



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
7:00 p.m. March 6, 2007**

Meeting called to Order with the Pledge of Allegiance at 7:00 p.m.

Members present: B. Boltres, D. Dunville, W. Kladder, B. Kurtz, P. Scott, E. Takayama, F. Zarafonitis
Members excused: None
Staff present: S. Corpe, Township Manager/Recording Secretary
J. Jocks, Legal Counsel

INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

APPROVAL OF AGENDA: Motion by Kladder, support by Scott to approve the agenda as presented. Motion carried unanimously.

A. CONSENT CALENDAR:

Motion by Kladder, support by Scott to approve the Consent Calendar as submitted, including:

RECEIVE AND FILE:

1. **Treasurer's Report** as of 01/31/07
2. **Clerk's Report** through 02/26/07
3. Draft Unapproved Minutes of
 - a. **02/08/07 Zoning Board of Appeals** meeting
 - b. **02/11/07 Shoreline Park & Preservation** Advisory meeting
 - c. **02/26/07 Planning Commission** meeting

ACTION:

4. Consider approval: **02/06/07 regular** Township Board meeting minutes
5. Consider approval: **Accounts Payable** of \$168,353.59 through 2/26/2007

Motion carried unanimously.

B. LIMITED PUBLIC COMMENT:

Barbara Morrison asked that the sign that used to be out by US 31 directing people to Saylor Park be replaced.

C. CORRESPONDENCE:

1. **Lou Ann Brohl** – Resignation from Zoning Board of Appeals and Shoreline Preservation Advisory: Ms. Brohl provided an **e-mail rescinding her resignation** on February 28.

D. SPECIAL PRESENTATIONS:

1. **Metro Fire Chief Pat Parker:**
 - a. **Presentation of Metro Fire Department 2006 Annual Report:** This is the first annual report and is available on-line on the Metro Fire and township websites. In 2006 there were 2,344 calls for service, up 46 from 2005. There were 105 fires (32 structure fires, including trash cans and barbecues and the like, 21 vehicle fires). About 70% of the calls are for medical assistance, in part because local ambulance services are receiving less insurance reimbursement and relying on other emergency service workers for pre-hospital care. Metro also provides security and Wild Land Interface Services, which deal with the impact of fires in natural areas adjacent to and

threatening subdivisions. There were a variety of other calls as well. 12% of the calls were for the Acme station. They are remodeling a new fire station on Three Mile Road in a former industrial building. There are five fire prevention personnel who perform new building site and plan reviews and existing building inspections, not only for Metro townships but for the City of Traverse City as well. There is a full-time public education officer shared by Metro and Rural Fire. They run a Juvenile Firesetter Program which served 26 young people last year, all but 4 coming from other regions.

Metro Fire continues to work through it's Strategic Plan for continuous service improvement.

- b. **Consider approval of Resolution #R-2007-05 Approving Installment Financing by Grand Traverse Metro Fire Department:** In the past Metro has paid cash for all of its vehicles, but this is a "luxury of the past." A new fire truck has been ordered and is due for delivery in mid-April, at a cost of \$418,061. Metro is not a municipal agency able to enter into a debt agreement on its own, and so needs its member townships to join with it. The Board has been provided with documents for a proposed Installment Purchase through Huntington Bank. The documents were under revision up through 4:30 this afternoon, and township counsel has not had an opportunity to fully review the changes. He recognizes that the Board might therefore not be able to grant full approval this evening, but suggested the Board could authorize Kurtz to sign as needed contingent upon satisfactory review by counsel.

The proposed new truck is a pumper truck that would be based at Station One on Three Mile Road and available to all Metro service calls. The payments have already been factored into the 2007 budget adopted by Metro and the member townships, so no additional budgeting is necessary.

Scott asked if Metro has looked into grant funding associated with the National Governors Association Conference; Chief Parker stated they tried but were unsuccessful.

Jocks confirmed that he first saw the documents just after 6:00 this evening. He believes they will be generally satisfactory and would be comfortable with Board approval for Kurtz to sign subject to approval from his firm. If their review reveals something unadvisable, the matter would return to the full Board in April.

Kladder asked if there would be any ancillary costs for the new truck along with the purchase price. Chief Parker stated that money is already budgeted for hose nozzles and training elsewhere in the budget. The vehicle comes with some specialized training.

Scott asked if the truck will definitely fit through the station bay doors; it will. Kladder asked if the township could become liable for the entire debt in case the other member townships default. Chief Parker said that the townships are liable jointly and severally, and Jocks confirmed that if this is the case the township could be theoretically on the hook for the entire amount. Acme is slated to pay for 20% of the truck. Takayama noted that if the semi-annual payments were already budgeted Metro was anticipating need for the truck. He asked if the current millage rate will remain sufficient; it may need to be adjusted as costs change.

Motion by Scott, support by Dunville to authorize Kurtz to sign the documentation for the fire truck installment purchase agreement contingent upon legal counsel approval, with the matter to return to the full board if concerns are found. Motion carried by unanimous roll call vote.

E. PUBLIC HEARINGS: None

F. NEW BUSINESS:

- 1. Consider letter from and response to Department of the Interior, Bureau of Indian Affairs regarding application by Grand Traverse Band of Ottawa & Chippewa Indians to place approximately 77 acres of land on M-72 East at the eastern township boundary into trust status :** Corpe summarize her memo and the questions posed to the township by the Bureau of Indian Affairs (BIA). John Petoskey, Grand Traverse Band Legal Counsel, stated that the application has been made pursuant to federal law that allows tribes to reclaim ancestral lands. The process involves submission of an application to the BIA (first performed in 2002). Questions posed in the BIA letter are generally set forth in federal guidelines.

The Tribe's development plans for the lands if they enter trust status are not yet fully defined. If the land enters trust status it will not be directly taxed by local jurisdictions and local zoning ordinances will not apply. It is still possible for the Tribe and the township to enter into intergovernmental agreements that would provide a level of income to the community. The application is put forth in the interests of the Tribe as an economic and business entity seeking to expand and diversify its operations beyond the largely gaming basis of today.

The Tribe will have an opportunity to respond to the responses given to the BIA by Acme and Whitewater Townships and Grand Traverse County. After that a final response will be made. Mr. Petoskey offered to answer process-related questions, but stated he cannot further address precise development plan details because they don't exist at this time.

Kladder asked about a term for tribal governments he found in his research. According to Mr. Petoskey, and pursuant to Supreme Court Decisions, the Tribe is deemed "pre-Constitutional." Lands were purchased or conquered from them, with treaties signed creating reservation lands. Turtle Creek is part of 1836 treaty reservation lands. Most land titles for lands in these areas show an Indian losing title to the government.

Kladder asked about potential "zoning arrangements." Mr. Petoskey said that in Peshawbestown they have worked with Leelanau County planning and zoning staff on development plans. To a large extent they have entered into intergovernmental agreements to use local zoning rules to guide development so that they didn't have to "reinvent the wheel" and create their own development standards. Kladder asked if the Tribe would, for instance, respect county or township stormwater control ordinances. Mr. Petoskey and Steve Feringa stated that there already intergovernmental agreements between the Tribe and the County for the Turtle Creek area and that such regulations would be followed. There may be a list of existing intergovernmental agreements they can share with the township.

Mr. Petoskey stated that this is not a "fait accompli." This is still a fairly early stage in the process. They may later seek to use township zoning models, their own zoning models or entirely new ones, and those decisions have yet to be made.

Zarafonitis asked if there is a master plan developed for the property yet; Mr. Petoskey said not to the extent that Acme Township has held public meetings to develop such a plan. There were 20,000 acres in the 1836 treaty reservation area. Takayama asked what other lands in Acme are subject to the treaty. Mr. Petoskey referred to the record of the decision regarding whether Turtle Creek could house a casino, and expert testimony established the area as about 1 ½ miles from Turtle Creek. Turtle Creek entered trust status in 1989, as the Secretary of the Interior can take land into trust for a tribe if requested. Zarafonitis asked if Turtle Creek had been “homesteaded” by Indians; Mr. Petoskey replied that this is not quite the appropriate term. Land was held in common until the government dictated that they would follow fee simple ownership rules. The Tribe can provide a map showing the treaty reservation area, which included most of Old Mission Peninsula and much of Acme Township.

Zarafonitis asked what the track record is for trust status requests. The Secretary of the Interior must follow specific established guidelines in an act designed to “revitalize” tribes. Mr. Petoskey does not have specific statistics, but generally if a request falls within guidelines it is approved.

Scott asked if the Tribe would accept input from the township when it is time for master planning the site, particularly as to police and fire services. There are rumors circulating that the development will be large-scale retail in nature; Mr. Petoskey stated he inserted that in the application as an example of how tribes work with recognized and successful business entities. In other tribal developments of this nature, many tribes have built the buildings and leased them to retail businesses. Tax provisions are often specified in lease agreements as part of lease payments to address local government revenue concerns. Mr. Petoskey envisions a “collaborative dialogue process.”

Kladder is thinking of more and more questions as the discussion goes on. He feels a need for more time and some expert advice to help the township through the process. He has no intention to create an adversarial situation and wants to remain cooperative. He understands that Acme’s response is due on March 13; the County and Whitewater have received an extension to April 12 to respond and it seems likely Acme could receive the same. At a Whitewater Township meeting last week there was largely cooperative-type discussion going on, although there were a few adversarial comments. Kladder hopes there will be public input sessions as part of the process.

The land subject to the application in Whitewater Township is zoned agricultural or for village center use.

Larry Inman, County Commissioner said the County felt they could not complete the question list adequately in the original time allotment, so they requested and received the extension of time. He assumes the time extension the County and Whitewater received would apply to Acme; Mr. Petoskey felt it couldn’t hurt to reconfirm that. The County is hoping to hold a special public input session during the last week of March. They are checking into whether the meeting can be held at Mill Creek School. The County’s goal would like to have the County Planning Commission work with Acme and Whitewater’s Planning Commissions on their M-72 Corridor Master Plans as they currently stand to assess the future of this area. This would yield technical information that could be sent to the BIA along with public feedback gained. The County anticipates inviting the Acme and Whitewater Boards to their special meeting. Whitewater has already held a public hearing and is preparing its

response to the BIA.

Boltres asked why Acme was not included in the original extension request; Inman did not know. He also feels that the County is expressing interest in working with the township belatedly, given the issues being debated in our community. Inman stated that the County has a policy of non-interference in township government and planning, although they offer themselves as a resource.

Motion by Scott, support by Zarafonitis to request an extension of the time to respond to Gerald Parish at the BIA. Motion carried unanimously.

The County will invite the Tribe to participate in their special meeting once they have established the time, date and location details.

Kladder supports the public input process, and asked about concurrent attempts to become better informed regarding the process and tribal affairs. Inman stated that the County will be relying heavily on public input, and would like perform technical analysis of the potential impact on the existing Acme and Whitewater master plans, infrastructure, law enforcement and emergency services and the like. Perhaps some or all of the governments will wish to form a more formal cooperative organization with the Tribe to enhance ongoing communications and land use planning.

Scott asked if Whitewater and the County followed a similar process when the request to place Turtle Creek in trust status was made. Inman recalls 3-4 regional hearings prior to submission of a letter answering the basic question. Mr. Petoskey recalls that in 1988 when the trust status application was made the public process was limited, and the extensive public meetings occurred in 1996 when the casino opened and the lawsuit occurred.

Kladder asked where he could direct questions. Kurtz suggested Corpe could serve as a clearinghouse. Kurtz feels that public safety could be a key issue, and suggested that the Public Safety Advisory hold a meeting to discuss the matter. Chief Parker would be willing to attend. Kladder asked if any specific notice publications apply to a potential public hearing

The County has discussed either March 26 or March 29 as potential meeting dates; March 26 would conflict with the township's regular Planning Commission meeting date. There is also concern about the next Board meeting being on April 10 with a response due by April 12 and whether this would allow enough time for an appropriate response letter to be drafted. Takayama suggested that a draft letter be prepared after the County meeting for discussion and refinement on April 10.

Two letters were received today regarding this issue, one from Bob Garvey and one from Jim Cork. They will be read into the record at the April 10 meeting.

G. OLD BUSINESS:

- 1. Consider whether to continue funding/participating with **TCTV2** public access station:** Additional information from the Cherry Capital Cable Council (CCCC) meeting and City Manager Richard Lewis was provided to the Board. Kurtz reported that a CCCC subcommittee has been charged with reviewing TCTV2 operational issues.

Kladder has given the matter much thought over the past month without reaching a conclusion. Since the issue was raised several township meetings have been recorded and aired. Sometimes when funding is threatened, people rise to the occasion and

find more efficient ways to operate. He has watched TCTV2 more often recently, and suggested that there be a banner on the screen during meetings giving identifying information about the meeting. The township is currently expending approximately \$17,000 per year of cable franchising revenues in an environment when our state revenue streams are threatened. Kladder would like to know what is happening with creation of a governmental channel and with new rules for franchising.

Bill Vockel, 4797 Ridgewater Run is a TCTV2 program producer and has provided many of the materials given the Board in recent months. There is no new information regarding cable franchising regulations at this time. The FCC appears to indicate that all cable service providers must be treated equally and without favoritism. Mr. Vockel believes that TCTV2 management must be strongly encouraged to provide a clear picture of how well they are meeting goals previously established.

Takayama asked for an explanation of PEG access, which accounts for a significant portion of the CCCC budget, which operates on a June 30 fiscal year end. The Travers Area District Library (TADL) actually provides the services and operates on a calendar fiscal year. CCCC gives operational money to TADL for this purpose. Participating townships receive 5% franchise fees from Charter Communications from cable revenues. Members of CCCC give 30% of those fees to CCCC to operate TCTV2. PEG Access expenditures for 05-06 were approximately \$218,000. The details on how this money was spend would be found in the TADL budget. Most has gone to salaries and employment expenses for 1.5 FTEs.

Kurtz noted that Richard Lewis has taken the lead in discussions about the future of PEG broadcasting in the area. He is working to arrange a separate government channel to broadcast meetings on instead of TCTV2. A room has been prepared at the governmental center with cameras and audio equipment permanently installed.

Boltres believes that the township has adequate access to information through attending meetings, obtaining audio and/or minutes at the township hall or obtaining minutes on the website. He feels the money the township provides to TCTV2 is wasted, and that program audio and video quality is too poor to be usable. Peninsula and East Bay Townships have already opted out, and Long Lake is strongly considering it. He believes very few citizens actually use the channel.

Zarafonitis sees that programming is not reliably running as scheduled, which contributes to the problem. He also asked about streaming video, which is in use in Midland. Mr. Vockel said research about this was provided by George Galic, a TADL Board member. The point is that there are technological changes that allow video to be accessed over the internet and alternative business models to the one used by TCTV2 whereby show production and airing is more reliable at a lower cost. Do we feel we are getting good value by providing the funding to TCTV2 as compared to other ways we could spend the funds? Not paying the bill for the second half of the fiscal year might put some pressure on CCCC, TADL and TCTV2 to operate more efficiently and effectively.

Takayama believes that television access for the public is a good idea, but after reviewing the budget materials provided, as a small business owner he was concerned. "Other expenses" seems to account for 90% of total expenses, and he has a feeling that nobody is really paying attention. It is as if people have input but don't have time to see it through. He has trouble supporting an effort when it can't be demonstrated that it is being run well. Zarafonitis agreed, again mentioning the number of times shows are not aired as scheduled.

Motion by Scott, support by Zarafonitis to pay what is owed to date and end participation in TCTV2 after June 30 until budget and operational issues are clearly improved.

Kurtz feels this is a strong statement, but one that would also prevent Acme from having a say in the process of fixing the situation. A bill for the second half of the fiscal year (January/June) has been presented but is not yet paid, and it was the Board's intention to pay this amount. Kurtz suggested that the Board will begin planning next year's budget in May, as we are also on a June 30 fiscal year end. He would like to be part of the process to repair the situation. Boltres feels funding for the second half of the current fiscal year should not be made, and that participation should end immediately. Kladder believes the commitment already made for the current fiscal year should be honored. Scott stated that the intent behind his motion was to complete payment as planned for the fiscal year, but not to participate in the 2007-08 fiscal year unless satisfactory changes are made. Zarafonitis concurred. Kladder observed that the CCCC set the contribution amount for TCTV2 as 30% of the franchise fees received, so they have the ability to change the funding formula.

Motion carried by unanimous roll call vote.

2. **Discuss/consider action re regarding proposed Yuba Creek Natural Area oil & gas lease**: This matter was discussed at the February Board meeting, with the Board expressing a desire to have legal counsel negotiate with the interested firms further. Kurtz and Bzdok have spoken regarding appropriate compensation and propose that legal counsel be reimbursed at an hourly rate for time expended, but only after the township receives actual revenues from any eventual contract.

Dorrance Amos, Evergreen, stated that the offer already prepared by his company is their only offer and is non-negotiable. They need an answer within 30 days to continue planning layout of their development units. Olson, Bzdok and Howard has oil and gas law expertise. Scott recalls that the Evergreen offer was to make straightforward payments without additional costs subtracted, but the OIL offer was subject to potential and variable costs at the tail end.

Kladder stated knowing Mr. Amos. Evergreen is a group of local landowners and he has attended some of their meetings. He appreciates their openness about their operational plans, answering questions from anyone and everyone openly and fairly. Many local farmers have signed with them because they are trusted.

Motion by Kladder, support by Zarafonitis to contract with Evergreen for a non-developmental lease of mineral right associated with Yuba Creek Natural Area. Motion carried by a vote of six (6) in favor (Dunville, Kladder, Kurtz, Scott, Takayama, Zarafonitis) and one (1) opposed (Boltres.)

H. REPORTS

1. **County Commissioner's Report** – **Larry Inman**: received and filed
- 2.. **Parks and Maintenance** – **Tom Henkel**: received and filed
3. **Sheriff's Deputy** – **Bob Sillers** : received and filed.

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

Diana Morgan, 779 Lost Nations Trail, is a former township resident. She thanked the ongoing residents for their support of the efforts by the current Board and congratulated them.

Nels Veliquette urged the Board to ensure that cash received from the YCNA mineral lease to

expansion and/or maintenance of the YCNA itself. The Board expressed consensus.

Virginia Tegel, 4810 Bartlett Rd. thanked the Board for thoughtful, thorough work. The Tribe's proposal presents a fresh challenge. She crunched some of Metro Fire's numbers, comparing the ratio of service calls to the percentage of budget budget paid by each member township. She finds that Acme receives \$0.60 in service for \$1.00 contributed to the budget, East Bay receives \$0.73/\$1.00 and Garfield \$1.32/\$1.00. Metro does a fine job, but should Acme be subsidizing fire service for other communities?

Andy Andres, M-72 East feels that the Tribe is entitled to place their land in trust status and should be approved. He is not in favor of bringing in a corporation such as Wal-Mart if it did not have to pay taxes. Such a corporation is not a tribal entity. Such a situation would create an unfair environment for Meijer or other commercial developers to operate within, and he believes this should be a factor in the township's deliberations. He supports the idea that Tribal entities should not pay taxes on the lands of their heritage.

Meeting adjourned at 8:50 p.m.