

East Bay Charter Township

**#11**



10/01/2008

To Township Board of Trustees;

We will need to appoint a temporary board to the Emergency Services Authority for the remainder of this year, per the memo from our attorney. I would agree to set on the board, and I would like to recommend the appointment of Butch Strait to the new Emergency Services Authority for the remainder of this year.

Thank you,

A handwritten signature in black ink, appearing to read "Glen Lile".

Glen Lile, Supervisor  
East Bay Charter Township

## Glen Lile

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**From:** jyoung@upnorthlaw.com  
**Sent:** Wednesday, September 24, 2008 8:20 PM  
**To:** 'Glen Lile'  
**Subject:** FW: Act 33 Special Assessment District Funding of GTESA

Glen --

I am sending you this email to be sure that you are kept informed. I have underlined a sentence regarding temporary appointments to the new fire board. It would be wise at the next township board meeting for the Township Board to appoint you to the new Emergency Services Authority for the remainder of this year. This would allow you to act as needed for the remainder of the year.

The reappointment would take place in January.

Jim Young  
mobile: 231 288-7700  
Fax: 503 206-4708

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**From:** Judson, Chuck [mailto:cjudson@shrr.com]  
**Sent:** Wednesday, September 24, 2008 4:42 PM  
**To:** Chris Bzdok; jyoung@upnorthlaw.com; Kent Gerberding  
**Cc:** Pat Parker  
**Subject:** RE: Act 33 Special Assessment District Funding of GTESA

Gentlemen;

The Articles were sent to the State last Friday and we believe they were received on Monday. Greg Kisch of my office has prepared a rough list, and a copy was sent to Pat. Pat, Brad, and Marcia met with Greg, Rachel Roe, and me last week to discuss the operational and procedural issues that need to be addressed as a part of the transition. The statute calls for the first meeting of the authority to occur within 30 days after the articles take effect...which is the day they were received by the State. We anticipate that all three townships might want to make appointments after the election. However, each board member only serves until re-appointed by the township board, and the organizational meeting for the authority is scheduled to be in January of each year. While we are not privy to the issues in each township, we were thinking that each township could make appointments at its next meeting, with the understanding that the formal appointments would be revisited in time for the January meeting. We also intend to treat this period as a dissolution and winding down of the existing Metro contract, and the new Authority board members confirming the continuation of the contract during the wind down. We recognize that there will need to be an accounting and transfer documentation, all of which will require supporting resolutions from each township to confirm assignment of the leases and the utilization of the SAD funding. We held off taking formal action to research and prepare these items until each township had its own opportunity to review and approve the creation of the emergency services authority. Your comments confirm that we need to identify all aspects in writing for all three township attorneys to make certain we have not missed something. Although I have been out of the office on business more than normal in September, I'll make certain that Greg and I circulate a "to do" list from our perspective early next week. If any of the three of you have some thoughts that will help this transition, please don't hesitate to let me know. Chuck

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**From:** Chris Bzdok [mailto:Chris@envlaw.com]  
**Sent:** Wednesday, September 24, 2008 10:38 AM  
**To:** Judson, Chuck; jyoung@upnorthlaw.com; Kent Gerberding  
**Cc:** Pat Parker; Sharon Vreeland; Wayne Kladder  
**Subject:** RE: Act 33 Special Assessment District Funding of GTESA

Chuck, how is the checklist coming? Acme would like to address transitional matters at their October meeting if possible. The effective date and the appointment of the Twp's reps to the board are two

topics that come to mind, as well as anything else Metro wants the Twps to be doing during this phase.

Thank you,

Chris

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**From:** Judson, Chuck [mailto:cjudson@shrr.com]  
**Sent:** Thursday, August 28, 2008 2:56 PM  
**To:** Chris Bzdok; jyoung@upnorthlaw.com; Kent Gerberding  
**Cc:** Pat Parker  
**Subject:** Act 33 Special Assessment District Funding of GTESA

Gentlemen;

A question was raised last week regarding the ability of the townships to continue the PA 33 special assessment districts for funding fire services under the Act 57 authority (assuming its passage). The four of us have assumed that special assessments would continue, and the Plante Moran report also anticipated sads as a form of funding. However, we looked into this a bit deeper since I had not previously researched the assessments as they were in place prior to my tenure with Metro. As you can see, our quick review indicates there should be no problem with continued use of the PA 33 assessments, but final review still lies with each township.

On a related front, I'm planning on preparing a checklist of transitional matters that may impact the townships as well as Metro. I will circulate a copy to each of you, and we should give some consideration as to a date upon which we want the Metro Authority to become effective. If you have any questions, let me know. Chuck

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**From:** Kish, Gregory R.  
**Sent:** Wednesday, August 27, 2008 9:20 PM  
**To:** Judson, Chuck  
**Subject:** Act 33 Special Assessment District Funding of GTESA

Chuck:

I reviewed the Plant Moran report, Act 33, and Act 57. I also searched some secondary sources and articles related to the organization and funding of fire protection services in Michigan. Based on this research, I concur with your e-mail to Chris and with the implication of the Plant Moran report. The plain language of the statutes does not appear to limit the use of the special assessment district funding mechanism to a certain organizational scheme, and I found no case law or other authority that would suggest such a limitation.

Specifically, MCL 41.801 (2) (PA 33 section 1) indicates that township boards may provide annually by resolution for the appropriation of general or contingent funds for "maintenance and operation of police and fire departments." In the following subsection, special assessment is authorized for "purchasing and housing equipment, for the operation of the equipment, or both." Finally, under 41.801(4), the townships are authorized to create special assessment districts using an estimate of the "cost and expenses of the police and fire motor vehicles, apparatus, equipment, and housing and police and fire protection."

MCL 41.802 then generally authorizes townships that have created a special assessment district to "appropriate annually that sum necessary for the maintenance and operation of police and fire departments."

Though PA 33 discusses cooperative arrangements between townships, it does not appear to limit the SAD funding mechanism to fire protection operations that rely on this Act as authority for their existence. (as you suggested in your e-mail).

I also do not read any language in Act 57 that prescribes the Act 57 millage funding mechanism as the exclusive funding mechanism for an authority created under that Act. The Act simply provides that mechanism as a way and authority may be funded.

Please let me know if you would like me to do any further research on this specific issue. At this point, all indications are that there is no legal authority preventing the funding of GTESA with the Act 33 SAD mechanism.

If you would like to talk with me about this before 3PM, please try my cell at 231-944-4893.

Greg

SMITH HAUGHEY RICE & ROEGGE

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\*\*\*\*\* Smith Haughey Rice & Roegge \*\*\*\*\*

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