

## TCSHI Governance Retreat: Follow Up Strategy and Implementation Meeting

Wednesday, October 23<sup>rd</sup> / 11:30 AM – 2:00 PM

Lighthouse Room, Kinexus

### Participants

| Name               | Title/Organization  |
|--------------------|---|
| Denise Cook        | Manger; St. Joseph Charter Township   |
| Jonathan Fiske     | Chair; St. Joseph Charter Township Planning Commission                        |
| John Egelhaaf      | Executive Director; Southwest Michigan Planning Commission                    |
| Emily Finnell      | Chief Strategist; Michigan Department of Environment, Great Lakes, and Energy |
| Mike Garey         | Mayor; City of St. Joseph   |
| Peggy Getty        | City Commissioner, City of St. Joseph   |
| Rich Hensel        | President; Benton Harbor DDA  |
| Tracy-Ann Jennings | Director of Community and Economic Development, City of Benton Harbor         |
| Ellis Mitchell     | Interim Manager; City of Benton Harbor  |
| Katie Montoya      | Assistant Director of Community Development, Berrien County                   |
| Christina Pastoria | Economic Analyst; Michigan Department of Environment, Great Lakes, and Energy |
| Lee Reed           | Chair; Benton Harbor Planning Commission                                      |
| Dave Vonk          | Treasurer; St. Joseph Charter Township Board                                  |
| Mamie Yarborough   | Commissioner; Berrien County Commission                                       |

### 11:30 – 12:00 WORKING LUNCH

### 11:40 – 11:45 PRESENTATION: OVERVIEW OF SEPTEMBER 20TH GOVERNANCE RETREAT

*Don Carpenter, Lawrence Technological University*

- Don explained that the main goal of the governance retreat was to bring community leaders together to foster open dialogue.
- Don provided a summary of the exercises used at the governance retreat and their findings (summary emailed to all invitees prior to this meeting).
- One of follow up items from September 20th was to put together an updated two-pager about the process to date to be shared with community and county leaders who aren't as familiar with the work.
  - The two-pager was sent to everybody who was invited to this meeting and can be shared broadly.

- The next step is for representatives from each of the communities to discuss the project with their commissions, potentially with participation from Emily and/or Don.
- The following materials were also distributed to meeting invitees via email:
  - A timeline of project
  - A toolkit of financial and technical assistance resources
- Additionally, the following materials were posted to the project website:
  - The presentation from the October 15<sup>th</sup> community input sessions
  - Research on legal frameworks for collaboration compiled by Dan Fette
  - Additional research about joint planning commissions/authorities compiled by Morgan Beeler and/or Michigan State University
- Questions about the September 20<sup>th</sup> meeting
  - Commissioner Yarborough asked for clarification about the term SWOT exercise.
    - Don: Participants were asked to identify the Strengths the communities have to bring to a given issue; characteristics and abilities that are lacking (Weaknesses); Opportunities if the issue is taken on; and Threats if nothing is done.

### 11:45 – 2:00 DISCUSSION: AVENUES FOR COLLABORATION

- Don introduced information compiled by Dan Fette (Berrien County Commission) about the potential legal authority the communities can use to facilitate shared governance, planning, and activity. The PowerPoint slides were provided. A summary of the legal frameworks discussed at the meeting is below.
- Urban Cooperation Act, PA 7 of 1967
  - Enables communities to jointly administer individually held powers (or portions of powers).
  - Communities develop a process for appointing members and creating bylaws that works for all participants.
  - The contract can be amended to add or remove powers, allowing flexibility over time.
- Joint Municipal Planning Act (JMPA), PA 226 of 2003
  - Allows communities to form Joint Planning Agencies (JPAs).
  - Powers of the JPA cannot be expanded outside planning and zoning review/approval.
  - If communities want to expand the entity and create a more formalized authority with additional powers, they MUST first dissolve the JPA and form a new agency under the Urban Cooperation Act.
- Joint Planning Advisory Board (under PA 226 of 2003)
  - Advisory body bound by existing planning and zoning
  - No mechanisms for financing projects
  - Can only advise existing institutions
  - Least power/authority
- Joint Planning Commission (JPC) (under PA 226 of 2003)
  - Commission with the power to enforce planning and zoning decisions
  - No mechanisms for financing projects

- More power/authority but limited to planning and zoning
- Harbor Authority/Agency (under PA 7 of 1967)
  - Authority with power to adopt/approve development plans, own property, and enter contracts
  - Can finance projects with grants, bonds, and assessments
  - Amount of power/authority is broad and flexible; can have advisory components

## General Discussion

- John Egelhaaf: Dan's information offered an additional option that could be called a joint agency or advisory council —it wouldn't be an authority or planning commission, but would be established as an agency under PA 7. This could start small and build into more if it's successful.
- Katie Montoya: PA 7 has flexibility and means to amend and change powers given to the agency or commission. The communities could still start out with limited authority but it would be easier to alter as needed.
  - The JMPA gives firmer parameters about what is allowed which makes it easier to get started, because there are clear boundaries.
  - However, this would require municipalities to each go through their full regulatory approval processes for any joint ventures, like grant applications. This can be a challenge for time limited opportunities.
- Ellis Mitchell: Are there any other communities that have done this that could serve as a model for this effort?
  - The only examples the project team is aware of are the ones sent by Dan Fette and some research conducted by Kurt Schindler at MSU showing that JPCs are often very successful. MSU also has helpful materials on their website about how to get started. Links to these materials were sent to invitees.
- Commissioner Yarbrough: With Berrien County no longer managing the harbor and dredging, who is running these efforts? What will happen with the harbor needs to be dredged?
  - Commissioner Yarbrough also noted that the county's congressional leaders, including Debbie Stabenow and Fred Upton have been strong advocates for continued harbor maintenance in the area and suggested they be informed about the project.
  - Emily Finnell: OGL spends time on maritime policy issues, including meetings with legislators and congressional staff in DC.
  - Don Carpenter: As far as the team could tell, no one is running the harbor now which is partly why the process was initiated, to identify who will take care of that going forward.
  - Jon Egelhaaf: Part of the reason the county distanced itself from the authority was because they saw some movement in the communities to take it on. This process is the closest the communities have come to filling that gap.
- Lee Reed: Would the JPC only deal with the harbor? Not replace the existing planning commissions?
  - Don: The assumption would be no; the communities would put the limits on the boundaries of the JPC and would be the ones deciding this.

- Mayor Garey: The Benton Harbor – St. Joseph joint Waste Water Treatment Plant could be a model for the new group’s board make-up.
- Don Carpenter reiterated that the MSU Sample agreement is a very useful resource to help the communities determine the purview of the agency, what the communities need to do, and who can help them.
- Don Carpenter: Is the planning commission process the same in the communities?
  - Generally yes, although site plans / lot splits may differ.
- Rich Hensel: One of the options in building the body is to decide which jurisdiction’s rules they want to use. The joint body would be able to choose whose planning laws to operate under, so that the differences between the jurisdictions would be eliminated.
  - The township properties could fall under city rules or vice versa.
- Mayor Garey: The goal of a JPC could be to help community leaders and decision-makers get to know each other and to foster trust within the communities can trust. The group could agree to a few general purposes that affect everyone, like lake levels and putting funds in escrow to meet the varying dredging needs.
- John Egelhaaf agreed with Mayor Garey’s idea of putting together a group to decide what the joint body wants to do together before actually trying to do it. Focusing on things the communities need to accomplish together that aren’t as controversial seems like a good common purpose, some ‘low-hanging fruit’. It seems like it’s more important to figure out what you want to do, and then fit it into the legal structure.
- Jonathon Fisk: The communities need a way to deal with projects that involve more than one jurisdiction, like dredging, grants, etc.
- Commissioner Yarborough asked if dredging can be done in the river away from the harbor.
  - Mayor Garey: A fee on docks, put in escrow would be available locally to dredge anywhere in the harbor, not just the inner harbor
- Emily Finnell: Can a JPC do what needs to be done for harbor maintenance?
  - Denise Cook: it doesn’t look like it. According to PA 22, a JPC is not empowered to handle financial matters.
  - Rich Hensel: the JPC could identify the funding need and propose it to the commissions as a capital improvement project

### 12:00 – 12:30 JOINT PLANNING COMMISSION (UNDER PA 226)

- Don: Carpenter: A question for the communities, is the spatial aspect of the JPC the study area, or would it be extended upstream or into other adjacent waterways (Paw Paw, Canal, etc.)?
  - Emily Finnell emphasized the importance of viewing the multijurisdictional body separately from the charrette study area.
  - John Egelhaaf agreed that’s really important. Need to consider what area will make the most sense for decision-making, which was not really a concern for the study area
- The group agreed that the jurisdictional body wouldn’t necessarily have to have the same boundaries as the charrette study area and could extend up to Eagle Point or Riverview Park, but that this would be decided by the communities.

- Dave Vonk and Denise Cook expressed concern about the jurisdictional body interfering with the Berrien Hills development plan, which is moving forward quickly.
    - i. The group agreed that that project wouldn't be slowed down and could help St. Joseph Township in applying for grants in the future by allowing them to show broad support for township's plans
- John Egelhaaf suggested that part of joint body's mission could be a certain level of responsibility for cultivating the vision and finding holistic approaches to cross boundary issues.
  - Don Carpenter suggested that a mission could be to establish a vision/master plan for the whole harbor.
  - Katie Montoya agreed that the harbor should have a master plan if there are going to be changes in zoning.
  - Rich Hensel agreed and added that this would also provide an opportunity for community input on the new areas of the jurisdiction that weren't part of the vision and so weren't publicly vetted.
- Rich Hensel suggested that the joint body could also look into what it would take to become a cruising port.
- Mayor Garey approved of mission plan written on the flipchart<sup>1</sup> and emphasized that any proposals or suggestions identified at the meeting today (October 23) should be formally presented to each city. Local elected bodies need to be given a chance to review and tweak the ideas. The ideas shouldn't be presented as finite projects but rather as a framework that can be further built out, with final decision-making occurring, individually and collectively, after community input, legal review, and discussion.
- Mayor Garey emphasized the need to run everything through each community's planning commission, to ensure local control. Mayor Garey also stressed the need to identify concrete goals for the joint body, so it's easier for people to understand the need.
  - Ellis Mitchell agreed and emphasized that the Benton Harbor commission needs a presentation on the process and the next steps.

### 12:30 – 1:50 HARBOR AUTHORITY (UNDER PA 7)

Consensus of the attendees is that a working group should be formed to define the proposal for the HA

- Mayor Garey: PA 7 (the Urban Cooperation Act that can be used to create a Harbor Authority) seems like a good fit for this process. It allows the communities to design an organization that works for them.
  - Katie Montoya agreed and added that, under PA 7, the communities could choose to only authorize the group one thing at first (such as harbor maintenance) and then add on later after trust has been built.
  - Ellis Mitchell added that it the joint body could evolve over time but that it's important to explain long-term goals to the commissions, rather than surprising them later.

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<sup>1</sup> JPC "Mission" – advise local elected bodies on harbor/waterfront capital improvement projects; limited to boundaries defined by communities (interconnected navigable waterways – Paw Paw, Ox Creek, St. Joe River to Eagle Pt, etc.); establish a vision/master plan for the harbor/waterfront zone (i.e. the agreed upon JPC boundary)

- Katie Montoya agreed but emphasized that starting with a simple, common goals is a good strategy.
- The group agreed that the county could be invited to be part of the joint body, particularly in an advisory role to give the joint body access to its large knowledge base.
- The group discussed how the information about legal options should be presented to the city and township commissions and how they should communicate their recommendation.
  - Ellis Mitchell proposed presenting the different options sided by side, to bring the commissions into the decision, and then making a recommendation.
  - Katie Montoya advised the group to be very clear that an agency under PA 7 can have more or less authority depending on what the commissions decide to give it, to avoid alarming people.
  - Rich Hensel: Make sure people know where this is going, but make sure you know what needs to be done together so you don't have to keep going back for more authority.
- The group agreed that a limited authority agency, using a different term besides "authority", that is only allowed to do what the communities want it to do, would be a good first step.
  - Ellis Mitchell pointed out that financial support and economic benefit need to be addressed, because the communities will ask about how they'll benefit from the formation of the joint body. The proposal should be presented within this context.
  - Katie Montoya suggested adding that a well maintained harbor should welcome businesses and economic opportunity to the purpose/mission.

## PRESENTATION

- Ellis Mitchell noted that the presentation should be the same in every community, and that members of the governance team (the people at the governance retreat and the October 23<sup>rd</sup> meeting) from each community should all attend the presentations in the other communities.
- Mayor Garey said that community leaders need to do the presentations for their commissions, not the project team. The local officials could introduce Don and/or Emily and explain what the project team did or the local official could describe the project.
- Peggy: Presentations need to be within a two-week time period
  - Mayor Garey: should occur after elections—December
    - i. Targeted for early December
    - ii. Denise: it's already on the December meeting agenda
- Rich Hensel noted that it should be clear that the project leaders are from the state, implementing a state program, not part of a private process funded by private entities.
- History: the commissioners and community members need to know the full history of the process, going back to the 2015 Andrew's University study, so all the work that has gone into this is clear.
  - Mayor Garey noted that it should also be clear that this is the first formal presentation to engage the community, so people who are just hearing about it for the first time haven't been left out of any major decision-making.
- Emily Finnell pointed out that the group has been discussing pitching the Harbor Authority through the lens of harbor maintenance, but that the charrette process itself has been about

revitalization of the harbor, on the land side as well as the water side so that should be represented as well.

- Ellis Mitchell and Mayor Garey suggested keeping maintenance as one goal of the joint body, but using revitalizations as its overall purpose.
- The group had some discussion about how the legal frameworks and recommended governance structure should be presented. Some thought the commissions should be presented with all of the options, but others thought this might be too much information.

## Presentation Outline

### Content

- The presentations will explain the charrette process and findings as well as the recommended governance structure going forward. The ask or “next step” at the end is that each commission appoints three delegates to come together in a “study session” to design/create the governing body.
- The project team will put together the initial presentation for each community leader to use, and send it out for feedback and revisions.
- The presentation will explain the entire visioning process and might include only a summary of the most recent version of the preferred alternative, not the detailed walk-through. The most recent version of the preferred alternative will not be referred to as “the final version” and the materials might not be shown at all (just refer to information posted on the website)
- The presentation will also include a brief overview of the two relevant pieces of legislation and an explanation of the group’s recommendations.

### Order

- John Egelhaaf: Make the pitch for revitalization and the new governing body at the beginning of the presentation, rather than leading with the process. If the presentation is more about the opportunity for collaboration and continued outreach, this might cut down on Benton Harbor city commission’s sense that they haven’t been involved in the process
  - Rich Hensel agreed and noted that starting in a less contentious place is often more effective.

### Action Items / “Ask”

- After the presentation, each community will have be asked to appoint their representatives to the “study session”. The positions represented should be:
  - The Chief Elected Official of each community
  - A highest level staff member (such as the city manager) from each community
    - Ellis Mitchell (Benton Harbor)
    - John Hodgson (St. Joseph)
    - Roger Seely (St. Joseph Charter Township)
  - One “At-Large” member from each community
- **\*\*Note:** there was some unresolved debate about the need to also include a commissioner or planning commissioner from each community (which could be the at-large member.

- There was also discussion about allowing each community to appoint an alternate as well.
- The “working group” could have the option to call upon experts/planning commission members to advise them.
- The representatives in the working group will work out the details of the joint body and present a proposal to their commissions/DDAs/communities for acceptance.
- Emily Finnell mentioned that the project team will also need to do a presentation for the county commission, as several members have been involved in the effort.
  - Commissioner Yarborough pointed out that there’s knowledge, expertise, and connections at the county level that could help the process.
  - Mayor Garey suggested that the presentation to the county should be different as they’re not being asked to join the governing body.
  - Don: a presentation could be made to the county just about the conclusion of the state funded project, which is concluding at the end of the year and what is being planned in the communities going forward.
  - Commissioner Yarborough indicated that the county would be happy to advise the governing body but may not be interested in joining it.
    - Denise Cook suggested that the county might be more interested in joining if the joint body proves its effectiveness.
- The group agreed to ask the county if it’s interested in participating, both in the working group, and the joint body, as a resource an information source.

### Going Forward

- The group discussed the need to ensure leadership and accountability in the process after the formal project ends and the project team no longer fill that role. The working group will need a chair who will make sure members stay engaged.
  - Peggy Getty suggested the Southwest Michigan Planning Commission (SWMPC) as a neutral convener to bring everyone together.
  - John Egelhaaf indicated that SWMPC could host and bring people together but doesn’t want to appear to be driving anything or setting the agenda.
- Rich Hensel pointed out the need for consistency in who is involved in the project, to ensure that someone in the decision-making process is aware of what’s already been and prevent the new group from going back to the beginning and re-starting. There needs to be a specific charge.
  - John Egelhaaf suggested that SWMPC could also help with this in some way.
  - John Egelhaaf suggested using the notes from today’s meeting to create a loose agenda for the study session.
- Emily Finnell suggested that the final report for the state project could summarize these concepts and identify next steps for consideration for the communities. The working group could then review the report and refine these next steps.
- The group discussed the need staff/administrative support such as a chair or secretary/



- Emily Finnell observed that the state shouldn't necessarily be at the table for the "study session" meetings, to avoid being seen to drive the effort. This would also provide a great opportunity for the new group to take ownership of the vision.
  - The state is willing to stay involved, but that there's a delicate balance involved in the handing-off stage to avoid crowding out involvement from the community.
- Rich Hensel emphasized the importance of maintaining the current momentum in the community.
- John Egelhaaf recommended looking to the communities and the working group to dictate what help is needed.
- Emily Finnell suggested that further discussion occur to determine how to go forward with the study session and any financial or technical support needed support effort going forward.
- Don Carpenter suggested: Setting a deadline for the commissions to appoint members of the study session—i.e., by the first meeting in January, all members need to be appointed.

#### Action items

- The project team will put together presentation outline/draft slides.
- The project team will circulate notes from this meeting.
- The community presenters will get on the agenda for their commission meetings.
  - St. Joseph: December 9
  - St. Joseph Township: December 2 (noon)
  - Benton Harbor: December 2
- Further coordination is needed to schedule the presentation for the county
  - Contact: Dan Fette
  - County meetings are always on Thursdays
- The project team will follow up on what the county presentation should look like.
- The group will work together to identify sources of resources and support for the working group and other efforts going forward.