



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
7:00 p.m. Tuesday, May 10, 2005**

Meeting called to Order with the Pledge of Allegiance at 7:00 PM

Members present: D. Dunville, W. Kladder, B. Kurtz, P. Scott, E. Takayama, F. Zarafonitis
Members excused: B. Boltres

Inquiry as to Conflicts of Interest: None noted

Approval of Agenda:

Kurtz noted that the public hearing will be regarding the Cable Television Ordinance. Under New Business item 2, LochenHeath is also bringing forth a request for a minor change to the Open Space Development portion of their overall development. Under other business, approval of the March 18 special meeting minutes needs to be inserted, as well as a discussion about the Meijer application fee escrow account and setting a special meeting to adopt ballot language and set an election date for the referendum regarding proposed Zoning Ordinance Amendment #131. language/set date for Ordinance 131 (large retail development moratorium).

Motion by Zarafonitis, support by Kladder to approve the agenda as amended. Motion carried unanimously.

A. CONSENT CALENDAR:

Motion by Kladder, support by Dunville to approve the Consent Calendar as printed, including:

Receive and File:

1. [Treasurer's Report](#) through 03/31/05
2. [Clerk's Report](#) as of 05/02/05
3. [04/18/05 Planning Commission Study Session approved minutes](#) and the [04/25/05 regular meeting draft unapproved minutes.](#)
4. Draft unapproved minutes of the [Public Safety Citizens Advisory Committee 04/11/05](#)
5. Draft unapproved minutes of the [Zoning Board of Appeals 04/14/05](#)

Action:

6. Approval of [regular Board meeting minutes for April 5, 2005](#)
7. [Accounts Payable](#) in the amount of \$355,496.74 through 05/02/05 including \$194,037.62 to Grand Traverse County Fund Sewer Bonds
8. Approval of Bill Kurtz as [representative to the County Transportation Study Coordinating Committee](#)
9. Approve funding for fire hall duty crew June 1 – October 31, 2005 as recommended by Public Safety Advisory

Motion carried by unanimous roll call vote.

B. LIMITED PUBLIC COMMENT:

Dan Rosa, 4707 Hampshire Drive, asked how much money was spent during the last month on attorney's fees, either general or litigation, and if this information can be available this evening. Dunville indicated that she will assist Mr. Rosa if he calls tomorrow.

Barbara Barry, 2817 Sherwood Drive, is a member of the Board of the League of

Women's Voters. The LWV sent a letter to the Board asking that it support funding for local access television stations. Kurtz indicated that her comments could be made as part of the public hearing regarding the Cable Ordinance.

Ron Reinhold, 4446 Westridge, stated an understanding that the Board declines to respond to citizens during public comment periods because it has been advised to do so by Chris Bzdok. He believes that if the Board is not guilty of any wrongdoing, it should have no problem with responding to citizens.

Paul Brink, 9617 Winter Road, stated that he was away for the winter and returned 3 months ago. He read the minutes from the meetings held while he was away and listened to some of the audio recordings. The minutes sometimes soften the tone of the spoken words, and he was shocked at the way some members of the public have conducted themselves towards the Board, which has been discourteous. He is also surprised by the lawsuit filed by The Village at Grand Traverse, LLC. and Meijer, Inc. regarding an alleged violation of the Open Meetings Act. He is a member of CCAT, and at times this organization questioned some of the closed session meetings held by the former board. They did not pursue those concerns, feeling that the township should be entitled to counsel.

Mr. Rosa has noticed the phrase "Citizen Driven" in use since the current Board took membership. The phrase conveys a positive meaning, but could be mis-interpreted. If this is going to be a motto for the township, he would like to see a written definition of the phrase. He has done some research on the Internet as to possible meanings, but his results have been inconclusive. Mr. Rosa suggests that a definition/mission statement be created so that the Board's actions can be measured against it.

Jim Johnson, PO Box 1727, Acme is reading through the letters attached to the agenda this evening. CCAT has made assertions about the applicability of the proposed large retail development moratorium might to Meijers. Does it, or does it not apply? Kurtz stated that at the present time it does not, and their application process has been proceeding.

Margy Goss, 4105 Bay Valley Drive, asked if the report from the Public Safety Committee will be discussed this evening; it will not at this time. Mrs. Goss stated that she has been researching Metro Fire and the services they provide to Acme, as well as the possibility of tying in funding for community policing. She is aware that by the end of the year it will be necessary for the Board to approve additional funding for emergency services, and hopes that the Board will "go public" soon with it's plans for how to address needs to both maintain and enhance services in our growing community so that the citizens can get involved. She supports Metro Fire, although she believes response times can be improved.

Dan Hanna, 7239 Lautner Road, asked to speak about CCAT. Perhaps this group did not call former Board members liars at meetings, but he asserted that a former CCAT board member spread falsehoods about township leadership and Mr. Hanna himself. In his opinion, the current Board has no valid claims to purity.

John Szumera, 4972 Hampshire Drive, also spoke to the behavior of CCAT members at past meetings. A pastor from his church who lives in the neighborhood had brought his family to one of the hearings at New Hope Church to see government in action. At a break, he observed that the public at the meeting were truly nasty.

Chuck Walter, 6584 Bates Road, noted Mrs. Goss' comments regarding the fire department. He hasn't seen anything in print, but believes the Board plans a "change of direction." He stated that The Village at Grand Traverse proposes a significant amount of

space for civic uses such as a township hall, fire services, libraries and the like. However, he has never heard a word of commendation or thanks issued to them.

C. CORRESPONDENCE:

- a) Letters regarding [Meijer, Inc. 04/11/05 letter](#) to township residents
1. [CCAT](#), dated April 2005
 2. [Sue Coffin](#), dated 04/18/05
 3. [Jo Collins](#), dated 04/19/05
 4. [Charlene Abernethy](#), received 04/21/05
 5. [Dan & Karen LeClair](#), dated 04/19/05
 6. [Robert & Susan Shimmons](#)
 7. [Kimberly Challender](#) dated 04/23/05
 8. [LaVern Andres](#) dated 04/20/05
 9. E-mail dated 04/23/05 from [Drew Bontrager](#)
 10. [Lynn Starkey](#), dated 04/14/05
 11. E-mail dated 04/23/05 from [Lyn and Ron Shoal](#)
 12. [Kathy Pilon](#), dated 04/14/05
 13. [Rachelle Babcock](#), dated 04/25/05
 14. [Dan Hanna](#), dated 04/18/05
 15. [Louann Brohl](#), dated 04/25/05
 16. [John & Emma Winter](#), dated 04/21/05
 17. [Tom & Caroline Wacker](#), dated 04/25/05
 18. [Dr. & Mrs. Fred Rohn](#), dated 04/18/05
 19. [Shawn Husband](#), undated (delivered 05/10/05)
- b) E-mail dated 04/24/05 from [Margy Goss](#)

D. PUBLIC HEARINGS

1. **Approval of Cable Ordinance and Renewal of [Cherry Capital Charter Communications Franchise](#):** Kurtz introduced Richard Lewis, Traverse City Manager, to discuss the proposed Cable Ordinance and Franchise. He is present representing 10 local municipalities who jointly regulate the provision of cable service in our region.

Charter Communications is the third largest provider in the nation. The intergovernmental agreement forming the Cherry Capital Cable Counsel helps to ensure a uniformity of service provision in the region. Basic rates for the first 13 channels are regulated by the CCCC at present, but may not be in the future. There has also traditionally been a strong local desire for local public access channels through which people can express themselves to the public. All of the member communities have adopted identical cable ordinances, and this would remain true with the proposed replacement ordinance. The same is true of the proposed franchise agreement. The City has served as the central administrator for the relationship with the cable company.

Negotiations for renewal of the cable franchise have been lengthy. A community survey was performed, and public hearings were scheduled. The proposed ordinance and franchise agreement resulted. The ordinance was drafted by a consultant for the CCCC. One of the significant changes from the old ordinance is inclusion of more structured provisions for addressing service issues and a formal resolution process. Penalties for non-compliance remain unchanged.

Another significant change relates to PEG (Public, Educational, Government) access. Right now there are three public access channels: TCTV2, NMC Channel 13 and an educational channel 63. There is not a dedicated government channel at this time. Operation of the public access channels has been "hit or

miss,” and over the past decade or so Charter has paid for their operations in an unprecedented manner. Moving forward these services must be funded some other way; in larger areas those operations are funded through franchise fees. The CCCC is asking its member municipalities to contribute 1.5% out of the 5% (30%) in franchise fees they receive towards public access operations. This would be the maximum amount requested. So far all of the communities that have deliberated have elected to contribute.

Kurtz is Acme’s representative to the CCCC, and currently its Vice Chair. TCTV2 is currently operated through the Traverse Area District Library (TADL) so that it would not appear that the operating funds are being given to the City.

Turning to the franchise agreement, it is a non-exclusive franchise agreement between Charter and the municipalities. Any other cable company could also approach the CCCC and its member communities to negotiate additional service franchise agreements.

TCTV2 doesn’t have a studio. If it could place cameras in various communities they would be readily available for people to create programming. The franchise agreement proposes a \$0.30 surcharge on cable bills for capital costs. The agreement also leaves open the option for “fee on fee” collections (collection of a 5% franchise fee on the 5% franchise fee on each bill). The CCCC has performed a “desktop audit” of Charter, and found that the fees on fees had not been paid by Charter to the CCCC. On the other hand, Charter had been paying for local access operations when they didn’t have to. They could have sued to recover those funds, either directly or by charging customers, so it was agreed that both sides of the issue would be dropped. A settlement agreement resulted in additional fee revenue to the township that offset the funds expended for contract negotiations.

Mr. Lewis feels that negotiating as a group through CCCC has been more effective than individual municipal negotiations could ever have been for both sides of the transaction.

Kladder asked if channel 13 would always be allocated to NMC and channel 63 to TCAPS, or if airtime could be used by other entities. Mr. Lewis stated that those channels are designated solely for educational purposes. In the franchise agreement there is the possibility of adding a fourth channel that would be dedicated entirely to governmental use; this does not yet seem necessary. Televised City Commission meetings are paid for separately by the City at this time.

Kladder noted that Acme Township is partial in the Elk Rapids School District, but since they are not part of the CCCC they wouldn’t be able to put programming on the CCCC’s public access channels. Mr. Lewis noted that Elk Rapids is working on its own program; if it serves Acme then we would receive franchise fees from that as well. Elk Rapids could also join the CCCC.

Takayama asked if 10-year durations are customary for cable franchise agreements; they are. Mr. Lewis stated that there is a mid-term opportunity to review the relationship. It is possible to amend the amount of the franchise fees. Zarafonitis asked why franchise fee receipts have dropped; more people are using satellite service and are therefore not paying franchise fees or receiving public access services.

Public Hearing opened at 7:48 p.m.

Ms. Barry continued her earlier comments, noting that she produces shows for TCTV2 and has found it to be a great service. The League of Women Voters has two key purposes; one is to provide forums for public information regarding government issues. More and more they are hosting local-level debates that are broadcast repeatedly and generate requests for additional information. The LWV also seeks to address key community issues such as Smart Growth by hosting forums that include speakers from various different viewpoints. She asked the Board's support for the ordinance and franchise agreement as presented.

Mike Cruise is the coordinator of TCTV2 and not a township resident who offered to answer any questions the Board might have. He noted that he sent the township a letter that provided some ideas for ways they could serve the community by televising meetings.

Noelle Knopf, 5795 US 31 North, stated that when the cable franchise was first adopted years ago it stated that there would be local control over programming decisions. It was her understanding that adult programming on the various cable channels could be limited to certain hours of the day, but she doesn't believe this is occurring. Mr. Cruise stated that the level of FCC regulation has changed over time, decreasing significantly as regards adult content. They do have a recommended "safe haven" guideline asking that cable broadcasters not broadcast these materials before 10:00 p.m., but it is not a guideline. He recommended contacting the individual program providers directly, as the cable company may not be able to impact the programming choices of the channels they carry.

Jim Lively, Michigan Land Use Institute, stated gladness that Kurtz has been appointed to represent the township on the regional transportation study group. He was informed that the current comment period is for the cable agreements only; general comment will occur again later.

Public Hearing closed at 7:57 p.m.

Zarafonitis asked what would happen if the township did not adopt the franchise agreement. Mr. Cruise was uncertain, but suspected that communities not adopting might have to reach their own individual agreements with the cable company. There is a possibility that CCCC might seek to renegotiate something more palatable to everyone.

Takayama asked if the return of franchise fees requested would be used for a variety of purposes. Mr. Cruise stated that Charter has a grant program that has been locally used for operational items in the past, but they have indicated that they won't offer operational funding going forward. Charter has agreed to provide \$0.30 per customer for operational costs, leaving the grant funds for capital items.

Kladder, noting that franchise fees received by the township have been decreasing, stated that after a 30% contribution back to CCCC our revenue would drop from about \$50,000/year to about \$36,000/year, which is significant.

Motion by Kladder, support by Takayama to adopt Ordinance #2005-2, instructing Kurtz to write the letter to the cable company as requested. Motion carried by a vote of 5 in favor (Scott, Takayama, Kurtz, Dunville, Kladder) and 1 opposed (Zarafonitis).

Motion by Kladder, support by Dunville to adopt the Cable Franchise

Agreement. Motion carried by a vote of 5 in favor (Scott, Takayama, Kurtz, Dunville, Kladder) and 1 opposed (Zarafonitis).

Motion by Kladder, support by Takayama to accept the proposed Settlement Agreement as presented. Motion carried by unanimous roll call vote.

E. NEW BUSINESS

1. **Consider approval of SUP/Site Plan Approval Application #2004-23P by POW Investments, LLC:** Troy Molby, Gourdie Fraser, appeared on behalf of the applicant. He gave a general description of the location and scope of the 44 condominium development project. He stated that sewer service is proposed to be through the regional sanitary sewer system and water service through the Resort, although this has not been finalized.

Takayama reported that the applicants worked closely with the Planning Commission on design changes that optimized the open space on the site. It was a surprisingly challenging site in terms of being able to cluster the development units, appearing much like a traditional subdivision. Both he and Krause believe that this is due to a fundamental flaw in the Open Space Development Ordinance rather than a flaw in the application.

Scott asked what say the township would have over water quality if the development were to utilize Tribal Water. Zarafonitis asked if a franchise agreement with the Tribe would be required. Kurtz indicated that this is a significant issue, and that the water would be regulated by the EPA rather than the DEQ. There have been some preliminary discussions with the Tribe about the possibility. Mr. Molby stated the applicant's belief that Tribal water would be more reliable than creation of an on-site satellite system for both general water needs and fire suppression.

Kladder asked if a provision for on-site wells would necessitate a project redesign. Mr. Molby stated that in order to preserve required isolation distances from wells that would be in the northeast portion of the site, the buildings would have to be moved more to the southwest and southeast.

Scott expressed concerns about what responsibility might accrue to the township for a Tribal water system extended to the off-site property? Kurtz agreed that this is a question. The Tribe has mentioned the possibility of a bulk water sales agreement between them and the township, with the township then distributing the water to users. He personally believes it might be preferable for the DPW to manage such an arrangement on the township's behalf.

Kladder proposed a potential scenario for the steps required for off-Resort properties to receive water service that ultimately begins with a Tribal source. It would involve negotiations that might take some time. Kladder asked about the applicant's proposed development timeline; Sandy Pownall stated a desire to proceed as soon as feasible based on the availability of a water supply. She hopes it would occur within 4-6 weeks, but has been given no firm indication that this would be the case. Kladder asked if she expects to negotiate an agreement directly with the Tribe, or that the Tribe would negotiate directly with the township. Ms. Pownall stated a belief that it began as the former, but is becoming more of a triangle-type relationship based on statements from Tribal representatives and Gourdie Fraser representatives.

Kladder asked whether the Tribe would be responsible for infrastructure outside

of their lands; Kurtz responded that this is still unresolved. He has spoken with the DPW and there have been several meetings with the Tribe to introduce the concept, and the township has been told that they desire to work on a government-to-government basis.

Kladder asked about the nature of any potential conditional approval of the application. Corpe reported that the Planning Commission has recommended approval contingent upon demonstrated availability of an adequate water supply, provision of a non-motorized pathway along US 31 and provision of condominium and conservation easement documents suitable to the township.

Scott expressed concerns that any ultimate agreement for water service coming from the Tribe have some level of township oversight and involvement, and not result in a situation where the township might be in some way responsible for something over which it has no real control.

Ms. Pownall asked if the township believes that negotiations for water service might be a lengthy process. Kurtz expressed uncertainty but a desire to expedite the process as much as possible.

Takayama is uncomfortable with the idea of approving a plan when a concrete means of providing water is not established and may take a while. He tends to favor continuing the deliberations until water service conditions become more clear. Ms. Pownall stated that they have tried to work with the township to meet its OSD criteria, and that if there will be a lengthy delay while Tribal water issues are settled they may choose indeed to redesign the site and provide for on-site wells. Takayama stated that he believes that the Planning Commission forwarded the application based on the idea that water service would be firmly in place by this Board meeting. Ms. Pownall originally believed that an agreement would be reached between herself and the Tribe directly; only recently in the process did the Tribe bring up the possibility of dealing directly with the township.

Kladder expressed empathy for the applicant, but expressed concern about granting approval for a project absent provision of an essential service. This could set a precedent for other projects asking for similar consideration. It is one thing to make an approval contingent on finalization of landscaping or letters from a public agency, but the ordinance clearly states that basic public services must be in place. He cannot support proceeding to approve this application until this occurs. Ms. Pownall stated that she has no guarantee that her project will finally move forward if there are contingencies to the approval. She is seeking simply to move past this phase of the process and on to the next. She is willing to work with the township, and believes that both sides would be taking the same risk. Kladder asked her for the definition of "move along." She asked Corpe what the next steps would be; Corpe replied that after satisfying any contingencies an SUP could be issued. Then the applicant would have to provide a letter of credit for site improvements prior to receiving a Land Use Permit.

Motion by Zarafonitis, support by Dunville to approve Application #2004-23P by POW Investments LLC contingent upon receipt of final agency review/approval letters, provision of a sidewalk along US 31 along the full frontage of the property, proof of the ability to provide a safe and adequate water supply to the development, and conservation easement documentation as required by the Zoning Ordinance and in a form acceptable to township counsel.

Kladder cautioned the Board that such a decision will set a precedent for

approving other applications without essential services. Would the Board approve a project if it didn't know how sanitary service would be provided? Consistency in decision making is important. Takayama concurred for the reasons stated before.

Ms. Pownall asked if the issue is that the township does not want her development to receive water service from the Tribe. Takayama stated that the issue at hand goes beyond her development and addresses broader issues. The plan gained Planning Commission support based on an assumption that water service can be provided. The message from the Board is that the project is not objectionable, but that some details may need to be worked out prior to final approval. Kladder suggested that perhaps the matter could be continued to a future meeting to allow for some expeditious further exploration of water agreements with the Tribe. He has no objection to the plan if water service can be demonstrated.

Zarafonitis and Dunville rescinded their motion.

Motion by Kladder, support by Scott to continue deliberations regarding Application #2004-23P by POW Investments LLC to the June meeting to allow time for further exploration of water service options for the project. Motion carried by unanimous roll call vote.

2. **Consider approval of SUP/Site Plan Approval Application #2005-5P by LochenHeath LLC:** Russ Clark, R. Clark Associates, and Joe Elliott, Gourdie Fraser Associates, presented the application via a PowerPoint presentation. Along with general project information, the presentation addressed several specific questions raised during the Planning Commission hearing process. The first question dealt with preservation of defined Viewshed 9 as set forth in the Master Plan; Mr. Clark provided current photographs depicting the viewsheds after the recent earthwork that has been done to create berms along US 31 demonstrating that the views have been protected.

Takayama has a continuing concern about preservation of air drainage for the Pulcifer Orchards in light of more dense development at the northern end of the project. Tom Fous and Mark Krakow from LochenHeath stated that they have been working daily with John Pulcifer on this issue. They state that he is satisfied with the design for the northern part of the development. His concerns were more centered on southern areas where some dirt was piled over the winter. The surrounding orchards have blossomed this spring and the dirt pile has been reduced; it appears that no damage has been done.

Kladder asked how air drainage pathways are defined. Mr. Clark stated that they are dictated by the contours of the land; cold air flows downhill. Drainage from LochenHeath largely moves to the southeast through the Amon orchards and the Resort. Kladder asked how Mr. Pulcifer feels about the proposed landscaping on the site. Mr. Clark responded that to a large extent the cold air flows along the US 31 road corridor down to the Amon property and the Wolverine Heights area where it continues southeast. There is no formal map of air drainage flows.

Takayama asked how buildout of Wolverine Heights might impact the airflow. Mr. Clark stated that it will find a way around the houses and onto the golf course fairways at the Resort.

Kladder noted the use of language indicating a "change of market type." Mr. Clark stated that by creating some smaller lots in the northern area of the site

that would provide for a 1,500 sq. ft. home footprint rather than having only one larger size of lots available they can serve a broader market segment.

Kladder noted that portions of the Lochenheath PUD are zoned A-1 and portions R-2. Mr. Clark also stated that the current common drainfield can support up to about 32 more homes until either a treatment system must be built or hookup to the regional sewer system must occur. Mr. Elliott stated that when LochenHeath was originally approved in 1999 it was outside of the township's defined sewer district. Therefore an on-site system was designed for eventual turn-over to the township and DPW for ongoing maintenance/management. Once over 10,000 gallons of wastewater per day are generated, new DEQ permits are required as is some level of wastewater treatment. In 1999 the township did not have the capacity to serve LochenHeath; now it does. Kladder asked how much of LochenHeath is within the current sewer district; the new OSD portion is but none of the 1999 PUD is. The northernmost portions of the PUD are within a proposed future sewer study area as defined by a map in the Master Plan.

Helen Duke, Woodridge Drive asked where the houses in the northern area would be in relation to the Moore nursery and Woodridge Shores. Mr. Clark used the maps in his presentation to display the answer. He stated that landscaping plans are being designed cooperatively with homeowners at the western end of Woodridge Shores such as the Campbells to screen their homes from potentially intrusive elements. Mrs. Duke asked about a statement that the northern housing area is outside of the gated area of the development. Mr. Clark described how most of LochenHeath will be accessed through a gatehouse and a drive south of the existing PUD in the OSD portion. Access to the northern housing area has been and will remain from a separate roadway just south of the Moore property. The general public will not access the community. The northern homes will be smaller second single family homes and are not proposed to be used for timeshare rental. They will be marketed as smaller homesites in a gated community.

Conceptual approval from the Drain Commission, Metro Fire and DPW are on file. MDOT and Health Department approvals were not required. Kladder noted that communications have been received about the issue of whether or not the proposed units will be used as rentals, and if so for what rental periods. A letter received from LochenHeath dated May 6 indicates that rental rights would be reserved. The issue of short term rentals have been divisive in many areas. John Hull, Zoning Administrator stated that short term rentals are not allowable in the zoning districts which apply to LochenHeath. The applicants have stated at public meeting that the units will not be rental units; the township has the ability to make this a condition of PUD amendment approval. There was a watershed case in Torch Lake Township where a judge made a determination as to the definitions of some terms that are often used. For instance, a "residence" is the place to which you return and where you keep your things. Scott asked what time period would be short-term and what would be long-term; Hull believes this will be left to case law but that there is a clear difference between people who lease a residence and live there full-time and those who rent for a week or month for a vacation. Hull and Bzdok base their assertion that short-term rentals are not allowed in the residential or agricultural districts because they are listed as a use in the B-1S district but not in other residential districts.

Mark Krakow, LochenHeath stated that single-family dwellings on the north end will not be permitted to rent their properties out for periods shorter than 3 months, and that this restriction is part of the existing restrictive covenants for the development.

Mark Hullman asserted that Mr. Krakow misstated the covenants, reading from the covenants that if there are units owned by LochenHeath that they reserve the right to use some or all as rentals. He also stated that the Torch Lake case law is not a precedent or binding, and echoed Hull's statements that a specific restriction could be placed in the PUD approval in this regard. Mr. Clark stated that the applicant would be willing to restructure their restrictive covenants to remove the option for short term rentals and to accept this as a condition of PUD approval. Kladder thanked the applicant for its consideration.

Motion by Kladder, support by Zarafonitis, to approve Application #2005-5P, LochenHeath PUD amendment provided that no short-term rentals (3 months or less) be permitted. Motion carried by unanimous roll call vote.

- (a) **Minor Amendment Request to OSD SUP #2004-6P:** Last summer an SUP was approved for addition of an Open Space Development to the south end of LochenHeath on land formerly farmed by the Veliquette family and north of Dock Road. The applicant now seeks to modify the Conceptual SUP to change the road and lot layout on the northern portion of the OSD to facilitate traffic flows and improve the neighborhood character of the development. No other changes are proposed, and actual construction would require hearings and issuance of an SUP for site plan approval. The amount of open space would drop somewhat from 57% to 55% of the total land area, while development space would increase from 27% to 28% and the right-of-way areas would increase somewhat. A boulevard down the center of the development would be created linking distinct residential neighborhoods to the central spline road and the community recreational amenities. Houses will be removed from the main circulation routes, enhancing their desirability. All of the lots would still be for single-family use but a wider variety of sizes would be created. Total density would remain at 409 units, although some units would be transferred between planned categories. The applicant has met with the township to discuss the level of amendment process proposed.

Scott clarified that the units in the area to be reconfigured would be used for single-family residences and not rental units; Mr. Smith concurred.

Mrs. Duke asked what the total number of housing units between both halves of the project would be. There would be 409 in the OSD and 99 in the PUD for a total of 508 through the entire development. Mr. Clark explained why one development has required two sets of approvals under different rules as the ordinances have changed over time.

Kurtz stated that the applicants met with staff, himself and Owen Sherberneau, the Planning Commission Chair and all recommended a minor change process be followed. Deed restrictions are in place on the OSD that were put in place by the Resort, from whom the Veliquettes purchased the property, that prohibit use of the land for hotels, motels, golf courses and such businesses that would compete with the Resort. Mr. Krakow stated that there are no plans to use properties in the OSD as rentals; it has never been discussed among the partners.

Motion by Takayama, support by Scott to approve SUP Minor Change #2005-8P, amending OSD SUP #2004-6P. Motion carried by unanimous roll call vote.

- b) **Discuss turnover to Township of on-site water and sewer facilities:** Mr. Elliott stated that when LochenHeath was originally approved the common well and septic systems were built and a package of documents was prepared to turn the systems over to the township/DPW as required by law in 2001. At that time there was one modification to the water system requested by the DEQ that took 3 or 4 months to make; then the DEQ issued a permit to the system. There was subsequently some lightning damage to the system, and the paperwork to turn the system over was lost in the shuffle. Over time only five homes have been connected to the systems, and the DPW has even collected connection fees. After some final issues are resolved, completion of the system turnover must occur. LochenHeath plans to resolve all outstanding issues and provide the turnover documents for consideration at the June Board meeting.

Mr. Elliott also mentioned that LochenHeath wishes to ultimately connect to the regional wastewater treatment system, indicating that it was understood between LochenHeath and former Supervisor Mark Ritter that this would occur at some point in time when benefits were available. The township would receive hook-up fees. LochenHeath lies outside of the current sewer service district and mostly within future study areas. Takayama asked if upgrades performed to the township sewer lines last year would permit the system to handle 99 more units at LochenHeath; it should.

3. **Consider hiring consulting planner to assist with community visioning and Master Plan/Zoning Ordinance amendments:** The Planning Commission has asked that a consultant be hired to assist the township with visioning and preparation of a future land use map for the Master Plan. Corpe has prepared a proposed RFP for the Board's consideration, in case they wish to bid out the services. Beckett & Raeder, the consultants handling the Meijer application have expressed willingness to assist if desired. Takayama stated that the Planning Commission would like to get the process moving now, recognizing that by July funds should become available in the upcoming budget cycle. Kladder feels that the work is imperative to undertake, and it is difficult to come with true visioning statements. Having a future land use map is imperative for applying for state farmland preservation matching funds.

Motion by Kladder, support by Zarafonitis to distribute the RFP as prepared. Motion carried by unanimous roll call vote.

4. **Consider RFP/RFQ for annual audit services for fiscal year 2004-05:** Kurtz stated that it has been discussed that it may be time to at least consider options for different audit service providers. Kladder is glad that this step is being taken.

Motion by Kladder, support by Takayama to distribute the RFP as prepared. Motion carried by unanimous roll call vote.

5. **Discuss Proposed Township Noise & Junk Ordinance:** Larry Inman reported that when Alan Schneider became County Prosecutor he offered the opinion that the County cannot have noise and junk ordinances based on an Attorney General Opinion, but townships can. He prepared the recommended drafts as being what he would be comfortable enforcing. All townships received these drafts for consideration and potential adoption. If they don't wish to adopt those recommendations and create something different, each township's attorney and zoning administrator would be responsible for enforcement of the ordinances

they did adopt. Bzdok believes that some changes to the noise ordinance might make it more enforceable; Scott recommended that he check with the County Prosecutor.

Motion by Scott, support by that after consultation with the County Prosecutor, drafts of the Noise and Junk Ordinances be prepared for public hearing at the June meeting. Motion carried unanimously.

6. **Set date for 2005-06 Budget Adoption public hearing:** Kurtz is holding a staff meeting on Friday, at which time cost center managers will receive budget worksheets to complete and return. Kladder indicated that the Board would need to receive the budget proposal in plenty of time for study. Kurtz is proposing to begin discussion at the regular June Board meeting. After we see how much progress is made at that time, the required public hearing date can be set.

F. OLD BUSINESS

1. **Update regarding Sewer extension Phase II:** Mark Lewis of the Infrastructure Advisory has been working on a recommendation regarding Phase 2 of the sewer expansion, which would upgrade lift stations and force mains in the Deepwater Point area. There would be a significant savings of \$1.8 million to the township if the work is not undertaken at this time. Kurtz hopes to bring the matter to resolution at the June meeting.

G. REPORTS

1. **County Commissioner's Report** – Larry Inman: received and filed.
2. **Sheriff's Representative Report** – Deputy Matt McKinley: received and filed.
3. **Buildings and Grounds** – Tom Henkel: received and filed.
4. **Zoning** – John Hull: received and filed.

H. PUBLIC COMMENT & OTHER BUSINESS THAT MAY COME BEFORE THE BOARD

1. **Public Comment:** Jim Goss, 4105 Bay Valley Drive, asked whether a current franchise agreement exists with the Resort. Kurtz stated there is not. Mr. Goss also stated that the Tribe has installed fire hydrants along M-72. Can they be used for fire protection if a franchise agreement isn't in place? Kurtz stated that the Tribe installed the hydrants to help with fire protection issues in the Bates industrial district area. Chuck Walter, 6584 Bates Road, stated that the placement of the hydrants wouldn't assist Railway Industrial Park. He is aware that the hydrants were used at least once, and that system testing is occurring. He hopes that at the next meeting the Board will be able to report some progress.

Dan Hanna stated that a few meetings ago he asked if the township is concerned with the quality of the bay water. Discussions about the shape of the sewer district might provide an opportunity.

Mrs. Goss asked why an expensive planning consultant is needed to perform visioning exercises and rework a Master Plan that the community has worked hard to adhere to. She feels it is an unnecessary confusion, and that public processes move far too slowly except regarding farmland preservation which seems to move too quickly, much to her dismay.

2. **Approval of March 18, 2005 special Board meeting minutes:**

Motion by Takayama, support by Zarafonitis to approve the March 18, 2005 special Board meeting minutes as presented. Motion carried by unanimous roll call vote.

3. **Meijer, Inc. Application Fee Escrow Account**: Corpe provided a memo setting forth the current situation regarding the fee escrow account for the Meijer application, including e-mail correspondence between herself and Scott Nowakowski. The escrow account requires a deposit of approximately \$12,000 to account for large bills that have come in over the past few days; however Mr. Nowakowski's e-mail seems to indicate that payment might be several weeks in arriving. The escrow policy, which he signed, is quite clear that if the account balance falls below 20% of \$800 all application processing is supposed to cease until the account is replenished to at least \$800. Despite the shortfall currently existing, staff has continued processing the application. Corpe is requesting clear direction from the Board as to how to proceed, noting that a public hearing is currently scheduled for May 23 and preparations for that meeting required by law must be made within a few days.

Motion by Kladder, support by Zarafonitis that the Board ceases processing of the Meijer, Inc. application until such time as the escrow account balance is brought up to the level required by ordinance, and is not to be continued until such time.

Scott expressed concern over requiring an entity to come up with \$12,000 within the space of 48 hours. He agrees that the account needs to be kept current, but he believes that payment within 30 days is reasonable. Corpe expressed understanding of the principal and describe the physical process involved in the flow of payments back and forth. Funds received from applicants are escrowed in an account and segregated from general funds.

Motion amended by Kladder, support by Zarafonitis to add that if payment is not received by 5:00 p.m. on Thursday May 12, the public hearing scheduled for May 23 will be cancelled.

Motion carried by a vote of 5 in favor (Kladder, Zarafonitis, Takayama, Kurtz, Dunville) and 1 opposed (Scott).

SECRETARY'S NOTE 5/11/05: THE REQUIRED FEE PAYMENT IS EXPECTED TO BE DEPOSITED WITH THE TOWNSHIP THIS AFTERNOON. AS OF THIS TIME THE PUBLIC HEARING IS STILL EXPECTED TO BE HELD ON MONDAY, MAY 23, 7:30 P.M., NEW HOPE CHURCH.

4. **Consideration of setting date for special meeting to consider ballot language and election date for referendum on Zoning Ordinance Amendment #131:**

Motion by Kladder, support by Takayama to set a special Board meeting for Thursday, May 19 at 6:00 p.m. to consider ballot language and set election date for referendum on Zoning Ordinance Amendment #131. Motion carried by unanimous roll call vote.

Meeting adjourned at 10:23 p.m.