



ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
Tuesday, September 6, 2011 7:00 p.m.

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE AT 7:02 P.M.

Members present: D. Dunville, R. Hardin, W. Kladder, P. Scott, L. Wikle, F. Zarafonitis
Members excused: E. Takayama
Staff present: S. Vreeland, Township Manager and Recording Secretary
J. Jocks, Township Counsel

A. STUDY SESSION: None

B. LIMITED PUBLIC COMMENT:

Gordie LaPointe, 6375 Plum Drive noted a memo in the packet about the Septage treatment plant and anticipated revenue shortfalls. Mr. LaPointe is concerned that the township does not appear to be trying to take any action to achieve a final resolution to the problem or exit from the situation. The cost to the township next year could be \$50,000, which is a large amount compared to our annual operating budget of approximately \$750,000. He encouraged open and active discussion about what can be done to protect the township. Mr. LaPointe suspects that recent attempts to increase the septage pumping rate will fail, and that revenues will therefore remain static.

C. APPROVAL OF AGENDA: A number of changes to the agenda were suggested:

- Removal of assignment of Mt. Jack's purchase option from New Business
- Addition of discussion regarding Bigg v. Turowski proposed settlement agreement to New Business, item 7.
- Addition of budget amendment resolution under New Business, item 8

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

D. INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

E. CONSENT CALENDAR: Motion by Wikle, support by Hardin to approve the Consent Calendar as presented, including:

RECEIVE AND FILE:

1. [Treasurer's Report](#) as of 07/31/11
2. [Clerk's Report](#) as of 8/26/11
3. Approved Planning Commission [08/22/11](#) meeting minutes
4. Draft Unapproved Meeting Minutes:
 - a. Planning Commission [8/29/11](#)
 - b. Metro Emergency Services [07/26/11](#)
 - c. Zoning Board of Appeals [08/11/11](#)
 - d. Shoreline Advisory [08/17/11](#)
5. [Parks and Maintenance Report](#) – Tom Henkel
6. [Planning, Zoning & Administrative Update](#) – S. Vreeland
7. "The Metro Insider" [Newsletter](#) August 2011
8. [Fiscal YTD Budget Update](#)

ACTION – Consider approval:

9. Township Board meeting minutes of [08/02/11](#)

10. [Accounts Payable](#) of \$97,001.14 through 8/26/11 (recommend approval: Dunville)

Motion carried by unanimous roll call vote.

F. ITEMS REMOVED FROM THE CONSENT CALENDAR: None

G. REPORTS:

1. [Sheriff's Report](#) – **Deputy Mike Matteucci:** Deputy Matteucci is glad for the coming of fall, as heavy summer traffic has made enforcement difficult. During the last month there were 10 accidents involving injuries. There were 255 calls for service. He has been working on a months-long investigation at Fox Yamaha that has resulted in the issuance of a felony warrant. He has dealt with several other crimes at businesses recently as well, including copper wire theft from AscomNorth resolved after a surveillance camera was installed that resulted in a vehicle and perpetrator description. The business really made the sheriff's job easier. Scott reported that someone has been going through unlocked vehicles in his Acme Rd. neighborhood recently.
2. **MESA Report – Chief Pat Parker:** Sunday is the 10th anniversary of 9/11/01, and everyone is invited to the Open Space for a memorial. The *Northern Express* has a showcase article about MESA in the current edition. Calls for service in Acme Township are up significantly recently.
3. **County Commissioner's Report – Larry Inman:** Most of September will be spent by the County on the 2012 budget, where \$1.5 million in cuts need to be made. \$625,000 will still be needed from the fund balance to prevent further service reductions. Budget hearings will occur on 4 dates. Savings areas targeted include health insurance premiums (up to \$500,000). They may bid out custodial services, and to achieve the needed budget cuts they estimate a need to cut a total of 16 jobs. The State has notified the County that it is uncomfortable with the loans made to deal with Septage treatment plant revenue shortfalls and demanded a debt reduction plan. They indicated that a loan is not a suitable method to implement a debt reduction plan. The DPW is forming a committee to review potential options to get the plant through to 2013 when the bonds can be refinanced at a lower rate. County Boards can now expand boards of public works, and our county will be considering an expansion of its BPW to 11 to allow each of the townships with sewer and water service to have a representative on the BPW. The Sheriff's Department recently met with various township supervisors to try to standardize CPO contracts and continue having an automatic 3% cost increase in the contracts. The latter provision has met with significant concerns from the township. Inman and Garfield Township Supervisor Chuck Korn currently feel it might be more appropriate to have CPO agreements more closely mirror annual contracts with deputies. There will be a meeting for county and township representatives to discuss this matter further in the near future. Kladder stated that in our current contract we pay a certain percentage of the wage for a certain seniority level of officer. The wage scale is adjusted annually, and the contract is adjusted upwards 3% as well. He feels the increases should have a more factual basis.

H. SPECIAL PRESENTATIONS/DISCUSSIONS:

1. [Proposed 2012 DPW Budgets](#) – **DPW Director Mike Slater:** Slater reported that DPW staff has developed the proposed budget, starting with allocating general overhead costs to the department to various subsystems based on sanitary flows to the wastewater treatment plant. Some other costs, such as attorney services, are based on trends in actual expenditures for the past few years.

Kladder asked a question about funds budgeted for vehicles in 2011 and a significant jump in the vehicle budget for 2012. The figures for 2012 include the purchase of a used crane truck used for lifting pumps out of pump/meter pits. Right now the DPW has to rely on Elmers Crane & Dozer to come and assist, and they aren't always available immediately when

needed. The truck would be a ½ ton or 1 ton with a crane arm on the back. Kladder wondered if it would be cheaper to continue to rent rather than own; Slater will do further research but reiterated a key concern with availability of equipment when it is needed.

Dunville asked about proposed software expenses. Slater replied that the current software for preventive maintenance tracking and billing is approximately 13 years old. The current billing software has some significant input limitations. The department has been planning to replace the software for many years.

Kladder referred to the second page of the proposed budget which has a number of figures in boxes at the bottom. The first box on the left, under the Acme refers to a “surplus to townships for bonds, etc. of \$465,906. Kladder is evaluating this number as a potential indicator of whether or not the township needs to consider a user fee rate adjustment.

Kladder then referred to the sheets for the Orchard Shores sanitary system proposed budget. It is showing proposed expenditures of approximately \$1,200 for personnel expenses for labor on that particular system. He asked where he would look to see entries of dollar amounts or footnotes on system maintenance planned for the coming year such as a pump repair. Slater replied under Contract Services for this system \$4,000 has been budgeted for the biennial pumping of the neighborhood septic tanks. The proposed personnel expenses will cover the regular bi-monthly operational checks on the pump station. Nothing has been budgeted for replacement of a pump; a spare is on hand in case of emergency. Pumps generally go between 5-10 years without needed maintenance. A number of pumps had to be replaced or repaired earlier this year due to lightning strikes.

Hardin asked why the payroll costs for the Hope Village water supply are estimated at \$5,600 for the coming year. Slater cited the number as generally consistent with previous years expenditures. Kladder worked with the figures for this system this morning and believes that the township will be able to hold the usage rates at \$14,000 for the year. This system is fairly high maintenance and has needed a fair amount of work over the past two years.

Slater asked that the township let the DPW know if we would suggest any significant changes to the proposed budget. The township does not need to formally adopt it, but County Administration likes to see that the townships served by the DPW have had review and input.

Kladder asked if the budgets include money for contingencies. There may be one overall contingencies budget per township; Slater will check with the DPW office staff.

I. CORRESPONDENCE: None

J. PUBLIC HEARINGS:

1. **Adoption of [Resolution](#) adopting 2011 Emergency Services Special Assessment levy rate (combined for Police and Fire protection and other emergency services) and 2012 Metro Fire Emergency Services Budget:** Chief Parker stated that after the proposed 2012 MESA budget was discussed last month approximately \$250,000 has been cut. Funding for some items was moved to different special funds and other funding was cut entirely. The new budget can be funded by a 2.1 mill levy, which is the same funding level as the current MESA fiscal year. The proposed new budget is very lean, but so far primarily cuts out future improvements such as purchasing land for a new Acme Township station and dips into the over \$1 million fund balance by \$74,000. Any further cuts would require staff layoffs. The MESA Board has yet to approve this new version of the budget. Garfield Township did not approve a 2.3 mill levy, choosing instead to stay at the 2.1 mill level. The proposed budget will be presented to East Bay Township next week. Holding the line at last year’s funding levels is being done even in light of the increased operational expenses of opening a new station and dropping amounts of dollars raised by the same levy rate as property values drop

and the Michigan Tax Tribunal awards decreases in the cases of contested property values.

Wikle noted that the township moved to a 2.3 mill levy last year because for several years there was a cash flow shortfall in the Fire Fund that required us to borrow from the General Fund or delay 4th quarter payments to MESA. Moving to the 2.3 mill levy enabled us to pay 2.1 mills to MESA and also build the Fire Fund balance a little more so that we would not have to either borrow or delay the payments. The difference in the amount raised on the current tax base between the two levy rates is about \$60,000. Wikle believes that the township would run about \$27,000 short in the Fire Fund balance again in December before new tax revenues come in if we don't remain at the 2.3 mill level.

Kladder observed that one of the things cut from the proposed budget is \$100,000 towards purchase of land for a new MESA station in Acme Township. If the levy remains at 2.3 mills the township would be able to save the money to purchase the land needed itself rather than having the land purchased through MESA.

Scott suggested that if 0.1 mills would cover the cash flow shortfall, he would recommend dropping the levy rate to 2.2 mills. Zarafonitis supported leaving the levy rate at 2.3 mills, a level the community is used to, and increasing the fund balance a little to keep a safe cash flow margin. Hardin concurred with Zarafonitis.

Each MESA member township can levy whatever amount it chooses subject to legal limits. All are required to contribute to the MESA budget at the same millage rate.

Public Hearing opened at 7:57 p.m.

Mr. LaPointe e-mailed township staff to ask why Acme residents are paying a higher rate than the citizens in other MESA townships, and was informed that all townships are contributing to MESA at the same rate. He can appreciate the cash flow issue. He is concerned about taking more money from the taxpayers than is strictly necessary just because they are used to the levy rate. This is money the taxpayers will never get back. If the other MESA townships are paying 2.1 mills and Acme landowners are paying 2.3, he isn't sure Acme landowners are getting a fair deal.

Public Hearing closed at 8:00 p.m.

Kladder noted that several years ago Garfield Township had a Fire Fund balance of approximately \$900,000. Instead of increasing their levy on the residents, for a year or two they made much of their payments to MESA from their fund balance. He is unaware of what the current balance in each of the other township's local fire funds is at this time.

Zarafonitis expressed appreciation for Mr. LaPointe's concerns, but still feels that building a healthier Fire Fund balance would be prudent.

Motion by Zarafonitis, support by Hardin adopt Resolution R-2011-21 as presented with a 2.55 mill emergency services special assessment levy, including 2.3 mills for fire protection and 0.25 mills for community policing protection. Motion carried by a vote of 4 in favor (Hardin, Kladder, Wikle, Zarafonitis), 2 opposed (Dunville, Scott) and 1 absent (Takayama.)

K. OLD BUSINESS:

- 1. East Bay Harbor Facility License Request:** Earlier today Jocks met with the Land Conservancy's Matt McDonough and representatives from the marina to discuss the proposed license agreement that would allow the marina to continue use of the Mt. Jack's building through the 2012 boating season. The result of the meeting is that there needs to be additional

discussion about the form of the license agreement and investigation of current actual expenses for occupancy and how the proposed agreement might change them. The marina will also be looking into some other factors relating to their decision whether or not to grant a release of their easement over the Mt. Jack's property, which is necessary to use of Natural Resources Trust Fund grant money to purchase the property. The proposed license agreement is therefore not ready for further Board consideration at this time.

Scott asked how the marina would handle parking if they release the existing parking and building use easements. The marina believes that the parking area on their own property is sufficient to their needs at this time. The curb cut for the northern drive that serves Mt. Jacks and the marina property is partially on each property, so the driveway might need to be somewhat reconfigured on marina property.

2. **Sewage Treatment Plant Extra Capacity Lease Update:** The City of Traverse City has suggested that the townships using the city's wastewater treatment plan adopt a one-year agreement on how bond payments for plant upgrades made in 2002 (the bonds were refinanced in 2011) that bases apportionment of the bond payments on July 2010 – June 2011 sewer flows rather than on percentages of plant ownership as set forth in the 2001 Master Sewer Agreement. When Kladder first reviewed the document he was concerned because Acme and East Bay Townships have been working on known problems with the accuracy of flow meter readings at three key meters in Holiday Hills and near the Burger King at the Holiday Rd/US 31 intersection. These meters help to determine how much of the flows at that point are coming from Acme and how much from East Bay, as these figures are important to some other bond payments and cost sharing agreements. Kladder expressed discomfort in accepting current meter readings as a basis for these payments without further indication as to whether the meters are now accurate or are still inaccurate.
3. **Resolution Supporting Investigating Sewer and Water Authority:** Kladder has mentioned that the DPW member townships and the City are considering creating a new sewer and water authority. The Board previously allocated \$600 to shared preliminary legal investigation expenses. James Young, the attorney hired to do the work, drafted the proposed resolution contained in the packets. Jocks reviewed the document and found no concerns with it other than feeling like it implies the commitment is more strongly made than he previously understood it to be at this date. However, there is a clause that specifies anyone may withdraw from the proceedings at any time, and significant additional steps would have to be taken to actually create such an authority.

Motion by Zarafonitis, support by Wikle to adopt Resolution R-2011-22 as presented.

Kladder asked Jocks for the meaning of paragraph 4 and the waiver of conflict of interest. Jocks stated that in working for all the named townships, and in also working for a subset of those townships, a potential of conflict of interest could arise with hiring Mr. Young. Per this paragraph the township would be waiving a concern with potential conflicts relative to this particular work product. Mr. Young still has an obligation to abide by professional standards of conduct. Jocks would have put a similar clause in a document he drafted in a similar situation.

Motion carried unanimously.

L. NEW BUSINESS:

1. ~~Accept~~ **Assignment of Option to Purchase Mountain Jack's Property**
2. **Resolution approving new Cherryland Electric Franchise Agreement:** Entities providing public utility service within a Michigan Township are required to obtain a franchise to do so from the township. Usually the most significant issue raise is what the desired length of the

franchise agreement will be; fashions swing between 30 year agreements and 5-10 year agreements. In 2005 the Wolverine Electric franchise was renewed for 30 years; in 2009 the Consumers Energy Franchise was renewed for 30 years, and in 2010 the MichCon franchise was renewed for 30 years. The Cherryland franchise is proposed for 15 years. Jocks reviewed the document and requested the insertion of a word, which was agreed to by Cherryland representatives. He noted that the word, the addition of the word “defend” prior to “indemnify” in Section 4 was not in the draft presented this evening. In the first sentence of Section 4 it was noted there is an extra “and” after “furnish” that is unnecessary, and in Section 3A the word “or” should be removed from between the words “public” and “sewer” in the third line.

Hardin expressed concern about wording in the proposed franchise that could enable the creation of a power production facility within the township. Recently there has been significant concern about the creation of new coal-fired power plants in Michigan, and there was the attempt by TC Light and Power to create a biomass plant in the area that met with strong resistance. Frank Siepker from Cherryland Electric stated that they are primarily a power redistribution company and do not currently generate much of their own power.

Kladder asked about Section 3B and whether it grants the township discretion over tree trimming along roadways in the township. Mr. Siepker said that the township has discretion over tree trimming on township property, and private property owners have discretion over tree trimming on their properties. Some trees are in easements granted to the power company, in which case the power company may do as it needs.

Kladder asked what the local zoning process would be to consider a request by a utility company to build a new facility such as a substation subject to Section 3C of the proposed franchise. Vreeland replied that electric utilities are generally considered “essential services” to the public. Under our current ordinances, the Zoning Board of Appeals conducts a basic review of the construction plans and permits them if they are necessary to public convenience and service.

Motion by Scott, support by Dunville to adopt Cherryland Electric 15-year Franchise Agreement Resolution R-2011-23 as corrected to add the word “defend” to the first sentence of Section 4, delete the word “and” after the word “furnish” in the same sentence, and remove the word “or” from between “public” and “sewer” in the third line of Section 3A. Motion carried unanimously.

3. [Amendment of MNR Trust Fund Shoreline Phase III Grant Application](#): Vreeland summarized the staff memo.

Motion by Zarafonitis, support by Dunville that Acme Township amend its Michigan Natural Resources Trust Fund Shoreline Project Phase III grant application to remove acquisition of East Bay Harbor and substitute acquisition of the East Bay Veterinary Hospital Property.

Kladder expressed regret that to date the township and marina have not been able to reach satisfactory terms.

Motion carried unanimously.

4. **Approval of [SUP/Site Plan Application 2011-02P](#) Shoreline Fruit Expansion**: Vreeland summarized the application by Shoreline Fruit for expansion of their existing fruit processing plant by approximately 43,000 sq. ft. on the southeast side of the building. Eventually the main entrance to the site would be relocated to Angell Road.

Motion by Wikle, support by Scott that the Board approve SUP/Site Plan 2011-02P contingent upon receipt of local agency indications that needed permits are likely to be approved and based on a finding that all other applicable zoning ordinance requirements have been satisfied.

Kladder asked about the sizing of the existing process wastewater treatment system. Ken Swanson, Shoreline Fruit CEO indicated that the system was initially oversized to support future expansion. He asked if the new lighting would be compliant with the township's "dark sky" lighting requirements; it will be. Hardin complimented the landscaping plan the applicant provided in response to the one major Planning Commission concern. Kladder asked if fencing will be required for food security regulations; not at this time but they are planning for the potential need in the future.

Motion carried unanimously.

5. **Creation of Harbor Committee:** At the August meeting the Board received a recommendation from Jean Aukerman that a harbor operations committee be formed to help with any future work on a municipal marina. Kladder would personally recommend continuing with background work on a potential municipal marina until such time as it might become clear that there is no possible chance of successfully working with the existing marina to acquire their property. He has proposed guidelines for a new Harbor Advisory based on Aukerman's recommendation, including a list of preliminary responsibilities including fundraising for a preliminary engineering study.

Kladder invited past Shoreline Advisory Co-Chair Pat Salathiel to comment. She just returned from a week of cruising farther north in some excellent facilities and has many pictures of boaters and non-boaters alike enjoying the marina facilities. She continues to support moving ahead one step at a time towards having a municipal marina.

Hardin recalled Elmwood Township Supervisor Jack Kelly's comments that the people on the advisory should be those who are likely to be in charge of a public marina long-term, and that the township should allow them to do their jobs freely.

Motion by Dunville, support by Scott to form a Harbor Operations Advisory comprised of 5 members, 2 of which need not be qualified electors of Acme Township, as described in the Supervisor's memo. Motion carried unanimously.

6. **Facilities discussion:** Kladder has been contacted by a Realtor representing the buildings at the corner of Mt. Hope Road and M-72 that will soon be vacated by the State Police to see if we had interest in purchasing or leasing at \$11 – 12/sq. ft. He told the Realtor that we could not afford the property at the current time. He is also aware that needed repairs to the Real Estate One building to repair interior water damage and prevent future water damage are nearing completion. The latter building is listed for \$795,000 by the bank which now owns the property. The bids for Bertha Vos School were due today at noon and were to be opened at that time, but we have not heard if there have been any bids and if so what they were. Earlier Chief Parker reported that a committee has been formed to look for a property for a new fire station in Acme Township that will be adequate to 24-hour station coverage by 2 individuals and housing needed equipment.
7. **Bigg v. Turowski et al Settlement Agreement:** Jocks and Kladder attended court-ordered mediation in this lawsuit about the roadway connecting Wild Juniper and Five Mile on Friday, September 2. Jocks provided a memo summarizing the settlement terms negotiated between the landowner parties to the lawsuit. Jocks and Kladder agreed to the settlement in principle on the record before Judge Power, indicating that the approval of the full Board was required.

Rick Cooper, one of the residents involved in the dispute, expressed relief that this contentious issue has been settled. The neighborhood still has work to do to accomplish the terms of the settlement and is looking forward to moving past this. The roadway will be a non-public easement for Northpointe residents only. Total costs to the residents suing for this easement will likely be over \$60,000 for the total process. Some are disappointed that the only way they could resolve the issue was by going to court, that they were put in a position where they had to do something because of things that were not accomplished in 1979. They are unhappy they had the expense, but are glad to have a permanent resolution on the record. Mr. Cooper stated that it is important to them to have emergency services have access to the easement to improve emergency response time to the fullest extent possible. He thanked the township for its assistance, and may seek future assistance with collecting funds to conduct activities that a neighborhood association to be formed must undertake.

Motion by Wikle, support by Kladder to approve the settlement terms negotiated by the parties in *Bigg v Turowski*, Grand Traverse County Circuit Court Case No. 10-28316-CH and authorize Supervisor Kladder to review and approve, and for our attorney to sign, all necessary documents to put the settlement into effect including dismissal of the lawsuit with prejudice and without costs. Motion carried unanimously.

8. **Proposed budget amendment:** In June the board approved expenditure of \$35,000 from the General Fund balance as a contribution towards the match for Shoreline Phase II property purchases. However, the transfer from the General Fund to the Shoreline Fund was not included in the final budget.

Motion by Wikle, support by Dunville to adopt Resolution R-2011-24 as presented. Motion carried by a vote of 5 in favor (Dunville, Hardin, Kladder, Wikle, Zarafonitis) and 1 opposed (Scott).

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

Ms. Salathiel thanked Tom Henkel and everyone else responsible for making the new parkland areas look good. She is receiving many positive comments.

Hardin has been asked when the silt fence will be coming down. Kladder reports that Henkel would like to leave it up all winter to prevent sand blowing up into the newly establishing grass. Hardin also asked how the garbage cans were placed, and suggested they could be grouped where there is heavier usage instead of being so widely scattered.

Meeting adjourned at 9:39 p.m.