



ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
Tuesday, April 7, 2009 5:30 P.M.

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE AT 5:30 p.m.

Members present: D. Dunville, F. Zarafonitis (5:37 p.m.), R. Hardin, W. Kladder, P. Scott, E. Takayama, L. Wikle,

Members excused: None

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

A. ENTER CLOSED SESSION TO DISCUSS:

- 1. MITCHELL V. ACME TOWNSHIP AND THOMAS HENKEL**
- 2. CCAT V. ACME TOWNSHIP V. THE VILLAGE AT GRAND TRAVERSE AND MEIJER, INC.**

Motion by Dunville, support by Scott that the Township Board enter into closed session to discuss pending litigation in *Mitchell v. Acme Township and Thomas Henkel* because discussion in open session could have a detrimental impact on the Township's financial interest. Motion carried by unanimous roll call vote.

Motion by Dunville, support by Wikle that the Township Board enter into closed session to discuss litigation strategy in *CCAT v Acme Township v Village at Grand Traverse and Meijer, Inc* because discussion in open session could have a detrimental impact on the Township's financial interest. Motion carried by unanimous roll call vote.

Open session recessed at 5:34 p.m.

Motion by Takayama, support by Dunville to reconvene in open session at 6:39 p.m.

B. LIMITED PUBLIC COMMENT: None

C. INQUIRY AS TO CONFLICTS OF INTEREST: Scott expressed a possible conflict of interest with New Business Item 1, as Dan Scott is his father and is presenting the Hazard Mitigation Plan. Bzdok stated that there is no conflict of interest because each individual is doing their job and no personal benefit will accrue to either one.

D. APPROVAL OF AGENDA:

Motion by Zarafonitis, support by Dunville to approve agenda as presented. Motion carried unanimously.

E. STUDY SESSION: Point of Sale Septic Tank Inspection Ordinances – Dan Thorell, County Sanitarian:

There can be two types of ordinance about septic tank inspections at the time of a property sale. Under the first, a system is required to be upgraded to current standards if necessary at the time of sale; under the second an inspection is performed and all parties to the sale and the local units of government are notified of the findings and any repairs or upgrades to the system are voluntary and the cost is negotiated between buyer and seller. Objectives are to upgrade systems that are not meeting past or current county and state requirements and to identify failed systems. Currently there is no requirement for inspections at property sale, but upgrades are required at time of major remodeling, home replacement or reconstruction, or system failure (sewage backing up into house or

present on ground surface.)

From 2002 -2006 nearly 19% of septic permits issued were for system replacements, and 60% of those were due to failed systems.

10 counties in Michigan currently require inspections at sale, including Benzie and Kalkaska. Two townships require the inspections, one being Long Lake Township here in G.T. County. 8 more County Health Departments are considering a TOS (Time of Sale) program. There are 80 counties in the state. A bill has been introduced in the State Senate that would require that inspections be performed by certified inspectors, and that all systems be inspected every 10 years beginning 01/01/10. Senator Jason Allen is one of the bill co-sponsors. The inspection database would be built from new permits, inspections of failed systems, or based on any inspection performed after 01/01/10. The Michigan Association of Realtors is fighting hard against the bill; this is the fourth time it has been introduced.

Under an upgrade program systems would be evaluated at time of residential property sale by certified private inspectors or Health Department Sanitarians. A written notice would be issued that authorizes the property transfer or requires corrective actions to the system. Correction plans are due within 30 days and corrections must be completed within 180 days. Escrowed closing on the property sale is permitted, which helps to deal with issues such as winter sales when it is difficult to inspect or if there is a reason why repairs must be delayed. Some property transfers are exempted (transfer to spouse, end to joint ownership, foreclosure, systems less than 24 months old). Failed systems must be replaced. Upgrades are required when no drainfield is found or the field is substandard, there is a deficiency in the isolation area between the well and drainfield, the septic tank and/or drainfield are undersized for the size of the home, a well is in an undrained pit or buried, or there is an unsafe water sample (primarily bacterial).

Washtenaw's upgrade program is recognized by the EPA as a model ordinance to protect local resources. Their program has evaluated over 7,900 properties since 2000. 18% of systems evaluated were failing or inadequate, 5.5% had an illicit discharge to surface waters, 15% of wells were not protected from contaminants and 14% had bacteriological problems.

Typical TOS notification programs (Long Lake Twp., Kalkaska County) requires inspection and evaluation of systems at residential property sale, performed by certified inspectors or Health Department Sanitarians. Inspection reports are submitted to the buyer, seller and Health Department. If a deficiency is noted, the Sanitarians follow up to enforce the standards. Upgrade cost allocation is privately negotiated between buyer and seller. A system that is non-conforming but conformed to older regulations does not have to be upgraded unless or until it fails.

Long Lake Township's program becomes active on 05/01/09, and is designed to be a model ordinance that can be copied by other governmental units.

Inspections include size, age, and design of system, determination of isolation from seasonal high water table and point of sewage discharge, isolation from wells, surface waters and wetlands, potential area for reserve system, operation condition of system (liquid level in septic tank, saturation level in absorption field, condition of stone in absorption field (over time it can develop biomat), well construction and water samples.

The County can review any number of existing ordinances and design a program that suits the community. The Health Department would administer and enforce the program, issue sale authorization letters or required corrections notices, maintain a database of TOS evaluations and criteria for inspections and inspector certifications, and establish a fee schedule. County Health has performed some budget and possible fee schedule studies. For the first few years they projected a budget deficit for an upgrade TOS program. For a notification program for septic systems only (not well and septic) the projected budget deficit would be somewhat higher. Getting beyond startup costs and improvements in the real estate markets would improve revenues. Estimated homeowner costs for

an upgrade program were between \$381 - \$1,363 plus the cost of system replacement; estimated costs for a notification program were between \$350 - \$1,150. Up to \$600 of this cost could be septic tank pumping cost.

Program benefits include remediation of public health hazards, protection of ground and surface waters, identifying and documenting system components and locations, buyer protection and security, public education about operation and maintenance of septic systems, and existing well monitoring and groundwater quality database which would help identify areas which need public sewers. Cons include additional delay and cost to home sales, no state mandate or funding, subjectivity of inspections, difficulty of winter evaluations, vacant home inspections might not accurately reflect real operating conditions, potential increased foreclosure rates, public perception of government interference, potential lawsuits/liability, and perceived buyer protection and security when some problems might be missed or occur after inspection.

New systems can actually have a greater environmental impact than older systems, as all the wastewater concentrates near the drainfield header. In older systems a biomat has developed that aids treatment. Therefore, whenever possible the Health Department prefers maintaining older systems rather than replacing them with newer ones.

The next step will be for the county to answer questions about whether the overall benefits of such a program justify the effort and costs, and whether it is seen as desirable to the County government and community.

Tom Buss, Director of Environmental Health, distributed brochures about Health Department Services.

- F. ADDITIONAL LIMITED PUBLIC COMMENT (as many people joined the audience during the presentation):** Kladder commented that providing for public comment before approval of the agenda or disclosure of conflicts of interest can allow the township to add to the agenda if needed, so it will be permanently placed earlier on the agendas.

Gene Veliquette, Elk Lake Road in Whitewater Township, stated that environmental regulations can be beneficial. However, a new program that could cost more money but not provide a certain guarantee of system function could also be detrimental.

- F. CONSENT CALENDAR:**
Motion by Takayama, support by Dunville to approve the Consent Calendar as presented, including:

RECEIVE AND FILE:

1. **Treasurer's Report** as of 02/23/09
2. **Clerk's Report** as of 04/02/09
3. Draft Unapproved Meeting Minutes:
 - a. GT County Road Commission **02/25/09**
 - b. Heritage Advisory **03/20/09**
 - c. Planning Commission **03/16/09**
 - d. Metro Emergency Services **02/24/09**
4. Metro Emergency Services Newsletter **March 2009**

ACTION – Consider approval:

5. Township Board meeting minutes of **03/03/09** and **03/27/09**
6. Township Board closed session meeting minutes of 03/03/09 and 03/27/09
7. **Accounts Payable** of \$80,286.56 through 04/01/09
8. **TBAISD 2009 Summer Tax Collection Contract**

Motion carried by unanimous roll call vote.

G. SPECIAL PRESENTATIONS:

1. **Discussion of Closed Session discussion:** Bzdok reported that two legal issues were discussed in closed session as stated above. Kladder attended a mediation session in the Mitchell v. Acme and Henkel case today and a settlement agreement was reached. All claims related to the case would be settled and released. The settlement amount would be \$80,000.00, which would be fully paid by the township's liability insurance carrier.

Motion by Scott, support by Takayama to agree to a settlement in the case of Mitchell v. Acme Township and Thomas Henkel in the amount of \$80,000. The settlement amount will be paid by the township's insurance company, the case will be dismissed and no further liability will accrue to the township. Motion carried by unanimous roll call vote.

2. **Derek Bailey, Tribal Chairman – Grand Traverse Band of Ottawa & Chippewa Indians:** Chairman Bailey greeted the township in his native language and introduced himself as the new Tribal Chairman. He and the Tribe are committed to cooperation with other local area governments. In a recent private meeting with Governor Granholm, he spoke of the Tribe and of the Northern Michigan region and its tourism industry as a whole. The Tribe values their relationship with the township, and he has enjoyed several positive meetings with Kladder, Dunville and Vreeland. He recognizes and seeks to build on the legacy of prior tribal Chairmen. He thanked the township for the opportunity to speak. Kladder thanked the Tribe for their donation of funding for new playground equipment for Saylor Park, which will be installed and a community celebration held in June.

H. REPORTS:

1. **Sheriff's Deputy** – Mike Matteucci: Received and filed.
2. **County Commissioner's Report 02/09/09, 03/09/09 and 03/30/09:** – Larry Inman: Received and filed. Mr. Inman is in Florida tending to a family medical situation but is keeping in contact.
3. **Parks and Maintenance** – Tom Henkel: Received and filed. The parks will open for the season during the week of May 10.

I. CORRESPONDENCE: None

J. PUBLIC HEARINGS: None

K. OLD BUSINESS: None

L. NEW BUSINESS:

1. **Consider adoption of Zoning Ordinance Amendment #1 regarding mobile home park development standards:** Hull reported that last year a member of the public noted that the township's mobile home park zoning regulations were out of date and required review by the state Manufactured Housing Commission (MHCO). Regulation of this land use is strictly controlled by the MHCO, and they provide a model ordinance from which they permit very little deviation. The majority of the changes are renumbering the sections to fit with the numbering scheme of the township Zoning Ordinance. This ordinance would become Article XII of the Zoning Ordinance. The one key deviation from the state standards that the MHCO permitted was inclusion of some of the township's residential "dark sky" lighting standards ordinance provisions.

Kladder asked legal counsel earlier if a central water system is required for mobile home parks, or if the lots in a mobile home park could have individual wells. Hull is uncertain, but due to the very small lot sizes believes that a centralized water system would be more practical. He observed that the mobile home park is under the ownership of one entity, and the homesites are rented to the dwellers thereon. Takayama read a portion of the text that

requires sanitary sewer and water connections and asked if they must be on a public system. Bzdok drew attention to provisions on page 15 of the packet that require public water and sanitary system use, or the use of private systems if approved by the DEQ.

Kladder asked about fencing and landscaping provisions on page 10 of the packet. He asked what would happen if a mobile home park is developed before adjacent land is developed, and if they would be under no obligation to create screening when the future land use occurred whereas they are required to install screening if there is a preexisting neighboring development; Hull concurred. He noted that the township asked

Motion by Scott, support by Dunville to adopt Zoning Ordinance Amendment #1.

Hull mentioned that the staff memo outlines most of the ordinance changes that need to be made. As one of the “other housekeeping issues” alluded to, since this will become Article XII, everything from the current Article XII through the end of the document must be renumbered. Kladder asked if a definition of “open space” as intended by the state will be added; it was not slated to. Vreeland observed that there are other sections of the zoning ordinance that use the term “open space” in a way probably different than meant for this section and suggested that the township ask the MHCO for a letter which gives the definition of the term for this section.

Motion carried by unanimous roll call vote.

2. **Consider adoption of Resolution #R-2009-06 adopting Natural Hazards Mitigation Plan – Dan Scott, County Emergency Program Manager:** Mr. Scott reported that 10 units of government have adopted the plan so far, including the City, County, Village of Kingsley and 7 townships. A natural hazards mitigation plan is required by the state and FEMA; work on this document began with a group of leaders in 2005. Severe electrical and winter storms, flooding and erosion were identified as having the most potential for damage in the county, and this document contains strategies to mitigate any such damage. The plan does not modify township authority or zoning requirements, or cost the township any money. It is an “insurance plan” because it is required for FEMA remediation funds in the case of heavy damage such as occurred in Mason County last year.

Kladder noted an “action agenda layout” on page 31 of the plan that mentions that the township would be among those who would share responsibility for taking a number of actions in response to a hazard. First on the list is the Emergency Management Department, which is his department, and they will take the lead. For instance, he works with Jack O’Malley from WTCM radio on the official County early warning weather system. Kladder asked what the township’s role will be; it will be what we choose it to be. Mr. Scott sees his role as serving the County and each governmental unit in it. Kladder asked there will be an emergency management committee made up of representatives from various local governments; at this time it appears that Mr. Scott will remain responsible for all actions outlined in the plan and he is actively working on all facets of it. For instance, on May 2 he will conduct a test of the ham radio system for local warnings.

Dunville and Wikle recommended posting the plan to the website so that the public will have access to it. Zarafonitis asked what would happen if someone doesn’t listen to WTCM radio – how those people could receive early warning messages. WTCM relays the emergency signal to other area radio stations so all can be aware. Hardin asked about the sirens on the Boardman River; they are to let people know that a dam has burst and a water surge will be coming down the Boardman River. Mr. Scott is currently redoing the dam emergency plans, and Traverse City Light and Power monitors water input and output with SCADA (remote radio) signals constantly.

Motion by Zarafonitis, support by Scott to adopt Resolution #R-2009-06 adopting the

Natural Hazards Mitigation Plan. Motion carried by unanimous roll call vote.

- 3. Consider continuation of/approval of contract for Township Clean Up Day:** Kladder and Vreeland summarized the memo provided. There is a proposal to charge a minimal amount of \$10 for the first load for the first time. Kladder and Zarafonitis mentioned some people brought loads of regular household garbage, which is really not the purpose of the event. This year a prohibition against such loads would be in place. There was discussion about whether people who own multiple parcels of land should be issued one flyer per parcel; it was decided they should.

Motion by Scott, support by Zarafonitis to approve the contract with American Waste as presented for Township Clean-Up Day, a charge of \$10 per first load with flyer and \$39/load without flyer. Motion carried by unanimous roll call vote.

- 4. Budget Year-to-Date Update:** The memo and spreadsheets were reviewed with little comment. With 75% of the fiscal year complete, revenues and expenditures are tracking well with projections. There will be another update at the May 12 meeting, along with preliminary discussion of a proposed 2009-10 budget.

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

Kladder thanked Wikle for the new Treasurer's report format, which he finds more readable. He noted that the Road Commission will be serving as a grant applicant and owner for completion of the TART trail segment between Bunker Hill Road and Lautner Road.

There have been recent problems with the sewer mains along US 31 North and the flow meter at the Burger King that helps determine how costs are allocated between Acme and East Bay Townships. The lines were televised and cleaned, with sand, chunks of debris and tree roots found and cleared from the line. The valve where the 2003 sewer bypass diverted flows from this pump station to a pump station on Four Mile Road was partially re-opened to flush the line and ensure that the flow volumes remain high enough to keep the pipes scoured. It may be necessary to perform some repairs to the lines in that area.

Kladder would like the township to discuss idea of a septic system time of sale ordinance at an upcoming Board meeting to see how the township might wish to proceed on this issue. The County is looking to all the townships for direction on this issue. Also coming up soon will be discussion of a potential ORV ordinance regarding where ORVs might be allowed on the shoulders of County roads.

Wikle has spoken to many people about the road conditions on Holiday Hills and asked if there are any updates. Vreeland stated that a public meeting is being organized by Holiday Hills residents for April 23. It will include a panel discussion moderated by County Commissioner Beth Friend, and including Vreeland (Kladder has a schedule conflict), township attorney Mike Grant, East Bay Supervisor Lile and their township counsel and Road Commission Manager Mary Gillis. Acme and East Bay legal counsel have also drafted a memo proposing a change to state law on special assessment districts that could have a beneficial impact on the basic funding problems that have prevented repairs to date.

Kladder received a notice from the EPA that a public hearing will be held regarding a proposed deep brine injection well in Acme Township and one in Whitewater Township. The date will be sometime in May but has yet to be specified.

Meeting adjourned at 8:47 p.m.