



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
December 4, 2007 6:30 p.m.**

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE AT 6:33 p.m.

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

Members excused: None

Staff present: S. Vreeland, Township Manager/Recording Secretary
J. Hull, Zoning Administrator
C. Bzdok, Legal Counsel

Motion by Takayama, support by Scott to enter closed session to discuss pending litigation in CCAT v. Acme Township v. The Village at Grand Traverse LLC and Meijer Inc., and in Meijer Inc. v. Acme Township because discussion in open session could have a detrimental impact on the financial interests of the township. Motion carried by unanimous roll call vote.

Regular meeting recessed at 6:36 p.m.

Motion by Takayama, support by Scott to reconvene the public meeting at 7:14 p.m. Motion carried unanimously.

Bzdok read from a [prepared statement that provides a public update](#) as to the court appeals and status of special use permit process regarding the Village at Grand Traverse (VGT) and Meijer, Inc.

INQUIRY AS TO CONFLICTS OF INTEREST: None noted

APPROVAL OF AGENDA: Motion by Dunville, support by Zarafonitis to approve the agenda as amended to add item F0, "Depositions." Motion carried unanimously.

A. CONSENT CALENDAR:

Motion by Zarafonitis, support by Dunville to approve the Consent Calendar as presented, including:

RECEIVE AND FILE:

1. [Treasurer's Report](#) as of 10/31/07
2. [Clerk's Report](#) as of 11/30/07
3. Draft Unapproved Minutes of the [11/26/07 Planning Commission](#) meeting
4. Notice that [property tax payment receipts will no longer be automatically sent](#) but will be provided on request
5. 11/18/07 Letter from [Charter Communications about channel line-up changes](#)

ACTION:

6. Consider approval of the [11/13/07](#) Township Board meeting minutes
7. Consider approval: [Accounts Payable](#) of \$147,887.66 through 11/27/07

Motion carried by unanimous roll call vote.

B. LIMITED PUBLIC COMMENT:

Chuck Walter, 6584 Bates Road applauded the Board for seeking to withdraw the Supreme Court appeal. He asked if a vote will be taken on the withdrawal or if attorney comment will be all there is. He stated that he has been unable to find a record that a vote to seek the appeal was taken. Bzdok stated that the decisions to authorize the appeal and to withdraw the appeal were made by Kladder upon his recommendation. This is within the Supervisor's ability. The decision had to be made quickly at a critical point during negotiations between the parties when a deadline was imminent. A motion is not required to offer to rescind the appeal; the offer has been made in writing to attorney Timothy Stoepker. The township awaits a response.

Andy Andres, Jr., Traverse City, asked whether if a deal is reached between the parties to the litigation, could a public meeting such as that held to explain ordinance amendment #138 could be held to help the public understand and set appropriate expectations.

Cheryl Walton, Lackey Road, Whitewater Township, arrived at 6:34 thinking the meeting started at 7:00. She asked when the schedule was adjusted. Vreeland stated that this meeting was always set for 6:30 p.m.; the agenda was posted last Friday. Ms. Walton asked whether the agenda is supposed to be posted at least 6 days in advance. Bzdok and Vreeland noted that special meetings must be posted at least 18 hours in advance. This is a regular Board meeting.

Margy Goss, 4105 Bay Valley Drive stated that during the summer she spoke to the Board in appreciation of being able to watch township meetings on TCTV2 and remain informed without coming out in the weather. To the best of her knowledge this service is not currently available today. She hopes the service will be returned or that an update can be provided as to future expectations.

C. CORRESPONDENCE: None.

D. SPECIAL PRESENTATIONS:

1. **Receive Fiscal year 2006-07 Audit Report from Plante & Moran:** Katie Thornton and Sam Niemi from Plante & Moran presented the audit report. They were part of the audit team. Copies of the audit presentation were made available to the audience and a PowerPoint presentation was provided.

The report has three components: the financial statements, the audit report letter, and a set of graphs. The report opinion is "unqualified" or "clean" – the highest level of assurance that our financial practices are sound. They also provided a report regarding new audit standards in place for the fiscal year under review.

Only one issue was reported on the SAS 112; all other issues from prior years having been resolved successfully. During this year's audit Plante & Moran became aware of the agreements regarding the septage treatment plant which created debt through a joint agreement between five townships. Our portion of the debt had not been recorded on our statements; both our share of the assets and the debt was added to our balance sheet. To date the situation had not generated any cash transactions.

There are new standards that will take effect for the audit of the current fiscal year ending next June 30. Risk assessments and documentation changes will occur for which we should prepare.

The report also provides a generalized legislative update regarding issues that could affect the township in months to come. None of this information is tailored to Acme; it is industry-wide.

The auditors are also required to report to us what the test and how, and issue an opinion on the representations made by township officials. The audit is performed by randomly sampling transactions that present the highest risk for problems.

Plante & Moran found and made only one significant audit adjustment as mentioned above. They have noted one adjustment which has not been made, which involves tracking a minimal amount of accrued but untaken staff vacation time. The auditors had no disagreements with management and the township has not consulted with other CPAs.

Mr. Niemi presented the graphic materials in the audit report. He noted a 33% increase in interest revenue due to active investment management. Property tax and state revenue sharing income was generally flat, and charges for services were down somewhat due to a lower volume of planning and zoning applications. Capital outlays were down due to the way they had to account for new voting machines provided by the state.

The General Fund balance has increased each year for the past several years. The current fund balance is sufficient to cover more than one year's worth of operating expenses, which is exceptional for any township but especially one of our size.

Total township water and sewer assets are approximately \$9 million; \$8.6 of which is illiquid infrastructure items. \$480,000 is cash on hand. \$140,000 represented user fees owed to the township by the county as of June 30, 2007. Total liabilities are \$4.2 million, almost all of which is long-term debt through the County. User fee revenue was down slightly, but investment income grew through enhanced cash management. Most of the "other" income came from Blair Township when it bought into the DPW and reimbursed the other members for its new share. While user fees were down, so were costs for water (what the County bills the township for operating and maintaining the infrastructure on our behalf), and primarily again due to the Blair Township buy-in. Debt interest expense dropped slightly due to the Blair buy-in, and in 2006 some of the debt was defeased (unused bond proceeds were used to pay off some debt early). Depreciation is constant from year to year. Net assets in the water & sewer fund have declined approximately \$500,000 since 2003. The decrease was sharpest between 2005 and 2006, and much reduced between 2006 and 2007.

Fund level assets (cash and receivables) were approximately \$2.1 million. Government-wide assets, including our share of Metro Fire, were somewhat over \$7.9 million. Liabilities were \$73,330 and \$82,981 respectively. Most of our assets are in our General Fund and our Farmland Preservation Fund. \$4.9 million of assets are illiquid (buildings and grounds), \$1.8 million are unrestricted funds usable for any purpose and \$1.1 million are restricted funds set aside and usable only for various specific purposes (fire protection, police protection, etc.)

Zarafonitis asked how values for assets were derived. They were established when GASB 34 took effect 5 years ago and depreciation is applied. New assets are entered at cost.

Motion by Zarafonitis, support by Takayama to accept the 2007-08 fiscal year audit report as presented. Motion carried unanimously.

E. PUBLIC HEARINGS:

- 1. Consider adoption of Cemetery Ordinance #2007-2 (Resolution #R-2007-22):**
Dunville has provided a resolution adopting a new Cemetery Ordinance to replace our existing one from 1983. Some amended rules and regulations are established, plot purchase prices are increased and so are sexton wages. Funds in the future will be given to the township rather than directly to the sexton as has occurred in the past.

Zarafonitis does not understand the proposed price difference between adult and cremain burial spaces. Dunville stated that cremains for two people can occupy the same sized plot as one traditional burial. Hardin asked why the plot sizes were different in the two cemeteries; they are platted and we don't know why but they are the sizes they are. Proposed new pricing is in line with that charged by other townships, cities and other municipal cemetery operators.

Beginning in the next fiscal year we plan to create a segregated perpetual care fund and create a permanent funding source for cemetery upkeep.

Hardin asked about the regulations for removing inappropriate materials. He wonders what the criteria would be for "offensive" materials that could be removed. Whose definition of "offensive" is used? Could one administration reverse another's previous ruling? Some concrete standards should be added. Bzdok stated that the proposed ordinance is based on a model ordinance. The determination is made when a monument is initially place. The generally accepted principal is that material has to be obscene to be removed; politics, religion and sense of humor are not grounds for being considered "offensive"

Regarding the proposed new parks rules signs, Hardin suggested that the line items prohibiting non-human remains and above-ground cremation urns be changed to a more grammatically correct format by removing "no" and "shall be allowed" and "are allowed" because it is a list of prohibitions.

Public Hearing opened at 8:06 p.m.

John Dickerson suggested that when an ordinance is being considered for adoption it might be helpful to hand out copies at the meeting. He agreed with Hardin that the term "offensive" is subjective and a future Boards could use differing standards. It would be better to provide specific standards. Non-specific terms and ordinances can cause citizens to feel suspicious or confused as to their rights and responsibilities. He is unable to be more specific because he has not read the full ordinance draft.

Mr. Walter does not like to compare our township against other townships. The costs for plots and services should be based on our actual costs and not what other municipalities are charging. He also noted that some long-term township residents become destitute, and perhaps a fund should be established to help them be buried in their community with their families.

Public Hearing closed at 8:10 p.m.

Motion by Boltres, support by Scott to table the proposed Cemetery Ordinance

pending further review to consider clarification of vague terms and establishing a fund to assist destitute township citizens to purchase plots.

Dunville is concerned about the delay, as the sexton is awaiting word on the raise he requested.

Motion carried by a vote of 5 in favor (Boltres, Hardin, Kladder, Scott, Takayama) and 2 opposed (Zarafonitis & Dunville.)

F. NEW BUSINESS:

0. Depositions: Bzdok stated that there is a lawsuit in which the township is not involved; Boltres v. Meijer, Inc. Smith, Haughey et. al. is the law firm representing Meijer. They have asked to take the depositions of Bill Kurtz, Kladder, Scott, Takayama, Zarafonitis, Vreeland and Bzdok. At one time that law firm represented the township regarding litigation with Meijer and VGT, but they removed themselves due to conflict of interest because they also represented Meijer. Bzdok has expressed to several of their firm members that a potential conflict of interest may exist in the current matter for them in representing Meijer, and does not believe they should depose any township representatives for this reason. They have already deposed Dunville. As a response, Smith Haughey has asked if they may depose the named individuals only as to our observations regarding Boltres and not in regard to any matters relating to disputes between Acme Township, VGT and Meijer, Inc. Bzdok feels this is a reasonable compromise.

Zarafonitis stated that he was represented by Smith Haughey in a different matter at one time; he and Bzdok will address this separately.

The depositions would occur at Bzdok's office on a date or dates to be scheduled working around the individuals' schedules.

The Board expressed consensus to accept the proposal for the scope of the depositions provided by Smith Haughey.

Bzdok was excused from the meeting.

1. Consider approval of application by LochenHeath Land Co. for a Major Amendment to Open-Space Development special-use permit to reconfigure the project Master Plan, to include some duplex housing; located west of U.S. 31 N., north of Dock Road: Ken Ockert presented the application. Brian Rowley and Troy Molby from Gourdie Fraser from LochenHeath were also present. A PowerPoint presentation slightly revised from the first showing several months ago was provided. The amendment to the existing LochenHeath OSD general plan would use some allowable density not previously sited to be distributed within the plan, and for some units planned a single-family cottages in the created lake area to become duplexed units. The boundaries of the project would also be amended slightly, resulting in an overall decrease of two development units.

215 single family units would be reduced to 130, cottages would increase from 83 to 118, duplexes would go from zero to 74 structures containing 148 units. Total density would change from 409 units to 407 units. Some of the land area currently within LochenHeath would be swapped with lands adjacent to it under different ownership, changing the shape of the LochenHeath community fairly moderately. Building envelopes have been created on the single family lots to control precise placement of the lots, and three different building plans/footprints ranging from 2,700 to 4,200 sq. ft. will be available. 56.1% of the site would

remain in open space, meeting minimum 50% OSD open space requirements. Lots, road rights-of-way, golf holes and maintenance facilities are counted as development space.

Mr. Rowley stated that needed approvals from the Drain Commission have been obtained. Water runoff is being stored in the lakes area at a 100-year storm capacity when a 25-year storm capacity is required and released through the chain of lakes. An agreement has been reached for water to be provided by the Grand Traverse Band. Mr. Rowley stated that sewer lines are under construction and planned to be connected to the regional sanitary system and turned over to the township upon completion. Lake levels may fluctuate up to a foot based on irrigation or rain events. A well system will keep the lakes at a minimum level regardless of natural conditions. Hardin asked if this is the well system that concerned Deepwater Point residents as far as whether or not heavy draws would impact their water availability. Mr. Rowley stated that when the water for home use in the project was proposed to be from on-site wells, additional irrigation wells would be required. Now that the Tribal water system will serve LochenHeath, the existing home-use wells are planned to be converted for irrigation and lake maintenance use. The flow rates on those existing wells is restricted.

Kladder expressed concern about potential runoff of nutrients from golf course management, ultimately to the bay. There are studies indicating that agricultural chemicals move more quickly through soil than some had previously. Mr. Rowley described how the treatment systems are constructed to filter contaminants. He noted that permits have been approved through all appropriate agencies.

Takayama notes that the proposed shape of the created lakes has changed from the original proposal. He asked what reduction in overall size/capacity has occurred. The lakes have gone from about 8 acres to about 5 acres. Takayama asked if this would still serve a 100-year storm capacity, particularly if more houses and associated impervious surfaces will be created on the western portion of the site. It appears to him that the focus of the project has changed significantly from inception as high-end homes with substantial water features farther away from existing homes on Deepwater Point to something that he thinks of as a high-end apartment complex with smaller more linear lakes and development closer to existing homes. Mr. Ockert stated that the developer executes high end plans and construction and expects to continue to do so in the future. They have diversified their target market based on changing economic conditions.

Takayama asked what will happen to the area of the site from which density has been relocated. At present 11 homesites would be in this eastern/central portion of the site. Boltres asked why the proposal does not include more clustered single-family housing rather than duplexes. What was planned as a single-family development is becoming a multiple-family development. Mr. Rowley stated that the plan presented is a concept plan, not a final engineered plan. All of the stormwater calculations have yet to be made during detailed future phased site plan review/SUP reviews by the township. This phase of the approval process is for a revision to the overall conceptual Master Plan.

Boltres feels that the proposal is “backpedaling” from the originally proposed high-end single-family home development. Hardin reported that some of the same concerns raised this evening were raised at the Planning Commission, but in general the staff and Commission found that the conditions of the ordinance for approval have been met and that the Board should grant approval Hull stated that the relationship of the proposed duplex units to the homes on Deepwater Point is not much different than that originally proposed by the project master plan. The only reason the proposed change had to come through the public process was the proposed change to some duplex units from all single-family units. It appears to him that market conditions changed and the applicant needs to react to keep the project economically viable. Perhaps the additional price points will encourage families with young children to locate in the community. Overall he does not find the changes to the existing agreement substantial; but they were more substantial than he had authority to approve

administratively. The primary thrust of the consideration is the duplex units.

Takayama stated he is referring to what appears to a doubling or tripling of units in one specific area of the site near the wetlands west of Deepwater Point when open land there that can absorb runoff from additional roofs will be reduced as will the size of the lakes to capture the runoff. He also asked if there is any hard data demonstrating that high-end duplex units are selling as well or better than freestanding units. He is aware of a project in Leelanau County where the opposite is the case. Mr. Ockert stated he does not have hard data, and that the developer is making this proposal at its risk.

Zarafonitis does not like the downsizing of the lakes but feels the project is nice overall. Mr. Molby stated that the eastern lake is the same size or larger than originally proposed. The next lake to the east would also be larger. The old lakes were more like channels whereas the new design proposed has the lakes rounder and wider and more Michigan-like in his opinion. The northern lake is the one that was reduced by about 3 acres due to topographical considerations. The lakes are not just large retention ponds; one will be 2,000 ft. long and will be an amenity. The stormwater capacity exceeds county ordinance requirements.

Hardin asked if current LochenHeath residents have provided any feedback on the proposed plan amendment; none have raised objections. Dunville believes the request is understandable based on the current economic conditions and the lakes appear to be substantially the same size as the old ones.

Arnell Boyd, Baggs Road, Whitewater Township appreciated concerns raised about water infiltration. He does believe the new proposal has more “pond-shaped” ponds. He would want to know how the surface areas compare for infiltration purposes. He said he has been involved with design for stormwater systems for Bay Harbor and with phasing, and asked what the timeline for the proposed LochenHeath phase buildout would be. It appears to him the filtration system linear footage is substantially changed. Mr. Rowley stated that at each phase of construction LochenHeath is subject to review and approval of the plans by the County Drain Commissioner. When each phase is proposed, detailed engineering plans will be prepared to address these questions and will meet or exceed standards.

Dr. Marc Krakow, a principal in LochenHeath, stated that the square footage and volumes of the lakes are proposed to be 100-year storm capacity when 25-year storm capacity is required. Regardless of what people think of duplex units, the construction will be similar to that existing within the Letty Green neighborhood. A duplex unit will appear very similar to a single 5,800 sq. ft. home. This is the product people are requesting of their sales office. They want to bring the housing together more densely to provide more open space within the project.

Mr. Molby noted that the project is 350 acres. It can be hard to conceive of this from a small picture on a screen. Many of the contiguous open areas within the proposed revised project are larger than entire other housing projects. Hull stated that the change in lake size is about 1% of the total project size. Kladder remains concerned with nitrates in the water.

Motion by Dunville, support by Scott to approve the Major Amendment to the LochenHeath OSD. Motion carried by a vote of 6 in favor (Boltres, Dunville, Hardin, Kladder, Scott, Zarafonitis) and 1 opposed (Takayama).

2. Consider approval of **fireworks display permit** for GT Resort & Spa, Cherry Capital Winter Wonderfest on February 17, 2008: The application is identical to last year's, is complete and appropriate according to township and Metro Fire staff and is recommended for approval. J. Michael DeAgostino from the Resort reported that this would be the second annual Winter Wonderfest, presented in partnership with the National Cherry Festival. All of the other seasons besides winter have locally

established festivals. Colonial Fireworks is a respected and experience firm that has provided displays for the Cherry Festival in the past. They hope this will be a region-wide event, and they are partnering with the Traverse City DDA and the Visitors and Convention Bureau for some off-site events. The display this year will be on the Sunday night of Presidents' Day weekend, allowing for a four-day festival rather than three. Special Olympics of Michigan received proceeds from the sales of event entry buttons last year and will do so again this year. They will be adding a new "polar plunge" in one of the Resort ponds this year as a fundraiser. Broomball will also be available through Special Olympics. They work closely with the Sheriff's Department for traffic and crowd control to ensure a smooth event.

Motion by Boltres, support by Takayama to approve the fireworks permit for the Grand Traverse Resort 2008 Cherry Capital Winter Wonderfest as requested. Motion carried unanimously.

3. Consider **proposed lot line adjustment** between Lots 100 and 101 (4647 Arthur Court) in Wellington Farms:

Motion by Boltres, support by Scott to approve the proposed lot line adjustment as presented. Motion carried unanimously.

4. Consider **whether to seek bids for auditing services** for current and upcoming fiscal years: Vreeland summarize the contents of her memo. Boltres and Dunville has found them to be more professional than our previous auditors and generally very helpful.

Motion by Boltres, support by Dunville to retain Plante & Moran for the 2007-08 fiscal year audit. Motion carried by unanimous roll call vote.

5. Consider appointment to **fill vacant, unexpired Planning Commission term**: Kladder received four applications for the vacant Planning Commission seat; he and Vreeland interviewed all four applicants last week. Kladder is appointing Jay Zollinger to the position. He is familiar to the Board, having applied to be Supervisor and Trustee previously.

Motion by Boltres, support by Dunville to appoint Jay Zollinger to fill the unexpired Planning Commission term. Motion carried unanimously.

6. **Approve 2008 Board Meeting Schedule**: Due to the way the calendar falls (the first Tuesday of the month is on the 1st of the month twice, and it doesn't work to have the Planning Commission meetings on the last Monday and Board meetings on the first Tuesday of the month on back-to-back nights) and the dates we must keep open for potential elections, 6 of the twelve meetings are expected to deviate from the normal first Tuesday of the month.

Motion by Boltres, support by Takayama to adopt the 2008 regular Board meeting schedule as presented. Motion carried unanimously.

G. OLD BUSINESS:

1. **Select planning consultant for Parks & Recreation Plan update**: Vreeland summarized her memo.

Motion by Boltres, support by Zarafonitis to contract with Beckett & Raeder for Parks & Recreation Plan update services in the amount of \$7,000. Motion carried by unanimous roll call vote.

2. **Appoint a Trustee to the Personnel Committee:** The Personnel Committee was established at the last Board meeting. Kladder proposes it consist of himself, Boltres and Zarafonitis.

Motion by Takayama, support by Boltres to appoint Zarafonitis as the Trustee on the Personnel Committee. Motion carried unanimously.

H. REPORTS

1. **County Commissioner's Reports** – Larry Inman: There have been some good discussions about the operations of the septage treatment plant recently. Inman appreciates Kladder's participation in the process. He hopes the County Administrator's reports are helpful to the township. Regarding Resource Recovery, the County will be working with facilitator Jim Wiesing on December 12 to begin developing a strategy for the department. This will set the tone for the next department manager they hire. On December 14 staff will be trained on software to video record County meetings and upload them to the website. Inman supports the concept of Acme sharing East Bay Township's Compactor Station. Paradise and Union Townships are working together on a potential joint compactor station. The County will not be sending a hard copy newsletter, which would cost \$20,000. The newsletter will be created but available on a County webpage. Some paper copies may be available at various public locations. The Grand Vision has invited officials to an update on December 6 at the Civic Center. Inman wishes the Board happy holidays. Kladder thanked the County for holding its monthly meeting at the Acme Township hall last week, as a great opportunity for local citizens to access the meetings.
2. **Parks and Maintenance** – Tom Henkel: received and filed.
3. **Sheriff's Deputy** – Matt Matteucci: received and filed.

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

Mr. Andres hopes the government will encourage people to keep fire hydrants clear of snow in the winter.

Meeting adjourned at 9:40 p.m.