank votes for the remaining items. A new tally of the remaining items is shown to determine a majority.

Logo 2 was eliminated, and the second rank votes were applied to Logo 1 and 3. Logo 1 received 39 total votes, and Logo 3 received 50 total votes. **Logo 3 received a majority of votes in the public survey.**

Feedback from the graphic designer was requested to assist the Board in the final decision. Sandy’s comments are as follows.

Logo #1

- Pros: Clean and cheery, the circle shape definitely reads as the O in Oshtemo so it would stand alone very nicely without the text. Reads well in black & white and color.
- Cons: I think the O dominates the logo, but if it was narrower it would not read as easily as an O.

Logo #2

- Pros: Warm and friendly, reads well in large or small sizes, good visual balance between sun and hills. Versatile square shape would work well stacked above the text.
- Cons: The left hill slightly dominates, so maybe could be a bit lighter color to balance it out, or the design tweaked to make smaller.

Logo #3

- Pros: Warm and friendly, reads well in large or small sizes, sun stands out very well
- Cons: Could be mistaken for a flower and leaves (but that may be a good thing too!)

Recommendation:

The Logo Committee recommends the Board consider results of the public survey and insights from the graphic designer to choose the new Township logo.

OSHTEMO BOARDS (formal)

*Bold Font Indicates Proposed Changes. Others are Elected or Continuing

Effective Sept 17th, 2021

TITLE	Members	Dates	Term/End Date
Board of Review	Fred Gould	<i>March, July, & December</i>	12.31.2020
<i>Two Year Term, Start Jan 1, Odd Years</i>	Kitty Gelling		12.31.2020
	Neil Sikora		12.31.2020
	Kim Bourner (1st Alternate)		12.31.2020
	Fred Antosz (2nd Alternate)		12.31.2020
	Libby Heiny-Cogswell		
	Kristine Biddle (Staff)		
CCTA (Public Transit)	Dusty Farmer		
Corridor Improvement Authority (SoDA)	Galen Rike (Resident)	<i>June & December, noon</i>	12.31.2023
<i>5 to 9 members</i>	Joe Gesmundo, AVB (Developer)		12.31.2024
<i>Majority with ownership or bus int</i>	Dale Shugars (County Rep)	<i>(appointed by County per agreemnt)</i>	12.31.2022
<i>At least 1 resident (w/in 1/2 mile)</i>	Corey Ashley, Grp. Mktg. Cvcs., (Business Rep)		12.31.2021
<i>Four year term staggered terms</i>	Kelly Bringman, Nottingham Apts. (Mgr)		12.31.2021
	Dennis Patzer, At Large (School Admin)		12.31.2022
	Theresa Spurr, (Spurr Dental)		12.31.2022
	Libby Heiny-Cogswell (TB Liason)		
	Iris Lubbert (Staff)		
Dangerous Building Hearing Officer	Dave Breytone	<i>Supervisor appointment</i>	
DDA (9-13 Members)	Jack Siegel (Interest)	<i>3rd Thurs, every other</i>	12.31.2021
<i>9-13 Members</i>	Stephen Dallas (Interest)	<i>month, starting Jan, noon</i>	12.31.2021
<i>Majority with ownership or bus int</i>	Grant Taylor (At Large)		12.31.2021
<i>At least 1 resident (w/in 1/2 mile)</i>	Dick Skalski (At Large)		12.31.2024
<i>Four year term staggered terms</i>	Ryan Winfield (Resident)		12.31.2024
	Themi Corakis (Interest)		12.31.2023
	Rich MacDonald (Interest)		12.31.2023
	Ryan Wieber (KPL Rep; Interest)		12.31.2022
	Bill Cekola (Interest)		12.31.2022
	Libby Heiny-Cogswell (Twp Supervisor)	12	
	Iris Lubbert (Staff)		
Environmental Board	Chad Hughson	<i>As needed</i>	12.31.2023
<i>Three Year Terms</i>	Druba Bhattari		12.31.2022
	Neil Sikora		12.31.2021



TOWNSHIP ATTORNEY'S OFFICE
7275 WEST MAIN STREET
KALAMAZOO, MI 49009-9334

269-375-7195 FAX: 269-375-7180

jposhtwp@oshtemo.org

August 4, 2021

Ronald W. Ryan
LEWIS, REED & ALLEN, P.C.
136 E. Michigan Ave., Suite 800
Kalamazoo, MI 49007
rryan@lewisreedallen.com

Via Email

Re: Township rate setting for sewer connection fees

Ryan,

When we last spoke you requested that the Township provide you with the legal basis for its opinion that it had to charge a sewer connection fee roughly equivalent to what it had expended to install sewer for the "Group of 300". The issue is primarily a constitutional and statutory matter, with additional accounting considerations.

Under the 1963 Michigan Constitution, all units of government are restricted as to how they expend public monies. Article 9, Section 18, thereof provides:

The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this Constitution.

This provision is equally applicable to local units of government (i.e. townships, cities, villages, etc.) as to the state itself. *In Re Request for Advisory Opinion on the Constitutionality 1986 PA 281,430 Mich. 93 (1980)*. Simply put public entities, such as the Township, may not expend or give away anything without a fair exchange of value. This principal applies equally to public services and any other exchange entered into by a public entity. I could provide additional statutory support, but I thought the simplest thing to do was simply attach a section from an ICLE publication outlining the law on this issue. (see attached ICLE publication entitled *Michigan Municipal Law*). I specifically direct your attention to Chapter 4, Section 4.51, which deals with public purposes and lawful expenditures. As we have discussed previously, the Township believes that its rates are reasonable and reflect a rough proportionality to the cost incurred by the Township to provide the sanitary sewer services.

In addition to the Constitutional issue, the Township is also compelled to comply with state statutes, including the Revenue Bond Act of 1933, which is applicable whether or not bonds are issued. I have attached a portion of Chapter 7 of *Michigan Municipal Law* to assist in your understanding with regard

to the Township's position on the authority of the Revenue Bond Act over the Township. Specifically, the last paragraph of MCL 141.104 states:

The powers in this act granted maybe exercised notwithstanding that no bonds are issued hereunder.

With regard to this matter, MCL 141.118 additionally provides:

(1) Except as provided in subsection (2), free service shall not be furnished by a public improvement to a person, firm, or corporation, public or private, or to a public agency or instrumentality. The reasonable cost and value of any service rendered to a public corporation, including the borrower, by a public improvement shall be charged against the public corporation and shall be paid for as the service accrues from the public corporation's current funds or from the proceeds of taxes which the public corporation, within constitutional limitations, is hereby authorized and required to levy in an amount sufficient for that purpose, or both, and those charges, when so paid, shall be accounted for in the same manner as other revenues of the public improvement.

In addition to the constitutional and statutory restrictions set forth above, there are accounting considerations involved that must be taken into consideration. While the Township's sewer fund is technically not an "enterprise fund" the Township has treated it as such for the past 30 years. This means that the Township Board has taken general revenue funds, placed them into the sewer fund, and used the sewer fund to develop its sewer infrastructure throughout the Township. Those funds have never been recouped by the Township's general fund and have always been paid back into the sewer fund. Accordingly, it is the obligation of the Township to recoup the monies expended by the sewer fund and return them to the sewer fund for continuing development.

I hope the above analysis provides you with sufficient information to explain to your clients that the Township is not being unreasonable in setting the fees for the "Group of 300". Given that the Township has agreed to hold off on the increase in the fees for several years, the Township hopes it is clear to those affected that the Board has tried to help in this process. While the Township was not able to change the past to affect the existing rates, the Board has tried to forestall the increases for the benefit of your clients.

I hope this information helps you and your clients as you review and analyze your options in this matter. Please let me know if additional information, or clarification, of the above is required.

Very truly yours,

James W. Porter
Township Attorney

Enclosures

cc: Libby Heiny-Cogswell
Dusty Farmer
Clare Buszka



August 17, 2021

Mtg Date: August 24, 2021
To: Oshtemo Charter Township Board
From: Iris Lubbert, AICP, Planning Director
Subject: First Reading: Section 57.90 Sidewalks (**revised**)

Objective:

Consideration of a revised amendment to Section 57.90 Sidewalks for First Reading.

Background:

Oshtemo Township continues to grow and, simultaneously, the Township is hearing community requests for a quality of life that is connected by sidewalks and paths. Over the years the Township has adopted several policies and ordinances to establish a physical and cultural environment that supports and encourages safe, comfortable, and convenient ways for a diverse population of pedestrians and bicyclists to travel throughout the Township and into the surrounding communities. The most recent of which was through the *Go!Green Oshtemo – 5 Year Parks and Recreation Master Plan*. Part of the plan included an action strategy to continue to require provisions for nonmotorized transportation facilities with site plan reviews. The Zoning Ordinance language that continues to implement this action strategy is Section 57.90, language provided below.

“For those uses requiring Site Plan review under this ordinance, an internal sidewalk network (including connection to and establishment of a sidewalk in the right-of-way of any arterial, collector, or local road indicated on the Non-motorized Facilities Map abutting the site) shall be required within public street rights-of-way and/or private street easements unless the reviewing body grants a deviation from this provision. Deviation may be considered if the street is a cul-de-sac, or if there are constraints as the result of severe topography or natural features.” (57.90 Sidewalks)

In essence, Section 57.90 does three things: 1) when a site plan is submitted to the Township the nonmotorized facilities shown on the adopted Nonmotorized Facilities Map needs to be installed as part of the site plan review and approval process, 2) a sidewalk network is required within the site itself (including a connection from the proposed development to the adjacent nonmotorized path), and 3) the reviewing body can grant a deviation if warranted.

What exactly that deviation can be was not specified in the code. As such, the Township’s reviewing bodies have over the years waived the requirement to install sidewalk with a number of different approaches. Most recently by requiring the applicant to sign a sidewalk SAD agreement. It has also become common practice that if the property in question cannot directly connect to an existing nonmotorized facility a deviation is granted so to avoid “sidewalks to nowhere”.

The Township Board discussed this section of the code and the Township’s current sidewalk policies at their March 9th, 2021 regular meeting. At that meeting the Board agreed that sidewalks should be installed more aggressively in urbanized areas of the Township, the “sidewalks to nowhere” argument is no longer a valid reason for a deviation in those urbanized areas, and this section of the code needs to be revisited and refined.

Staff presented the Township Board's request to the Planning Commission at their regular March 25th meeting for an initial discussion to guide the direction of an Ordinance amendment. At their regular April 8th and May 27th meetings, the Planning Commission reviewed multiple versions and discussed various directions for the amendment. Ordinance Section 64 Site Plan Review and Section 294 Non-Motorized Facilities/Sidewalks as well as the Kalamazoo Area Transportation Study Metropolitan Planning Organization's (KATS MPO) Urbanized area map and Oshtemo's adopted nonmotorized plan were referenced in those discussions and in drafting the amendment. A Public Hearing for the proposed text was held on June 24th, 2021. During the Public Hearing one public comment was received with a request that sidewalk SADs still be allowed to be considered. The Planning Commission unanimously motioned to forward the proposed amendment to the Township Board for consideration with a recommendation of approval.

This item was reviewed by the Township Board at their July 13th meeting at which a question was asked as to how the proposed text amendment would affect 'change in use' site plans. Upon closer review it was found that that portion of the proposed text did not clearly capture the intent of the amendment and was open to interpretation. At the July 27th Township Board meeting, with staff's recommendation, the Township Board referred the proposed text amendment to Section 57.90 back to the Planning Commission in order to address the 'change in use' language. The Planning Commission reviewed and altered the text in question at their August 12th regular meeting to address this issue and unanimously motioned to forward the revised proposed amendment to the Township Board for consideration with a recommendation of approval.

It should be noted that when comparing the KATS MPO Urbanized area map to Oshtemo's adopted nonmotorized plan it was found that almost all of Oshtemo's identified desired nonmotorized facilities were within the identified urbanized boundary. As such, both the Planning Commission and staff felt it was unnecessary to distinguish between urban and non-urban areas within the proposed amendment.

Proposal:

The proposed amendment to Section 57.90 of the Ordinance addresses the Township Board's concerns regarding the installation of nonmotorized facilities in connection to site plan reviews, provides clear direction to both staff and developers, and makes this section consistent with other existing sections of the ordinance.

The amendment consists of some clarifying language and three major changes, described below.

1. A clear direction for a deviation is provided. The reviewing body can approve an Escrow agreement in Lieu of requiring the nonmotorized facility to be installed. Through the Escrow agreement the developer would give the Township the funding needed to install the sidewalk at a later date. This deviation approach is consistent with Section 294: Non-Motorized Facilities and Sidewalk Ordinance of the General Ordinance.
2. Clear reasons for granting a deviation are outlined. The Planning Commission may grant the deviation if there is a demonstrated, extraordinary difficulty that the site presents or the Township has plans to install sidewalk along the property in question in the next five years or in coordination with an anticipated project.
3. The proposed ordinance recognizes that this approach may not be appropriate for all site plan reviews. The amendment outlines specific types of smaller site plan reviews where requiring a

sidewalk installation would be disproportionate to the work being proposed. These site plans would be exempt from this section.

Attachments: Proposed 57.90 Text Amendment Document - Proposed changes are shown in red and the red highlighted text is the newly proposed language to clarify the 'change in use' site plans that are to be exempt from this section; Excerpt from Ordinance Section 64; Excerpt from Ordinance Section 294; Adopted Nonmotorized Plan; Illustration overlaying the ACUB area onto the Oshtemo nonmotorized plan.

57.90 Sidewalks and Non-motorized Facilities.

For those uses requiring Site Plan review under this ordinance, an internal sidewalk network (including connection to and establishment of a sidewalk or shared use path in the right-of-way of any arterial, collector, or local road indicated on the Non-motorized Facilities Map abutting the site) shall be required to be constructed within public street rights-of-way and/or private street easements. ~~unless the reviewing body grants a deviation from this provision. Deviation may be considered if The street is a cul-de-sac. there are constraints as the result of severe topography or natural features.~~ Sidewalk easements on private property may be entered into and utilized if determined appropriate by the Township Engineer.

However, unique circumstances may exist such that the installation of non-motorized facilities in compliance with this article may not be appropriate at the time of development. Accordingly, the property owner may in lieu of constructing the required non-motorized facility, request to enter into an Escrow Agreement with the Township as outlined in the Non-Motorized Facilities/ Sidewalk Ordinance. The reviewing body is authorized to approve an Escrow Agreement in lieu of the required non-motorized facility in the following instances:

1. Where strict application would result in extraordinary difficulty, including, but not limited to, severe variations in topography, unsuitable soils, or difficulty in providing safe separation between pedestrian and vehicular traffic due to site location, layout, or existing building arrangements.
2. The Township has plans to install sidewalk along the property in question in the next five years or in coordination with an anticipated project.

The following Site Plan reviews are exempt from this Section:

1. Uses requiring site plan review that entail an alteration or expansion to an existing building involving less than 2,000 sq. ft.
2. Uses requiring site plan review that fall exclusively into the categories of 'Accessory Structures and Site Improvements' or Administrative Review in 'Change in Use' in the Table under Section 64.20 Applicability.

ZONING ORDINANCE ARTICLE 64

64 – SITE PLAN REVIEW

64.20 APPLICABILITY

- A. Prior to the establishment of a use, addition to an existing use, or the erection of any building, a Site Plan shall be submitted to and approved by the Township in accordance with the procedures of this Article, and the development requirements of this and other applicable ordinances.
- B. The Township shall not approve the issuance of a building permit until a Site Plan, where required, has been approved and is in effect. Obtaining Site Plan approval does not guarantee issuance of a building permit.
- C. No grading, removal of trees or other vegetation, landfilling, installation of utilities, or other construction improvements shall commence for any development which requires Site Plan approval until a Site Plan is approved and is in effect, except as permitted by this ordinance or by Section 56.30.
- D. Site Plan review shall be required for the activities or uses listed in the table below. The Planning Commission, Zoning Board of Appeals, or Planning Department through Administrative Approval shall have the authority to review and to approve, approve with conditions, or deny Site Plan applications as provided in this Article, in accordance with the table below. If all Site Plan application requirements are met, the Site Plan shall be approved, approved with conditions, or denied within 60 days of receipt of the completed application.
- E. The Planning Director shall have the discretion to forward any Site Plan submitted for administrative approval to the Zoning Board of Appeals for final determination.
- F. If administrative approval is denied, the applicant may appeal the decision to the Zoning Board of Appeals.
- G. Single-family and two-family dwellings are exempt from these requirements.

Activity/Use	Administrative Review	Zoning Board of Appeals	Planning Commission	Township Board
NEW CONSTRUCTION				
Open Space Developments			Approve	
Planned Unit Developments (PUD)			Approve	
Multi-Family Developments/Buildings		Approve in R-4 District	Approve in R-3 District	
Mobile Home Community			Recommend	Approve
Any Nonresidential Building, Structure or Use (unless Special Use)		Approve		
Special Uses			Approve	

EXPANSION/MODIFICATION TO EXISTING BUILDINGS				
Alteration or expansion involving less than one-fourth of the floor area of an existing structure or is no greater than 2,000 sq. ft. whichever is less	Approve			
Alteration or expansion involving more than one-fourth of the floor area of an existing structure or is greater than 2,000 sq. ft.		Approve		
Expansion/Intensification of a Special Use			Approve	
CHANGE IN USE				
Reuse of an existing building where no building expansion is proposed, if the Planning Director determines the new use is similar or less intense in terms of parking, traffic generation, drainage, utility needs, noise, aesthetics and other external effects	Approve			
Change of land or building to a more intensive use, as determined by the Planning Director, that may involve substantial change in parking, traffic flow, hours of operation, public services, effluent discharge, or substantial alteration of the physical character of the site		Approve		
Change to a Special Use			Approve	
Temporary uses, buildings and structures	Approve			
Change of use/occupancy of an individual suite within a Commercial Center	Approve			
ACCESSORY STRUCTURES AND SITE IMPROVEMENTS				
Accessory structures/buildings that are one-fourth the size of the principal building or less and does not affect other Zoning requirements	Approve			

Accessory structures/buildings that are more than one-fourth the size of the principal building and/or affect other Zoning requirements		Approve		
Outdoor storage, sales and display for more than one day			Approve	
Modification or expansion of existing off-street parking, stacking spaces or loading and unloading areas	Approve			
Construction, relocation or erection of signs, screening walls, fences, waste receptacles, sidewalks, lights, and poles	Approve			
Modifications to comply with accessibility requirements	Approve			

294.000 - NON-MOTORIZED FACILITIES/SIDEWALKS

294.005 - Construction regulations.

Sec. V.

- A. Sidewalks/Multi-purpose Paths/Facilities Required - All developers shall, upon development of, **or major improvement to**, real property, construct a sidewalk or non-motorized multi-purpose path/facility in accordance with the Township's Zoning Ordinance and/or Subdivision/Site Condominium Ordinance, as guided by the Township's Master Land Use Plan.
- B. Sidewalk/Multi-purpose Path/Facility Construction Standards - All sidewalks or non-motorized paths/facilities shall be constructed in accordance with the design and construction standards which shall be approved, from time to time, by the Township Board.
- C. Permit Required - No sidewalk or other non-motorized path/facility shall be constructed without application for, and issuance of, a permit from the Township, in addition to any other state or local permits which may be required. The developer shall pay a permit application fee in accordance with the schedule adopted by the Township Board by resolution.
- D. Construction Plan Review - No sidewalk or other non-motorized path/facility shall be constructed, and no permit issued for same, prior to the review and approval of construction plans for same by the Township's Planning Department, the Township Engineer and any other required review body, including the Kalamazoo County Road Commission, or Michigan Department of Transportation, if applicable. The developer shall pay a fee for plan review in such amount as may be adopted by the Township Board by resolution from time to time. This fee may be in lieu of, or in addition to, any escrow fees, site inspection fees or certificate of occupancy inspection fees paid by developer, as determined by Township.
- E. Sidewalk Completion - All sidewalks or other non-motorized paths/facilities shall be constructed, inspected and approved by the Township prior to occupancy of a building on a site or in the case of a subdivision, prior to final plat or site condominium approval except as may be allowed in Paragraph G below.
- F. Inspection Required - The construction of the sidewalk or other non-motorized path/facility shall be inspected by the Township prior to the Township's approval thereof. The developer shall pay a fee for inspection in such amount as may be adopted by the Township Board by resolution from time to time. This fee may be in lieu of, or in addition to, any escrow fees, site inspection fees or certificate of occupancy inspection fees paid by developer, as determined by Township.
- G. Performance Guarantee - If weather or other unanticipated conditions prohibit completion of a sidewalk or non-motorized path/facility prior to Certificate of Occupancy issuance, prior to recordation of a final plat or prior to site condominium final approval, the developer/owner may provide the Township with a performance guarantee in an amount equal to the cost of the construction of the sidewalk or non-motorized path/facility system. The cost figure shall include the costs of site preparation, construction, site restoration and site inspection, and shall be based upon the construction plans as reviewed and approved by the Township. The performance guarantee provided to the Township shall be valid for the

entire completion period allowed for sidewalk or non-motorized path/facility installation, inspection and approval.

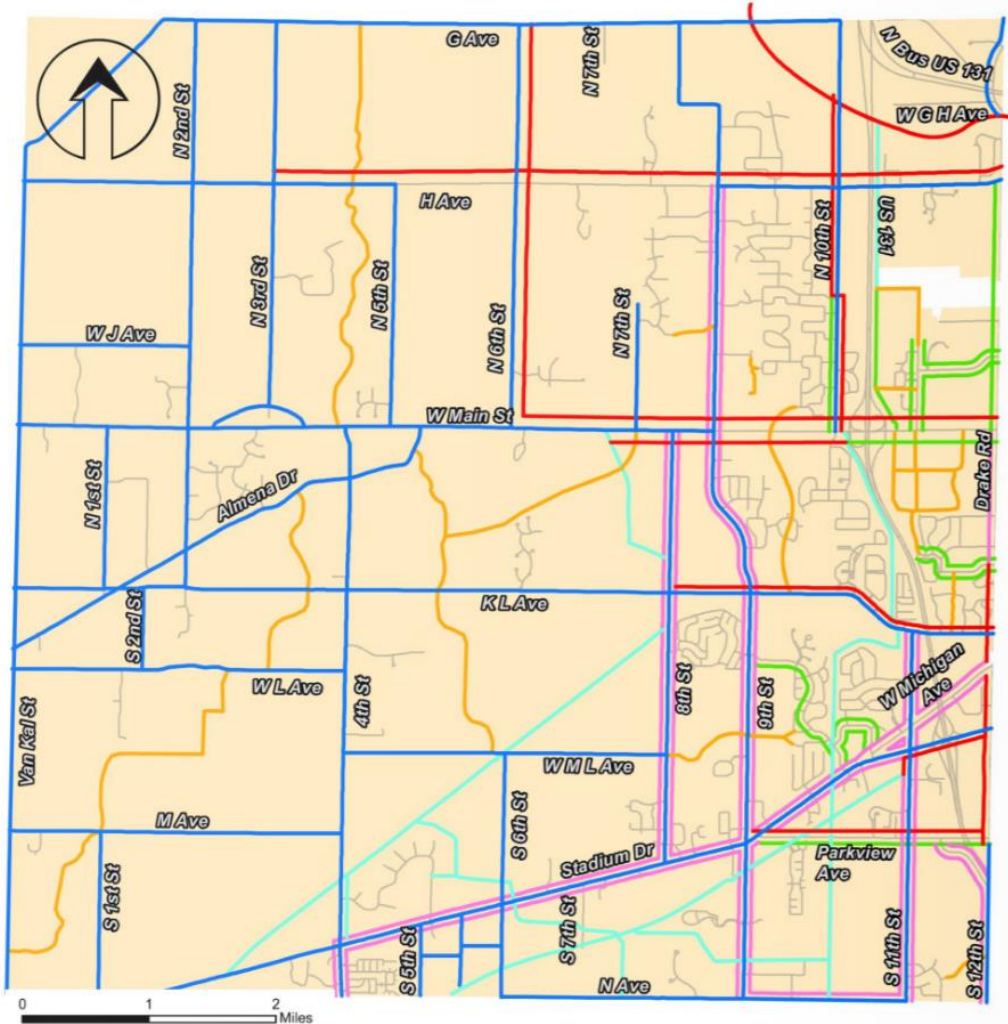
H. Escrow Agreement - When the Township determines it is in the Township's best interest to delay construction of sidewalks, the developer/owner of the real property may pay the cost of construction of the sidewalk (as determined by the Township Engineer) to the Township and shall execute the Township's standard escrow agreement to guarantee completion of the sidewalk or non-motorized path/facility, pursuant to all Township standards and requirements. The cost figure shall include the costs of design, site preparation, construction, site restoration and site inspection.

(Amended: Ord. No. 559, § I, 2-24-2015)

Nonmotorized Transportation Implementation

The Nonmotorized Transportation Network Map provides both multi-use paths and sidewalks that follow roadways, as well as ideas for off-road connections intended throughout the Township. This is a long-range plan of existing and envisioned facilities that will connect the entire Township. The intent of the future nonmotorized efforts is to create a network of links to adjacent jurisdictions, provide access to destinations within and around the Township, and ensure a system of “loop connections” throughout the community.

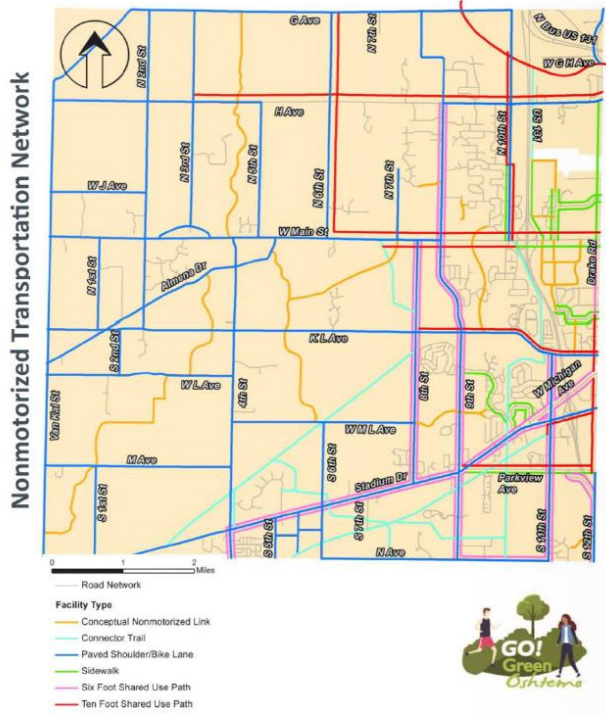
Nonmotorized Transportation Network



- Road Network
- Facility Type**
- Conceptual Nonmotorized Link
- Connector Trail
- Paved Shoulder/Bike Lane
- Sidewalk
- Six Foot Shared Use Path
- Ten Foot Shared Use Path

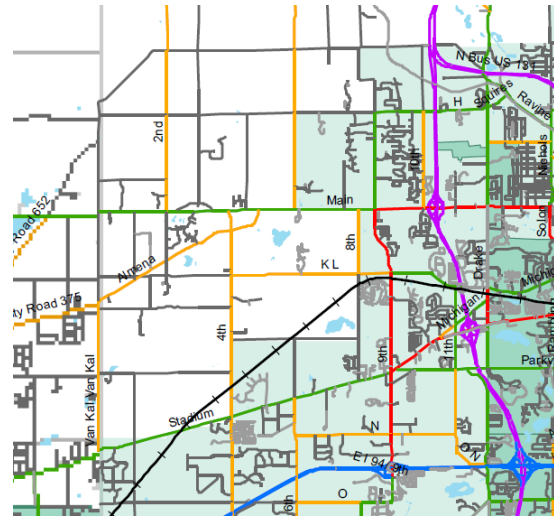


Oshtemo Nonmotorized Network Plan



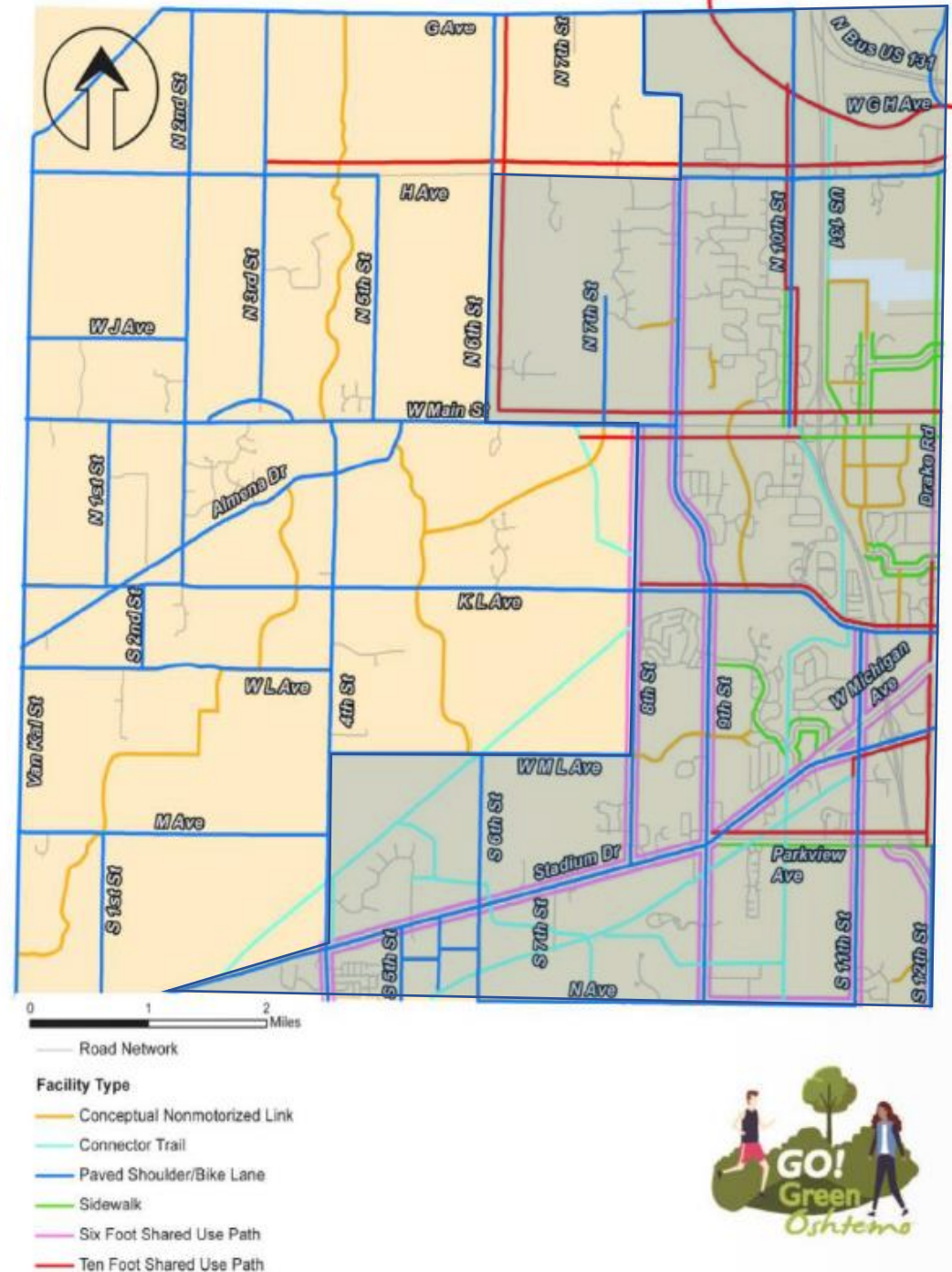
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KATS MPO map with Urbanized Area (excerpt)



+

Nonmotorized Transportation Network



OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION

RECOMMENDATION OF THE OSHTEMO CHARTER TOWNSHIP PLANNING
COMMISSION RESULTING FROM A PUBLIC HEARING CONDUCTED ON
THURSDAY, JUNE 24TH, 2021

The Oshtemo Charter Township Planning Commission hereby recommends APPROVAL of the following additions and amendments to the Township Zoning Ordinance:

The amendment to Article 57, Section 57.90, SIDEWALKS to read, in summary, as follows:

57.90 Sidewalks and Non-motorized Facilities.

For those uses requiring Site Plan review under this ordinance, an internal sidewalk network (including connection to and establishment of a sidewalk or shared use path in the right-of-way of any arterial, collector, or local road indicated on the Non-motorized Facilities Map abutting the site) shall be required to be constructed within public street rights-of-way and/or private street easements. ~~unless the reviewing body grants a deviation from this provision. Deviation may be considered if The street is a cul-de-sac. there are constraints as the result of severe topography or natural features.~~ Sidewalk easements on private property may be entered into and utilized if determined appropriate by the Township Engineer.

However, unique circumstances may exist such that the installation of non-motorized facilities in compliance with this article may not be appropriate at the time of development. Accordingly, the property owner may in lieu of constructing the required non-motorized facility, request to enter into an Escrow Agreement with the Township as outlined in the Non-Motorized Facilities/ Sidewalk Ordinance. The reviewing body is authorized to approve an Escrow Agreement in lieu of the required non-motorized facility in the following instances:

1. Where strict application would result in extraordinary difficulty, including, but not limited to, severe variations in topography, unsuitable soils, or difficulty in providing safe separation between pedestrian and vehicular traffic due to site location, layout, or existing building arrangements.
2. The Township has plans to install sidewalk along the property in question in the next five years or in coordination with an anticipated project.

The following Site Plan reviews are exempt from this Section:

1. Uses requiring site plan review that entail an alteration or expansion to an existing building involving less than 2,000 sq. ft.
2. Uses requiring site plan review that fall exclusively into the categories of 'Accessory Structures and Site Improvements' or Administrative Review in 'Change in Use' in the Table under Section 64.20 Applicability.

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

Date: August 16, 2021

By: 

James W. Porter
Township Attorney

Final Action by Oshtemo Charter Township Board

_____ APPROVED _____

_____ DENIED _____

_____ REFERRED BACK TO PLANNING COMMISSION

QUESTIONS FROM RESIDENTS: USDA Sanitary Sewer Expansion Project

These are **actual** questions from residents over the past few weeks. Most Frequently ask Questions are detailed in answers. **All** questions received to date are listed.

Q1: Didn't the township vote on this last November? Why is the Township pursuing this project after it was voted down?

- The vote in fall 2020 was asking about the SALE OF BONDS; not if residents wanted public sewer (sewer referendum). The vote was related to how it was proposed to be financed.
- Township Staff and Elected officials heard frequently that people understand or even wanted sewer, just not the cost. The Board tasked staff with lowering the connection fees.
- Treasurer Clare Buszka ran on opposition of project and said she heard during campaigning from many residents that NEEDED sewer. She knew representing all residents meant pursuing sewer project for health, safety, and welfare of community, while finding a new way to finance so residents could afford or manage payment.

Q2: "What, if any, is the cost to me to have the sewer lines installed on my street?"

- The direct cost for a *residential* property in Phase 1 or 2, is a flat \$5,000 for *public side connection* (Sewer Expansion Phase 1 & 2 only). No longer 3-part equation.
- An estimated \$3,000-\$6,000 for private side connection from average cost of similar hookups from contractors in the area. Private side connections vary depending on location of outlet from home, landscaping, topography, and other features.
- For exact private side cost, we recommend reaching out to at least 2 excavating contractors to obtain quotes.

Q3: "Are these costs mandatory? If there is a cost, what authority/statute grants Oshtemo Township the power to require me to pay for a sewer line to be installed on a public street? I don't have to pay out of pocket for the road to be re-graded or for street lights to be repaired or new signs to be installed. I would like to know how construction on a public property becomes my expense. Please explain."

- Yes, costs are mandatory. Pursuant to Michigan Act 368 of 1978 and Oshtemo Township Code 232.008, both state the authority to mandate connection to public sanitary sewer.
- Costs for local (neighborhood) road work, street lights, or new signs comes from General Fund dollars which are collected through property taxes residents pay.
- The public right of way is designated for everyone's use and benefit. The cost of maintaining and constructing facilities (water, sanitary sewer, roads, stormwater drainage, stop lights, etc.) in the public right of way is paid for by all users.
- The cost of any public infrastructure is borne by the Tax Payers as that is who the users and beneficiaries are. Depending on the relative or direct benefit, costs are collected and distributed based on equitable formulas (approved rate method and formula, taxable value or per parcel).

- For example, previous policy on a local roads for any reconstruction or rehabilitation, residents needed to create petition for special assessment district (SAD) and total project cost was divide by parcels in district (paid over time on tax bill).
- Another example, similarly for streetlighting, that is a SAD in the Township, which collects revenues for conversions to LED and usage on tax bill and is paid for by residents within specified distance of lights.
- If approved, approximately: Phase 1 - Spring 2022 and Phase 2 - Spring 2023

Q4: When are we required to hook-up, pay for the sewer installation on the street, and pay for, the sewer connection from the street to our home?

Q5: When will this project begin on my street?

- Oshtemo Township Code 232.008, "... within twenty-four (24) months of mailed notification of availability of sewer service by the Township, following installation of public sewer main,...."
- Example Phase I: Install May 2022, Notice June 1, 2022, payment and connection complete June 1, 2024. Phase II: Complete/Notice by August 2023, connection would be required by August 2025.)

Q6: Did the Township do any testing of contamination of Septic Systems? How can they say Septics aren't safe? Are there ever going to be tests done to prove that our septic systems are failing and causing problems with the ground water?

- Vern Johnson 5/25 BD Meeting 1:00:00: Know from studies around lakes or shallow aquifers that septic tanks impact groundwater, we know that there isn't 100% complete treatment of sewage effluent even by best treatment systems, using cause and effect relationships "in high density areas, we know there is impact, can say with confidence that when municipal sewer is extended in high dense areas, there is a positive impact on our aquifers just from cause and effect"
- Vern Johnson 5/25 BD Meeting 1:30: Testing entire Township isn't cost effective when we know *cause and effect relationship* of non-point sources.
- Groundwater sampling and analysis is not the only way to analyze the impact of septic systems. Other standard and recognized practices of scientific reasoning expertise are valid. = "Cause and Effect"
- The County Health Dept inventoried existing septic in expansion neighborhoods (Sky ridge, Westport, Fairlane = 900 properties with homes in 2017) and **62% do not meet current code**, 14% are on 3rd septic system (this is conservative number because if drywell system, probably just added dry well)
- Vern Johnson 5/25 BD Meeting 1:10:00: already know for big contaminants (KLA, PFAs, industrial), non-point sources nonspecific contaminant, not large plumes, small contributors to aquifer, onsite sewage treatment systems are those, we know in high dense areas we know greater risk of impact
- There are maps by EGLE for water testing of VOC, nitrates, arsenic, and phosphorus – these are bad/toxic for surface waters and water quality in Michigan

Q7: Why can't we wait for this project until there are more failed septic's or a majority of people want this?

- These are specifically identified neighborhoods where sewers surround so connection to system is available. There is a unique funding opportunity to proactively and methodically complete these gaps. There are currently people who are out of options. If emergency situation happens, like one house has no other options and needs extension, it will be much more costly to residents or Township and neighborhood.
- From recent survey, 41% of people in expansion areas are interested in connecting to public sewer and from voting in November, higher favorability in Urban areas.
- Vern Johnson May 25 Work session at 45:50 min mark: "keep in mind that onsite treatment systems were not meant to be permanent thing for growth in America"... "stop gap until municipal sewers could be run in high density areas"

Q8: "My septic works fine and has been recently inspected and approved."

- Michigan is the only state without standard inspection.
- Township would have to set standards and manage inspection program.
- There is no scale to rate function of system to say it is fine, great, etc.
- Aging systems, reference to the (reduction in) efficiency and adequacy of treatment and function and potential for more environmental impacts at that point.
- The County Health Dept inventoried existing septic's in expansion neighborhood (Sky ridge, Westport, Fairlane = 900 properties with homes in 2017) 17.5 avg year/24 median year for systems needing replace or additional dry well. KCHD estimates County wide they average 20-30 years.

Q9: "What will happen to roads if Sewer project doesn't go through? what roads are affected? is the township going to continue putting off fixing the previous phase I and phase II roads? Will they continue putting off fixing the roads until the sewers are installed on those roads? "

- Township staff currently and will continue to work with Road Commission to create plan for next 5-10 years on how to prioritize which roads get done when based on condition and funding available.
- Majority of failed roads will not get done as quickly (2-3 years) like they would with sewer projects. Using the USDA loan allows to pay back over time. For them to be cash financed will take longer and will be individual projects and lose cost savings of big project, taking longer and more money to complete.
- If roads in sewer expansion areas get reconstruction now, and sewer gets installed in 10 years let's say, there is still 25 years of useful life of that road that will get lost. It would be "money down the drain" and poor financial stewardship.

Q10: The WE Upjohn Report stated there is no increase to my property value when connecting to sewer, so why is the Township saying it does?

The Report says there is no increase in home value for two parcels next to each other where sewer exists. Thus, on 9th Street for example, resident A who is connected and resident B who isn't connected have no different in value. Resident B is getting the same increase in value without having paid for connection or usage like Resident A.

5. The analysis revealed that parcel with homes connected to the sewer system were no more or less valuable than those not hooked into the sewer system.

What the report says, is there an increase in parcel value when access to sewer is added. The value increase is realized when sewer is made accessible and installed. In 9th Street example, both resident A and B had increase in value when sewer was installed. Thus, Ramblewood St for example, where no sewer exist, parcels will increase in value when sewer is constructed.

9. The results demonstrated a statistically significant difference in assessed value between parcels with sewer access and those without sewer access across all property classes. This means that the data demonstrated a strong connection between access to sewer and increases in parcel values. Institute found that this connection diminishes when looking at individual property classes; additional information would help to pinpoint the reasons for this outcome. In general and across all property classes, parcels are more valuable when they have access to sewer.

Q11: Why is the connection Mandatory? I'd be much more inclined to go along with the project and even pay public connection fee if I didn't have to connect until my system fails.

https://www.michigan.gov/documents/deq/deq-ess-faq-water-wb-sanitarysewer-hookup_206699_7.pdf

Required by State Public Health Code – matter of health & safety

- Project intent is to protect residents and environment, it needs to be connected to in order to meet objective.
- Catching up (group of 300) is protested and called "unfair" based on rate methodology (i.e. cost is connection fee at time of connection, not construction).
- System function relies on use (enough flow) and financial viability requires use and participation by all.

Q12: I don't want the project if I must have a pump.

In any engineering design, the best effort is made to optimize the infrastructure and/or system. Ideally, as much as possible sewage flows by gravity and does not need lift stations, but at some point, sewer main gets deep enough (30feet) that the cost of installing, area of excavation, and maintenance are illogical. Engineers try to balance depth of sewer main (less pumps for residents) with constructability (high cost). We can all agree pumps either for residents or system as lift stations, are not DESIRED. In design of larger areas, we have opportunity to make

more large scale decisions and decrease chances of needing pumps, but it's inevitable when fitting sewer into existing residential area. Some people need pumps for septic (more likely especially during replacement and less options for locations).

Q13: The connection lead pipe is going to take down mature trees and a new septic would go in the same location as my current one and not impact trees.

If a septic replacement needs to occur, most of the time, they do not go in same location. The existing drain field area is considered contaminated material so would need to be hauled off and go to specialized land fill. A new location on your property is selected based on setbacks, soil conditions, etc. so large area of trees would be removed then. A service lead is 4" diameter pipe and some contractors offer boring which is minimal digging compared to open excavation.

Q14: how the township is planning to pay for the project (Road millage, connection fees, usage fees, surcharges, etc...)

This is best explained during presentation of May 25th Board Regular Meeting and <https://oshtemo.org/wp-content/uploads/2021/07/Part-5-Capital-Infrastructure-Funding-Roads-and-Prop-Sewer.pdf>

Q15: Are connection fees an alternate to Special Assessment Districts?

Both are methods to fund public infrastructure under different state statutes. Oshtemo provides an installment payment option for homeowners for connection fees which is designed to replicate the long-term payment characteristic of a SAD burden over the property.

Q16: This isn't cheaper, now I have monthly bill for sewer service.

Yes, single-family sewer fees are billed quarterly, based upon measured flows of the public water meter. There is ongoing cost of system maintenance and cost for treatment. The Township is actively working on new wastewater contract with City and other Townships to ensure costs are same for all residents and to increase efficiency and cost effectiveness of system.

Q17: What makes the USDA funded sewers different?

As physical infrastructure, they are the same. USDA is involved in the FUNDING. They offer low rate, long term financing. Recipients need to apply and be approved.

Q18: What happens to outstanding balance of sewer connection if I sell my house?

The installment payment plan can be paid-off at any time (without pre-payment penalty). Therefore, the most common procedure at time-of-sale is that the unpaid principal is negotiated in the sale price. Alternately, the purchaser can execute a simple assumption of installment agreement with Oshtemo that will continue the existing financing agreement. It is important to note that the lender must agree to the assumption.

Q19: Is Oshtemo profiting from its installment payment plans and/or this project?

- [all collected money will be deposited into the segregated Sewer Fund and restricted in use.](#)
- Costs were determined by consulting engineers, bond council, and municipal finance advisors. These experts use valid assumptions, determined rates and repayment tolerances.
- Township has annual audit done to ensure meeting legal government requirements. It is made public for anyone to review.
- USDA tracks the fiscal stability of Oshtemo's Sewer Fund over the 40-loan period. Should collected revenues exceed expenditures, the Township has the flexibility to reduce the debt service fee (surcharge).

Q20: Is there going to be another vote on an upcoming district ballot to approve the lower cost and purchase of bonds?

- The Residents have the right to referendum for the sale of bonds so if signatures are gathered again, yes it would become ballot measure.

Q21: Why aren't you holding your meetings ahead of the August 10th meeting so our voices can be heard?

- There is public comment at every meeting for non-agenda items and after agenda items and we are using social media to request feedback and comments prior to the meeting so the Board can use in deliberation.

***Following questions were recently received and the responses are still being completed by staff and will be shared when available. Staff has reached out to resident to provide timely discussion. ***

Q22: City of Kalamazoo is currently spending 1.7 million to vacuum out the sewer stink in Kalamazoo's Northside. (MLive July 20, 2021). In 2018, Kalamazoo invested 15 million for anti-stink measures that were plaguing the residents of Kalamazoo Northside "for years".(MLive Posted Dec 4, 2018, and updated Jan 29, 2019)

Q23: Further investigation reveals that this has been an ongoing issue since 1968. (WMUK.ORG) It took State action to make Kalamazoo start the investigation and clean up the mess. Flash forward – the sewage is still dumping into the river due to pipes bursting. (MLive 09/2019) Fisherman reports sewage leak in the Kalamazoo River due to a cut pipe... (WWMT.Com Feb 21, 2020) Broken Sewer pipe spills about 30 gallons of sewage in the park. (Wincountry.com August 2, 2021) 500 gall raw sewage spill reported Sunday at Spring Valley Park, Kalamazoo.

Q24: Are the pipes that Oshtemo connecting to able to handle the flow of additional sewage being proposed with Oshtemo expanding the lines/hookups?

Q25: Are the lines going to the actual waste treatment plant viable and able to handle the additional flow?

What (if any) cost are going to be assessed to Oshtemo or to the residence of Oshtemo that are utilizing the sewer system if problems like this continue or arise from the additional hookups?

Has Kalamazoo completed the inspection of the sewer lines? Has Oshtemo reviewed the report or has information been made available to the Board and is someone working closely with the Oshtemo Board on the proposed sewer expansion regarding maintaining viability of services (not just the immediate monies cost)?

Q26: City of Mattawan has been in a “sewer discussion” for the past several months. One of the questions that the Mattawan board has been unable to answer is why sewer pipes that are approximately 10 years old are now considered failing.

Q27: What, if any, guarantees of work and life of lines are being offered to the Oshtemo Board in regard to the installation of the proposed sewer lines?

Q28: Has an inspection on the current sewer lines in Oshtemo been completed? If so, what are the condition of the lines?

Q29: Hook up fees have been reduced to a much more reasonable amount; however, the homeowner is still required to pay for the private land hookup from the existing exit of their home to the sewer system. This is still running at an average cost of \$10K or more.

Q30: Is Oshtemo going to mandate that current homeowners hook up to the sewer system immediately or can the homeowner continue using their current septic systems until a set amount of time has pass or their system fails/needs to be replaced?

Q31: With the current financial strains that people have been under for the past year and now the 2nd variant strain of Covid-19, has the board given these financial hardships consideration?

Q32: With the resurgence of the virus and strains, if the sewer system is started, what guarantees are in place or will be put into place to assure that the work is completed in a timely fashion to cause as little disruption to the neighborhoods

as possible? Is it built into the proposed plans to finish a section prior of starting another?

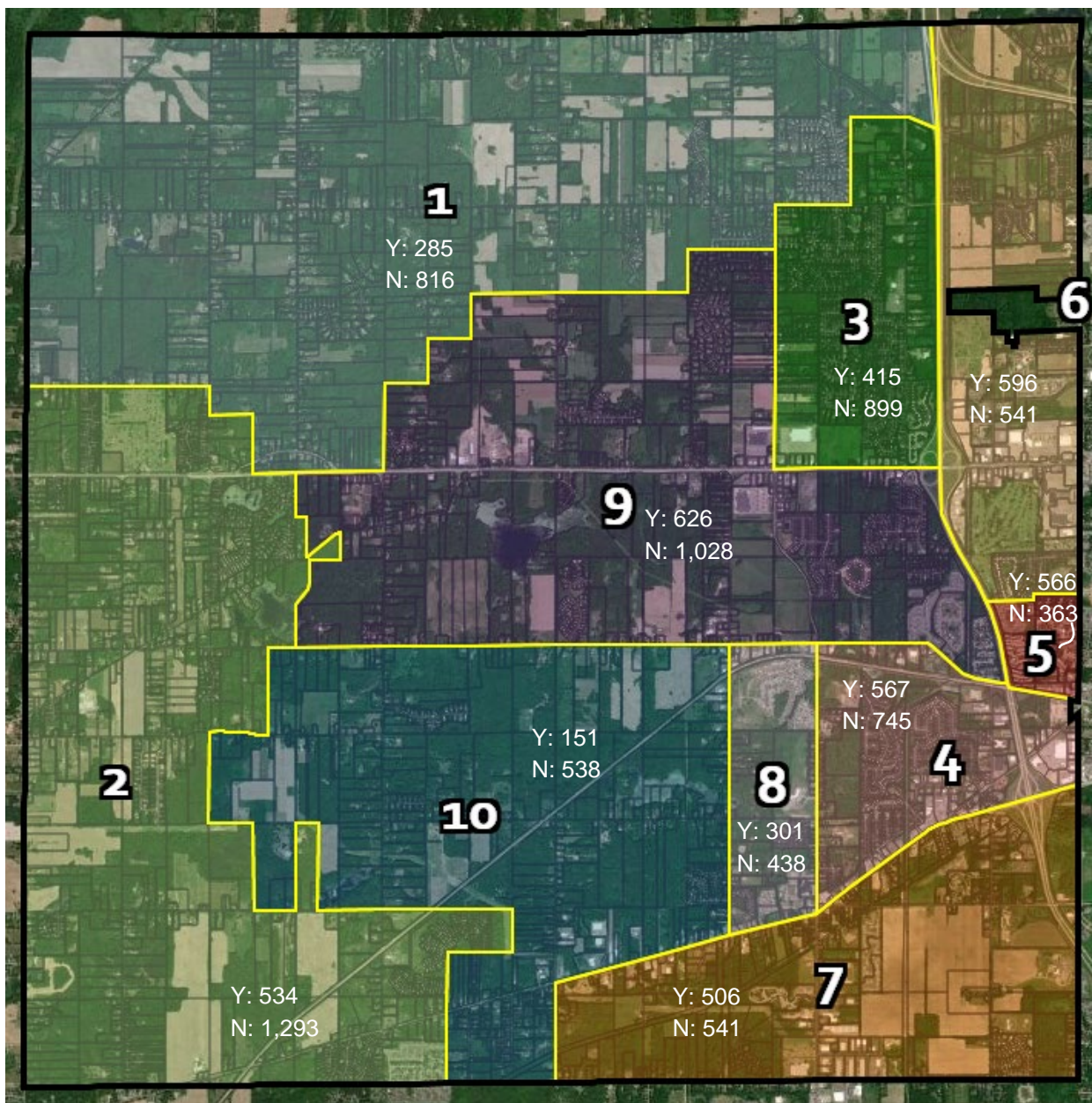
Q33: In our neighborhood of Skyridge/Burgandy Manor, our utilities are all underground. Several of the residence work from home or have medical issues that require continued services.

Q34: Can we expect continued services while the roadway is being torn up? Our community enters and exits on Drake Road- are we going to be able to navigate our roads and driveways? Or is our community going to be torn up all at once leaving no alternative routes?

Q35: Previous discussion with sewers encompassed sidewalks and roads being put back in the original location, curbs, etc. Sidewalks were removed from the discussions of any sewer installation for the Skyridge / Burgandy Manor locations. In Burgandy Manor, the roads are curbed and guttered.

Will the road be replaced in the same manner in which it is currently built? Driveways being cemented at the road access, etc.?

Q36: Closing of Driftwood was promised with the building of the Maple Hill Road. This would allow for the 2nd access point to the apartment complex. Is that still in the agenda for road improvements and sewer expansion? This was a discussion point for the calming of the traffic on Driftwood. Traffic issues are still a main concern and problem for the Driftwood residence.



Oshtemo Charter Township Proposal

10 of 10 precincts reporting

NONPARTISAN

Candidate	Votes
Yes	4,547 39%
No	7,202

[View Details](#)

Oshtemo Charter Township Proposal (NONPARTISAN)

	Yes	No	yes%
Oshtemo Twp. 1	285	816	26%
Oshtemo Twp. 2	534	1293	29%
Oshtemo Twp. 3	415	899	31.5%
Oshtemo Twp. 4	567	745	43%
Oshtemo Twp. 5	566	363	61%
Oshtemo Twp. 6	596	541	52%
Oshtemo Twp. 7	506	541	48%
Oshtemo Twp. 8	301	438	41%
Oshtemo Twp. 9	626	1028	38%
Oshtemo Twp. 10	151	538	22%