



## Legislation Text

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### Report on Township Annexations

#### INTRODUCTION AND PURPOSE

This memo summarizes major issues regarding the annexation of township islands within the overall City of Ann Arbor service area. It is intended to provide key information to decision makers and staff regarding the annexation of approximately 650 township “islands”<sup>1</sup> from Ann Arbor, Pittsfield and Scio Townships to the City of Ann Arbor.

#### HISTORY AND BACKGROUND

The City of Ann Arbor became incorporated as a village in 1824. Over the past 184 years, the City has grown and expanded into areas surrounding it. In the later part of the 19th century, the City began providing municipal water and sanitary sewer service to City parcels. Paved streets became increasingly common in the City of Ann Arbor after the introduction of motor vehicles. Development pressures after World War II resulted in the City expanding its jurisdiction into surrounding areas and providing water and sewer services to newly developing neighborhoods and commercial districts. Most annexations occurred after owners requested annexation and the city services that accompanied it. This expansion resulted in a number of “islands” of township parcels whose owners did not request annexation. Approximately 650 of these township islands (totaling approximately 975 acres) remain to date within the City of Ann Arbor utility service area. Although most parcels are located within the freeway ring surrounding Ann Arbor, some exist outside of the freeway ring. Many of these township island parcels include single-family homes.

Early in 1979, the City and Pittsfield Township signed a policy statement document that, in part, outlined “the Territory” that would ultimately be annexed to the City “in an orderly manner.” In mid-1979, the City and Scio Township entered into a *Promulgation of Annexation Policy* agreement, which outlined the “ultimate permanent boundary” between the City and the Township. Neither of these agreements provide a timeline or deadline for the complete annexation of township properties within the agreed upon ultimate boundaries. Copies of these agreements are attached to this document (Attachments 1 and 2 respectively).

In 1994, the City and Ann Arbor Township also entered into a “policy statement” agreement regarding the orderly annexation of township parcels located within the City service area (Attachment 3). The agreement is, “intended to provide for orderly annexation procedures between the two governments and establish a common boundary between the communities so that each may systematically plan for the provision of services...”.

<sup>1</sup>As used in this memorandum, “island” refers both to township parcels surrounded by property incorporated into the City of Ann Arbor and township parcels on the outer edges of property in the City service area.

The agreement was amended in 2001 to slightly adjust the boundary to include a parcel included in the description of one area but inadvertently omitted on the map of the area, and to allow the deferment of annexation for connection to water service in three specified areas (Attachment 4). Deferment of annexation already was allowed for sanitary sewer service in those three areas.

The signed document outlines the components of this agreement. The following is a summary of the major elements:

- The City will not initiate annexation of property in Ann Arbor Township prior to December 31, 2007 and Ann Arbor Township will not oppose a City initiated petition after that date.
- The Township will not oppose annexation petitions initiated by property owners at any time.
- Properties located in certain areas (Areas B, C and D), which were developed and occupied at the date of the execution of the agreement, may connect to City sanitary sewers or water mains without immediate annexation upon the condition that the owner sign a service agreement with the City requiring annexation within 5 years of connecting or by December 31, 2007, whichever comes first.
- The City-Township Sewer Service Agreement was extended until December 31, 2015.
- Maps indicating those portions of Ann Arbor Township that are affected by the agreement.

With the passing of the date referenced in the Ann Arbor Township document, it is appropriate at this time to review the issues and implications regarding the annexation of the remaining township islands inside the ultimate city service boundary.

## **DUPLICATION AND INEQUITY OF MUNICIPAL SERVICES**

The City currently provides multiple services to residents of township islands without collecting revenue from those properties. Services include fire protection, police protection, City parks, street repair, street lights, leaf pickup, traffic safety control for City roads, and storm water facilities. These services are used by township island residents but are paid for by City residents, creating a disparity in service provision.

### **MAJOR ISSUES**

#### **Safety Services**

All safety service agencies in the Ann Arbor metropolitan area practice “mutual aid” which is a universally accepted practice with public safety organizations across the United States. Mutual aid allows cross jurisdictional assistance from adjoining safety service agencies. Mutual aid will continue even if all township islands have been annexed.

**Police** - Attempts are made to determine the jurisdiction of law enforcement emergency calls in the Ann Arbor service area. Emergency calls determined to be from a township island, are routed to the appropriate emergency response organization. Calls from parcels in Pittsfield Township are routed to the Pittsfield Township Police Department while calls from .Ann Arbor Township and Scio Township are directed to the Washtenaw County Sheriff’s Department.

When jurisdiction is unclear, City Police units respond to emergency calls, if a crime was determined to have taken place on a township island or UM property, City of Ann Arbor police will transfer the case, and any prisoner involved, to the appropriate law enforcement agency. Residents in township islands receive police service for their property from the township police agency. Township island residents will receive City of Ann Arbor police protection for activities that take place outside of their property within the City of Ann Arbor.

Response times to township islands would slightly improve if they became incorporated into the City of Ann Arbor, since there would be no question of jurisdiction and no calls would be transferred. The annexation of township islands would clarify jurisdiction and simplify police response.

**Fire** - Historically, 911 calls have been routed to the City of Ann Arbor Fire Services Unit or one of the three Township Fire Departments. The City Fire Services Unit receives the majority of calls for emergency service within the freeway ring. The City Fire Services Unit responds to each emergency call from township islands because it wants to insure no delay in emergency response. The appropriate township fire department is also notified of the emergency call (from a township island) and may send equipment as well.

Since the City has no tanker trucks (trucks with large mobile supplies of water), it may periodically request assistance from township fire departments when responding to fires at sites without readily available hydrants. Many township islands (and a number of City parcels) currently lack infrastructure for water service. Residents in township islands receive fire/emergency services from both the City and township.

The City and surrounding townships are members of the Washtenaw County Mutual Aid Association, which was established to provide mutual assistance. The City will almost always request mutual aid when it needs tanker trucks to suppress fires. It is uncommon, however, for the City to actually request mutual aid when responding to calls from township islands. Between April 1, 2004 and December 31, 2006, the City Fire Services Unit requested mutual aid for township islands on 1 occasion (for tanker truck support). Ann Arbor Township, for example, requested mutual aid on 4 occasions during that time period. It is anticipated that the mutual aid relationship between the City and townships will remain in effect after township islands have been annexed.

## **Public Services**

The City provides many public services to its “customers.” These customers are, for the most-part, city property owners and their tenants. However, the city also provides some of these services, directly or indirectly, to township properties as well. Appropriate planning must take place when determining how best to provide public services to those areas not currently receiving them.

**Streets** - The Washtenaw County Road Commission (WCRC) transferred jurisdiction of most of the remaining County roads and streets within the ultimate city boundary to the City of Ann Arbor in 2001 and 2002. City taxpayers now pay for the resurfacing and reconstruction of these streets.

All drivers in Michigan pay gas and weight taxes when buying fuel for their vehicles. A portion of these taxes is returned to local street agencies, such as the WCRC and the City, based on the

number of miles of public streets under the control of that agency per Act 51. Act 51 dollars pay for the operation and maintenance of these public streets, including, repairing potholes, traffic signals, and snow plowing.

The City allocates 5% of the Act 51 dollars it receives to fund non-motorized projects. Therefore, by adding these former County roads to the City's street network system the funding of the Non-Motorized Fund has been incrementally increased. However, the City's maintenance liability has also been incrementally increased.

Meanwhile, City taxpayers pay for the resurfacing and reconstruction of these city streets through a voter approved street resurfacing millage. The street millage in Ann Arbor pays for resurfacing and some reconstruction. The millage dollars are also used to leverage federal and state funding sources for major road reconstruction projects (e.g. the reconstruction of Stadium Boulevard depended on 50% MDOT funding and 50% local funding).

Therefore, while township island residents indirectly contribute to the funding of street maintenance and operations in the city via Act 51 funding, they do not pay for street resurfacing and reconstruction funded by the street millage. Consequently, township island residents benefit from these improvements without contributing to their funding.

**Storm Water Service** - Storm water issues are generally associated with public street improvements. Many of the public streets that front township island parcels were historically roads under the jurisdiction of the WCRC. The County roads were typically rural in nature with ditch and culvert drainage systems rather than an urban system utilizing curb & gutter with storm sewers. Most storm water that drains from township parcels is ultimately handled by City storm water facilities. The operation of this City stormwater system is funded by the City's stormwater utility. The ratepayers for stormwater utilities are City property owners. Consequently, township island residents receive the benefit of this service without contributing to its funding.

As City streets fronting township islands become improved, it may be appropriate to include curb and gutter along with storm sewers at that time. Conversely, it would not be typical for storm sewers to be extended on unimproved (gravel) streets as the erosion of the road material into the storm sewers would increase maintenance costs and degrade downstream water quality. 'However, if such an extension would be constructed, township island residents would not pay their fair share of the improvement until they were annexed into the City, yet receive the benefit from the new system immediately after construction.

**Water Service** - The City currently provides water service to approximately 27,300 customers, including approximately 22,200 residential customers. The City provides water service to Ann Arbor Township and Scio Township by contract for resale by the townships to township customers outside of the City's ultimate service area boundaries. The City does not provide contract water service to Pittsfield Township.

The City's water distribution system is a pressurized system 'that has been developed to a very large degree as a "looped" system with multiple feed points and interconnectivity throughout the system. This provides a much more reliable system with fewer interruptions of water service due to water

main breaks or maintenance or construction operations. In addition, this enhances the water quality provided to water customers as the water circulates through a looped system rather than sitting in a dead-end system where the water can become stagnant resulting in taste and odor problems.

To develop and extend such a “looped system”, a network-based approach is used, rather than a linear based approach. In other words, as the system grows, the interconnectivity of the looped system requires that water mains be placed throughout an area rather than extended in a single line. As a result, water mains tend to be constructed in locations where they will provide direct service. Because annexation has generally been a requirement for connection and use of the City’s water distribution system, the system has grown through the development of property within the City (e.g., platted subdivisions, commercial developments, etc.) or extension by the City itself to service areas where property owners have requested this service. Therefore, in areas with isolated township island parcels amongst mostly City properties, it is likely that there is an existing water main present providing service to the city parcels in the area. Conversely, in areas made up of mostly of township properties, there is a high probability that City water mains do not currently exist in the immediate vicinity.

The City’s approach to loop water mains will provide challenges in broadening the water distribution system into a number of these township island clusters. Looping may require extensive water mains to service a relatively small number of residential customers. Some cross-lot water mains may be necessary which will require the need to obtain utility easements from individual property owners. In addition, there are very narrow public rights-of-way in some locations making construction more difficult. In other areas, private streets and/or drives will require utility easements or perhaps even the need for condemnation in order to provide public utilities.

The funding and programming of utility improvements also presents challenges. The City would need to fund the up-front capital costs to construct new water main extensions, and then recapture those costs over a number of years from property owners benefiting from the water service. The initial up-front costs will need to be paid by the City utility rate payers. Since resources are limited, the installation of water service to township islands will affect the City’s capacity to perform other capital projects. The prioritization of these system expansions compared to other asset management needs must be thoroughly examined. Developing a strategic plan for providing water service into areas not currently receiving it will be a more efficient way to provide the service instead of responding to individual requests. Extending water service into areas not currently receiving the service will improve the ability to fight fires. Since the township islands are within the City’s service area, the question is not “if” service will be provided but “how” and “when”.

**Solid Waste Service** - The City provides comprehensive solid waste services including weekly garbage, recycling and yard waste pickup throughout Ann Arbor. Township residents are not provided these services. Township residents must contract with private service providers for pick-up of solid waste items, or dispose of them personally at an approved waste disposal facility.

The annexation of the township islands will result in more efficiently providing solid waste services to all residents in the service area. The Public Services Area has recently improved operational efficiency that will allow township islands to be easily absorbed into the system without creating significant challenges in service delivery. Some of these recent efficiency improvements include: (a) construction of a new and larger waste transfer station adjacent to the existing materials recovery

facility, and (b) construction of the new City maintenance facility on the same site as the City Materials Recycling Facility. The new maintenance facility will allow vehicles to be maintained more cost efficiently. The pick-up schedule may need to be re-evaluated after township parcels are annexed to determine if pickup days should be adjusted to ensure the efficient and uniform delivery of solid waste services.

The City's seasonal leaf pickup program, which is funded by the Solid Waste Fund, services all city streets including those with township parcels. Nearly all of the public streets within the ultimate City boundaries are City streets. As a result, if township residents on a City street deposit their leaves into the street in advance of the leaf pickup day, the city crews will pick up those leaves. The leaf pickup, however, is paid for by a funding source that township residents do not contribute to. The annexation of these township island parcels fronting city streets will eliminate this inequity.

Additional issues regarding solid waste services and the township island parcels include:

- The City has implemented a new cart system for garbage (and soon yard waste) citywide which has likely resulted in some township residents no longer having their garbage or yard waste picked up by City solid waste crews.
- Although unimproved roads exist in many clusters of township islands, solid waste trucks access most of them to service City residents.
- Annexing township islands will require additional staff hours to provide solid waste service. However, the City's solid waste millage will be collected from these properties to pay for the delivery of this additional service.

**Sanitary Sewer Service** - The City currently provides sanitary sewer service to approximately 26,700 customers, including approximately 22,000 residential customers. Of these customers, fewer than 100 are township island properties receiving service through "outside city service agreements." The City provides sanitary service to Ann Arbor, Scio and Pittsfield Townships by contract for resale by the townships to township customers outside of the City's ultimate service area boundaries.

The City's sanitary sewer system takes tremendous advantage of the fact that Ann Arbor is located in the Huron River valley with nearly 275 feet of ground elevation difference across the City. The City's water treatment plant is located at one of the highest points in the City (approximately 1,010 feet above sea level with the lowest point in the system being the Wastewater Treatment Plant (WWTP) at approximately 740 feet above sea level. In taking advantage of this relief in terrain, with only a few small, isolated exceptions, the city's sanitary sewer system has been established as a full gravity sewer system.

In creating and expanding this system, it is necessary, in most instances, to follow the natural "lay of the land" with the location of sanitary sewer mains. Historically, some of the areas that needed to be traversed by the expanding City sanitary sewer system were township lands, requiring the City to obtain easements or rights-of-way from the property owners to allow the construction and maintenance of these sewers across their property. Through the process of negotiating the terms of these easements, some of the property owners obtained the right to connect to the City sanitary sewer system while keeping their property in the township. The details of these terms varied from site to site.

As a result, in contrast to the situation described above concerning the water distribution system, several of the township island cluster areas contain City sanitary sewers which can, and do, service many of the properties in the cluster areas. However, there are still some cluster areas where it was not necessary for the system to traverse to serve other upstream City areas, so they do not have existing City sanitary sewers at this time.

Similar to the situation regarding the extension of water mains, there will be challenges to extending sanitary sewers into some of these areas. Some cross-lot sanitary sewers may be necessary which will require the utility easements from individual property owners. Again, narrow public rights-of-way in some locations will also present challenges to some utility extensions, as well as private streets and/or drives requiring utility easements or perhaps even the need for condemnation in order to provide public utilities.

As with the water distribution system, the funding of utility improvements also presents challenges. The City would need to fund the up-front capital costs to construct new water main extensions, and then recapture those costs over a number of years from property owners benefiting from the water service. The initial up-front costs will need to be paid by the City utility rate payers. Since resources are limited, the installation of water service to township islands will affect the City's capacity to perform other capital projects. The prioritization of these system expansions compared to other asset management needs must be thoroughly examined. Since the township islands are within the City's service area, the question is not "if" service will be provided but "how" and "when".

An additional factor regarding the extension of sanitary sewer service to new customers currently in the township is that flows from these new connections will result in increased flows to the Waste Water Treatment Plant. These additional flows may result a need to expand the City's footing drain disconnection program. Utility ratepayers may need to pay for some of the costs associated with expanding this program.

## OTHER ISSUES

***Assessment and Fiscal Implications*** - In March of the year after a township parcel is annexed, the City mails an assessment change notice indicating what the new assessed value and taxable value are for the property. If no transfer of ownership or constructed additions have taken place in the previous year (year of annexation), the taxable value will remain capped as it was in the township. A new assessment will be provided by the City Assessor's Office, which may result in an increase or decrease in assessed value. The taxable value may go up but is limited by the Consumer Price Index. The taxable value will be limited by Proposal A (1994).

Though the taxable value would not be uncapped in this case, the millage rate that is applied to this taxable value will increase. The City millage rate in 2007 was 16.78 mils, which is a higher rate than the local millage of any of the three townships (Ann Arbor Township: 4.75; Pittsfield Township: 5.20; Scio Township: 1.45).

Additionally, the City's federal CDBG and HOME allocations are based on population. The annexation of township islands typically results in increasing the City's population.

***Land Use*** - Parcels that are annexed into the City are subject to all City development regulations

including, but not limited to, master plans and zoning. Annexed parcels, in some case, have opportunities to be divided to create new buildable parcels since the minimum lot sizes of single-family districts in the City are typically smaller than the minimum lot sizes of single-family districts in the three townships. The availability of water and sanitary sewer services can also create incentives for the development of land. Although most township island parcels consist of single-family parcels, a number of large, vacant sites also exist that provide significant development opportunities. Most of the large parcels include high quality natural features. These natural features are, in some cases, not regulated by township natural features protection ordinances since large parcels generally have “agricultural” zoning. Annexation to the City would result in these natural features being regulated by City natural features protection measures.

**Legal Issues** - There are multiple Ways to annex large numbers of township parcels. Each includes its own unique set of advantages and disadvantages. These methods include:

- (a) No City initiated annexation (continue processing annexation requests when initiated by individual property owners).
- (b) City initiated annexations of clusters of township parcels.
- (c) Boundary adjustments that require action by the City and each affected township.
- (d) Phased boundary adjustments

Option (b) would not require a referendum of affected township residents to approve the city-initiated annexation as long as each affected area has fewer than 100 residents. For those annexations, the City would follow the annexation procedures required by MCL 117.9 Options (c) and (d) would require the governing bodies of the City and of the affected township to pass boundary adjustment resolutions after notice to affected property owners, and a public hearing regarding the proposed action.

**Political Decision Making** - The City Administrator and Service Area Administrators should work with surrounding townships and City Council to determine an appropriate strategy for the annexation of township islands.

**Relationship Between Infrastructure and Fire Protection Services** - Some of the areas within the City service boundaries containing township islands have city water mains and fire hydrants already in place. However, many areas do not have any Water distribution infrastructure at this time. Additionally, a significant number of the township island parcels have been created and developed in a manner that does not provide for adequate vehicular access by emergency response units and perhaps not even by routine service vehicles, such as solid waste and recycling units. As a result, fire response will require continued mutual aid until upgraded infrastructure is provided.

The City’s Public Services Area has begun working with the Safety Services Area to identify, evaluate and prioritize the future infrastructure expansion necessary to provide water service as well as improved access to areas with clusters of township island properties. The addition or upgrade of emergency access and water distribution infrastructure, will improve fire protection to those areas that have challenging circumstances regarding the provision of these public services. Challenges include private drives, lack of turnaround space, and absence of right-of-way. The planning of these improvements must be closely examined as there will be cost implications to the water system as described in more detail below.



The availability of water mains and hydrants affects the ability to suppress fire for some township island locations. Mutual aid will continue to be provided by them Ann Arbor Township Fire Department in the form of tanker trucks to assist fire fighting areas where water service is not available. Water service is intended to be eventually provided to all parcels within the Ann Arbor city limits, though this effort will take a number of years.

**Staff Time** - Processing individual or clusters of annexation petitions is a time consuming process. It requires staff from multiple service areas to participate in the review process. City initiated annexations would require the City to obtain accurate legal descriptions for each parcel which is a time consuming process. It is unlikely that the City will be able to collect fees to defer expenses for City initiated annexations.

**Trade Center Drive Area** - Approximately 12 acres of township (Pittsfield) land exists north of Ellsworth Drive in the far southeast corner of the ultimate City service area. Five parcels exist that include research/office/ commercial uses. This area does not receive water or sewer service from either Pittsfield Township or the City of Ann Arbor. Further analysis should be conducted to determine which public agency can most easily provide public services and whether these properties should be annexed into the City or remain in Pittsfield Township.

## POLICY OPTIONS

A number of strategies or combination of strategies are possible regarding the annexation of township islands. They include:

1. **No change in current policy.** The advantage of this approach is that neither the City nor the three townships would need to take any immediate action. The disadvantages include: a) the City and townships would need to continue devoting staff time to processing multiple, individual annexation requests; b) the duplication of public services would continue; c) the City would continue to provide many services to township residents without compensation; and d) some parcels may not annex for many years.
2. **City initiated annexation of clusters of township parcels.** The advantage of this approach is that the City would annex township parcels systematically ultimately resulting in the gradual annexation of all township parcels. Disadvantages include: a) State law requires that if City initiated annexations affect more than 100 persons at a time, a referendum vote of the affected township property owners is required to approve the annexation, resulting in a very time consuming process; b) extensive staff time would be devoted to the annexation process; c) duplication of services would continue for an extended period of time; d) the City would continue to provide many services to township residents for an extended period of time without compensation.
3. **Boundary adjustments through mutual resolutions between the City and each township with public hearings at each jurisdiction.** This process would require Ann Arbor and Pittsfield Townships (Scio Township is not a chartered township and therefore does not have the ability to adjust boundaries with the City) to enter into separate

agreements with the City to adjust their jurisdictional boundaries resulting in township islands becoming incorporated as part of the City of Ann Arbor. The City would enter into separate agreements with either of the two townships. Advantages of this approach include: a) reduced staff time compared with processing individual or clusters of township islands; b) the duplication of services would end more quickly; c) the City would be compensated for services it already provides; d) services, such as solid waste, could be provided more efficiently and police response times would slightly improve; and e) natural features on larger sites would be regulated by the City's natural features protection measures. The disadvantage is that it would require the townships to amend the agreements already in place with the City described earlier in this report. Each township may choose to adjust their agreement or to not adjust their agreement. Annexation may raise expectations of infrastructure service.

4. **Phased Boundary Adjustments.** This would be a modified version of the above option but would adjust boundaries systematically and gradually over time to annex clusters of Ann Arbor or Pittsfield township islands. This method could be more closely correlated with the availability of infrastructure. The primary advantage would be to more efficiently annex multiple parcels as opposed to annexing individual parcels. The primary disadvantage would be that it would take years to annex all of the township parcels within the service area extending the duplication and inequity of service provision.

### STAFF RECOMMENDATION

Based on the above list of advantages and disadvantages, staff recommends that the City approach representatives of Pittsfield and Ann Arbor Townships to explore the feasibility of adjusting jurisdictional boundaries. If the townships are amenable to adjusting the boundaries, then City Council should take appropriate action to pursue boundary adjustments.

If boundary adjustments are not feasible, it is recommended that the City examine the feasibility of annexing clusters of township parcels until all township parcels within the City's ultimate boundaries are annexed.

Regardless annexation strategy that is adopted, City staff has developed a prioritization model to help determine an effective approach to providing public services (water and sanitary) to clusters of township islands.

#### Attachments:

1. Policy Statement between City of Ann Arbor and Pittsfield Township.
2. Policy Statement between City of Ann Arbor and Scio Township.
3. Policy Statement between City of Ann Arbor and Ann Arbor Township.
4. First Amendment to Policy Statement between City of Ann Arbor and Ann Arbor Township.