



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
7:00 p.m. Tuesday, January 4, 2005**

Meeting called to Order at 6:30 p.m.

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

Members excused: None

Motion by Kladder, support by Zarafonitis to recess the public meeting and enter executive session to discuss ongoing litigation with The Village at Grand Traverse. Motion carried by unanimous roll call vote.

Kurtz explained to the public that while traditionally closed session meetings have been held at the end of the evening when most of the public has left. Tonight one was held early in the evening so that the public could be aware of any actions taken as a result of the executive session.

Motion by Dunville, support by Scott to reconvene public meeting at 7:01 p.m. Motion carried unanimously.

PLEDGE OF ALLEGIANCE

INQUIRY AS TO CONFLICTS OF INTEREST: None noted

A. CONSENT CALENDAR

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

RECEIVE AND FILE:

1. Treasurer's Report dated December 31, 2004
2. Clerk's Report dated December 20, 2004
3. Planning Commission meeting minutes
 - a. Approved minutes of the 12/13/04 meeting
 - b. Draft unapproved minutes of the 12/20/04 meeting
4. 12/14/04 Letter from Jon D. Hoover, Elk Rapids Public School District Superintendent, designating annual School Election date

ACTION:

5. Approval of the minutes of the December 7, 2004 regular Board meeting minutes
6. Accounts Payable in the amount of \$25,241.22, including \$13,872.50 for bonds for sewer system #2 through December 20, 2004 (recommend approval: Dunville)

Motion carried unanimously.

B. LIMITED PUBLIC COMMENT:

Chuck Walter, 6584 Bates Road, thanked the township for placing the agenda and the attachments on the website so they could be reviewed prior to the meeting by the public. He expressed concern about the proposed termination of current contracts with Gourdie Fraser Associates. Mr. Walter believes that few people know how involved that firm has been with the township, and that they are the "most knowledgeable engineering firm in

Northern Michigan regarding Acme Township.” He asserted that they have handled all sewer constructions and many intergovernmental contracts for us, and have an intimate knowledge of the DPW that assists us. Terminating the township’s existing contracts with them would appear to him to be a disservice to the community at large. He hopes the Board will consider and discuss the matter carefully. He stated that the new Board has already removed two planners, an attorney and the Planning Commission Chairman from service. He has not seen any notices in the paper regarding the expected requests for qualifications for new planning consultants and a permanent township attorney. Mr. Walter also noted that the website mentions that the January edition of *Traverse the Magazine* contains an article about Acme Township, but that he was “appalled” by the picture accompanying the article and could not bring himself to read it fully.

Lewis Griffith, 5181 Lautner Road, thanked Dan Rosa for his letter to the editor of the *Record Eagle* that was published today. Mr. Griffith expressed agreement with Mr. Rosa’s assertions in his letter that Kurtz was dishonest about the circumstances surrounding the Planning Commission Chairman’s removal from office. He expressed extreme disappointment that Kurtz did not appoint him to fill one of the vacancies on the Commission or ZBA, especially as he has been a very long-term member of the community who has actively attended meetings.

Randy Agruda, 3879 Pleasant Ridge Dr., noted that potential creation of a Public Safety Advisory Committee is on the New Business agenda. He hopes that the need for continued fire protection and participation in Metro Fire is kept in mind, and expressed concerns regarding recent rumors he had heard that the new Board may wish to separate from Metro Fire and become part of the Rural firefighting system.

Greg Trieweiler, one of the pastors at New Hope Community Church, thanked Metro Fire Battalion 8 for their recent assistance and follow-up during an emergency at the church and echoed Mr. Agruda’s sentiments.

Kurtz said he had found that entering office has given him a new perspective on the community. For instance, over the weekend he saw several trucks parked in front of the township/fire hall. He found Chief Henkel and several other firemen cleaning up equipment that had just been used to respond to a fire on Hammond Road. Shortly after he left, he was passed by the same individuals responding to a car accident on Five Mile Road. He asked Henkel to prepare a report about fire department activities over the holidays and was impressed to find that over 63 man-hours were dedicated to 10 emergency responses. Kurtz read aloud the names of the department members and asked those present to stand. A round of applause was accorded to the gentlemen and to Battalion 8.

C. CORRESPONDENCE: None

D. PUBLIC HEARINGS: None

E. NEW BUSINESS:

1. **Proposed termination of current contracts with Gourdie Frasier Associates:**
Kurtz indicated that his memo to the board setting forth his proposal was attached to the agendas available for the public this evening. He stated that Jim Minster from Gourdie Fraser was made aware of the proposal through a meeting Monday morning, and that Kurtz appreciates the service that firm and Minster in particular have provided to the township. He hopes that Gourdie Fraser will bid on township projects in the future, and indicated that their experience with the township will certainly be a consideration. However, he believes strongly in the competitive bid process. He noted that part of the \$172,000 approved for phase 2 of the sewer system upgrades has already been spent, and that he will be

looking to Mark Lewis and the Infrastructure Advisory Committee for advice on how that project should be handled going forward.

Motion by Takayama, support by Boltres to discuss the proposed termination of Gourdie Fraser contracts. Motion carried unanimously.

Zarafonitis agrees that contracts should be let out for bid. He asked Mr. Walter if he conducted the business he formerly owned without seeking bids. Mr. Walter responded that he developed relationships and did 80% of his contracting on a non-bid basis. He stated concern that the township could be losing the benefit of expertise and of favors that come with long-term contracts and relationships.

Takayama is a small business owner and supports relationship-building. He also recognizes that the township has budgetary difficulties and supports the idea that large projects should be bid out. So, he is seeking a balance, as he sees a benefit to having an engineering advisor that can be of general assistance. He also would not like to see the M-72 Corridor Overlay District ordinance delayed any further, even to coordinate with the regional overlay district ordinance effort. To him this is an important initiative that has come too late to be of assistance in the debate regarding The Village at Grand Traverse proposed project. Dunville concurred with Takayama's statements.

Kladder asked that each contract be discussed in some detail. Minster assisted by providing an overview of the December 3, 2002 general agreement between the township and Gourdie Fraser. Kurtz provided a discussion of the status of the contract for phase 2 of the sanitary sewer bypass project (\$102,000 has yet to be spent of the \$172,000 budgeted.) The status of the M-72 Corridor ordinance is that it has not been tabled but work has been on hold due to personnel changes. Kladder asked if there is a policy or procedure in place for seeking bids if the Board decides to do so, or if such a process is being specifically proposed. Kurtz responded that a request for qualifications process would proceed. He noted that public meetings were held regarding both the M-72 Corridor ordinance and the proposed boating facility and in both cases the public appeared to largely reject the proposals being made.

Boltres believes that there is no particular mystery to seeking bids from service providers, and that seeking bids is a generally prudent business practice. The Board is dealing with public funds and must provide value to the citizens. Kladder feels that part of the responsibility to the public includes having and following a written bidding procedure policy.

Kladder asked if there are other engineering firms in the city or region capable of serving us as effectively as Gourdie Fraser has done. Kurtz believes this to be the case, and noted that in some cases the other firms nearby are now home to former Gourdie Fraser employees.

Scott feels that three of the four projects mentioned in the memo are far along or largely complete, with significant information already prepared by Gourdie Fraser. For this reason he would prefer to see the first three projects on the list remain with Gourdie Fraser for now.

Zarafonitis asked how Gourdie Fraser's relationships with other townships function. Minster replied that they largely function the same way as in Acme, although few if any have adopted a resolution similar to Acme's appointing them as the Township Engineer (which he viewed as largely a ceremonial occurrence.) They contract with various municipalities to provide water and sewer consulting

services on an as-needed basis pursuant to specific terms. Zarafonitis asked if it would be possible to maintain the as-needed service contract while still seeking bids on larger projects. Minster responded that this has been known to occur before.

Boltres asked if the balance of the Board would find it helpful if he prepared a report showing the amount of money spent with Gourdie Fraser without a bid process. Kladder would not find this helpful, as he is already convinced that a bid process provides benefits. He is more concerned with establishing standard process. He did ask about Gourdie Fraser's conflict of interest practices, and how they handle working both for municipalities and for private interests.

Kurtz feels that getting to a situation where bidding out large projects is a regular practice is desirable. He expressed respect for the opinions expressed regarding the status of the M-72 Corridor Overlay District and noted that later on the agenda there will be discussion about the status of planning projects.

Bzdok has prepared a proposed resolution listing the various existing contracts (along with dates and method of adoption) for termination. If the format is helpful, some of the contracts could remain on the list and some be terminated. Takayama expressed appreciation of this concept, and noted agreement with uncertainty about the Resort's infrastructure plans relative to continued sewer system upgrades. Zarafonitis asked if completion of sewer phase 2 is necessary to allow the Lochenheath expansion to proceed; Minster believes that the system could handle buildout of the proposed expansion as it currently exists.

Kladder asked what sort of timeframes would be put in place for bidding processes, including solicitation, interviewing and selection. He suggested that perhaps the agreements with Gourdie Fraser should be left in place so that their services as a resource remain available to the township while bids for various projects are obtained as desired. The Gourdie Fraser contracts might then be terminated when new assistance is in place.

Kurtz felt that this might be a viable option. He is particularly concerned with the costs related to the phase 2 sewer upgrade, and is also concerned about Gourdie Fraser's ability as a firm to "serve two masters" by representing both municipal and private development interests concurrently. He reads the minutes of the Planning Commission and notes that Gourdie Fraser is currently representing The Village at Grand Traverse, the Creekside Village application, and the Lochenheath application. Minster responded that Gourdie Fraser has been retained by The Village at Grand Traverse, LLC to design their roadways and drainage systems. To date, he believes that the bulk of the work his firm has done for the township has been relative to sewer and water systems. Their recent involvement in planning assistance has been alongside R. Clark Associates and on an as-requested basis. Sewer and water system standards exist on local and state levels and are relatively inflexible, which leaves little room for a conflict of interest. Kladder asked where Minster felt conflict of interest issues might exist; Minster replied that he is hard-pressed to think of an example.

Takayama feels that the proposed resolution is a clear-cut termination of services. He believes that Gourdie Fraser's fees are generally reasonable and that they would be available for hire at our request and need.

Bzdok addressed the structure of the contracts in question. The December 3, 2002 agreement governs specifically the phase 1 sewer upgrade and set forth fees for that work and for any additional work that might come along. Leaving

that contract in place would still enable the township to call upon Gourdie Fraser as needed for services but would not preclude seeking bids on any services. That contract does not commit the township to spending money. The other resolutions and contracts appointing them as Township engineer and for other services can be addressed separately.

Kurtz asked if Gourdie Fraser agreements have expiration dates; Minster replied that the general agreement such as the one adopted in 2002 are open ended, although additional contracts may occur for specific projects.

Motion by Takayama that existing contracts with Gourdie Fraser be terminated except for the December 3, 2002 “Agreement Between Client/Owner and Consultant for Professional Services” and except for completion of the contracted 20 hours of planning consultation regarding the proposed M-72 Corridor Overlay District.

Kladder asked for clarification of some of the terms in the proposed resolution. Bzdok noted that there is a separate contract in place for the phase 2 sewer upgrades that is subject to the terms of the December 2002 general agreement. Scott sought clarification that “nothing would be lost” if work on the sewer upgrades is halted pending a better understanding of the Resort’s intentions. Kurtz agreed, noting that the Infrastructure Advisory Committee is expected to study this contract and make a recommendation to the Board in the near future. Minster suggested that the Board could leave the contract in place but direct Gourdie Fraser to cease any work pursuant to that particular contract. Bzdok recommended that if the latter approach were taken, letters should be exchanged between township and engineering firm containing the direction and confirmation so that any requirement in the contract that it can only be modified in writing by both parties be satisfied.

Motion amended by Takayama, support by Scott to state that existing contracts with Gourdie Fraser be terminated except for the “Agreement Between Client/Owner and Consultant for Professional Services” dated December 3, 2002 and the completion of the 20 hours of planning consultation regarding the proposed M-72 Corridor Overlay District and placing phase 2 of the sewer bypass on hold until further determination by the Board.

Kladder asked if this meant that the only contract being terminated related to the boat launch project. Takayama expressed the understanding that the motion would also cancel the appointment of Gourdie Fraser as the Township Engineers and their appointment as providing planning consulting services to the township.

Motion amended by Kladder, support by Zarafonitis to give the Supervisor the authority to move the phase 2 sewer bypass project forward as needed. Motion amendment passed by a vote of five in favor (Dunville, Kladder, Kurtz, Scott, Zarafonitis) and two opposed (Boltres, Takayama).

Original motion adopted by a vote of five in favor (Dunville, Kurtz, Scott, Takayama, Zarafonitis) and two opposed (Boltres, Kladder).

2. **Planning Commission update – Owen Sherberneau:** Kurtz asked Sherberneau to provide him with an update on how the Commission is functioning since its expansion from 7 to 9 members. Sherberneau has provided written commentary, being unable to attend while he recovers from surgery.

Commission Vice Chair Vermetten was present, and feels that “the vote is still out” on the expansion. Vermetten feels that the newer members of the Commission are working hard to gain knowledge about their new positions. He sees completion of the Master Plan review and Zoning Ordinance updates as being critical. Kurtz agreed, noting that the Master Plan was adopted in 1999 and review of the Ordinance to bring it into conformance with the Master Plan never occurred.

- a. **Master Plan, future land use map, mirroring update zoning to master plan, moratorium on “big box” stores:** Kurtz hopes that the Planning Commission will quickly address completion of the Master Plan update including a future land use map and updating the master plan. He sees one critical issue facing the township to be development of big box stores. Bzdok prepared for the Board a memo discussing the valid uses of moratoria to preserve the status quo while a community deals with a critical issue. He provided examples of how regional communities have used moratoria in the past. Bzdok noted that if Acme were to adopt such a moratorium, he does not believe it would be appropriate to attempt to apply it to The Village at Grand Traverse, which has already received a permit currently subject to litigation. Within the framework of the local Circuit Court, there was a ruling related to a Long Lake Township moratorium that moratoria should be adopted the same way all zoning ordinance amendments are adopted (Planning Commission public hearing, County Planning Commission public hearing, Board decision). Bzdok recommends that the Board ask the Planning Commission to consider beginning the process of discussing and recommending a moratorium.

Kladder asked if conducting a moratorium as an ordinance amendment would make it subject to referendum; Bzdok responded that it would. This differs from past practice, which has been to adopt moratoria pursuant to a resolution. Kladder also asked how a “big box” is defined. Kurtz offered a definition of a store larger than 50,000 sq. ft. Corpe stated that she couldn’t state from memory whether or not this figure is in the Master Plan, but in the Zoning Ordinance this size store is specifically contemplated for the B-3, Planned Shopping Center zoning district. There does not appear to her to be any language in the current ordinance prohibiting development of a store of that size in the B-2, General Business district, but the size does seem to be the key area of distinction between the two zoning designations.

Takayama asked about the moratorium adoption process and moratorium duration. Bzdok replied that a moratorium may exist for a period of time appropriate to completion of the task the township seeks to do during it’s duration.

Motion by Kladder, support by Boltres that the Board ask the Planning Commission to consider adoption of a moratorium amendment to the Zoning Ordinance that would allow for time to study an amendment to the Zoning ordinance relative to big box stores. Motion carried unanimously.

3. **Consider appointment of Bob Carstens to TC-TALUS:** Kurtz stated that Larry Belcher has been representing Acme Township as a member of the TC-TALUS Board. That entity has undergone a change in schedule and Mr. Belcher no longer wishes to be Acme’s representative. One important job TC-TALUS will be

involved with will be how to use \$3.3 million dollars recently re-directed towards study of alternatives to the proposed Hartman-Hammond bypass.

Motion by Zarafonitis, support by Dunville to appoint Bob Carstens as the Acme Township representative to the TC-TALUS Board. Motion carried unanimously.

4. Citizen Advisory Committees:

- a. **Consider Supervisor's appointment of Bob Garvey as Chair of the Farmland & Open Space Preservation Advisory Committee:** Kurtz recalled that chairmen for 3 of the 4 advisory committees formed at the December meeting were named. He is now recommending Bob Garvey to head the fourth committee.

Motion by Kladder, support by Takayama, to appoint Bob Garvey as Chair of the Farmland & Open Space Preservation Advisory Committee. Motion carried unanimously

Zarafonitis recently had a discussion with Dorance Amos, local farmer, who recommended that any individuals who will be associated with the farmland preservation initiative attend some seminars to learn about the topic.

Kladder asked if the resolutions that Bzdok proposed providing regarding formation of the citizen advisory committees have been provided. Kurtz and Zarafonitis learned at an MTA training session that this would be an unnecessary step; the motions made by the Board at the last meeting being sufficient to create the committees. Bzdok has been asked not to prepare the documents he suggested to save on unnecessary expenses.

- b. **Consider formation of a Public Safety Advisory Committee:** Kurtz stated that the annual township contract with Metro Fire has resulted in expenses exceeding \$300,000 per year. Metro Fire has proposed a 22% budget increase in 2005, and existing fire millages in place in the township are due to expire this year as well. Kurtz recommends forming an advisory committee that can study the issues surrounding continued fire protection to the community and advise the Board as to how to proceed. It is likely that the Board will need to ask for a millage in the early summer, perhaps at the same time as the school elections. Mr. Agruda reiterated his concerns that the committee include individuals well versed regarding Metro Fire and about any potential that Acme might disassociate from this organization, which would negatively impact personal property insurance premiums and put the community at risk.

Kladder expressed concern to hear that there are rumors that Acme might pull out of Metro Fire. He is also concerned with the apparent history of short-term decision making in this regard. He supports ongoing adequate fire protection and public input into the decision process ensuring it for the future.

Motion by Kladder, support by Zarafonitis to form a Public Safety Advisory Committee.

Takayama would like to see a member of Metro Fire on the committee, and preferably as its Chair. Kurtz stated that he has discussed possible

service on the committee with Pat Collins, who began his service with the local fire department in 1955 and will celebrate 50 years of service this year.

Motion carried unanimously.

5. **Discuss Acme Township Newsletter:** Kurtz provided a draft newsletter for the Board's consideration. Kladder feels that the document would be a good article or memo from the Supervisor as part of a larger newsletter, rather than being the entire newsletter and being signed by the whole Board. He doesn't disagree with the contents, but he did not contribute to the document. Kladder asked when a full version of the newsletter is due to be produced. Corpe explained that it has been somewhat over a year since the last edition was published, and the goal had been for it to become a quarterly publication. While she enjoys editing it and sees it as a valuable communication, it currently ranks low on the priority list compared to other responsibilities such as producing and distributing RFQs for planning and legal assistance. Kladder expressed willingness to assist with preparing a new edition for publication, and it was agreed that he and Corpe would work together to prepare a draft within the next month.
6. **Consider proposed Resolution #R-2005-01 authorizing an individual to authorize securities transactions related to the retirement plan on behalf of the township:** With the change in Board personnel, the individuals previously authorized to conduct necessary business regarding the township retirement plan (authorizing securities transfers, etc.) are no longer present. A new individual must be named by the Board to hold this authority. There is an immediate need to proceed, as one of the outgoing Board members has requested a transfer of assets out of the retirement fund and into personal accounts.

Motion by Boltres, support by Takayama to appoint Dunville to have authorization to transact necessary business within the Acme Township retirement plan with A.G. Edwards. Motion carried unanimously.

F. OLD BUSINESS

1. **Update Regarding Requests for Qualifications:** It was noted that a 90-day interim contract with Chris Bzdok was adopted on December 7, so March 7 would be the deadline for making a decision on more permanent counsel.
 - a. **Planner to review The Village at Grand Traverse, LLC.:** Corpe expressed that work is proceeding on RFQ's for both an attorney and planner along with other necessary work as quickly as possible.

G. REPORTS: Kurtz noted that the reports have been moved to the end of the agenda from the beginning. He hopes to have them provided in brief written form in the future so that people can pick them up as they enter and there would only be discussion where there are questions.

1. **County Commissioner's Report – Larry Inman:** Inman agreed that a brief written report format can be effective, and that staff to the full County Commission may begin providing such information every 2-3 weeks to all townships in the County. They had hoped to have a written report available for this meeting but were working to complete a year-end status update regarding goals for 2004 and a list of goals for 2005. Wayne Schmidt has been named the new County Commission Chair, with Sonny Wheelock the new Vice Chair. These

positions rotate every two years. Kladder asked about the status of the County Farmland Preservation Board.

2. **Sheriff's Representative Report – Deputy Matt McKinley:** Deputy McKinley reported 121 calls for service in the township in December. 31 were car accidents and 25 were criminal in nature.
3. **Road Commission Report – Jim Maitland:** Not Present
4. **Assessor's Report – Dawn Plude & Amy Jennema, AD Assessing:**
 - a. **Consider appointments of Board of Review members:** All Board of Review members must be reappointed every two years in the odd-numbered years. Plude is asking that John Marnett and Pat Collins be reappointed to the Board of Review. Jeanne Thaxton is moving out of the township and must resign; Dottie Glass has expressed interest.

Motion by Kladder, support by Dunville to appoint John Marnett, Pat Collins and Dottie Glass to two-year terms on the Board of Review. Motion carried unanimously.

5. **Office & Planning Coordinator's Report – Sharon Corpe:** Corpe reported that Office Assistant Nancy Edwardson had surgery yesterday and seems to be doing well but will be absent for 4-6 weeks. The staff, Clerk, Deputy Clerk and Treasurer's office are all pitching in to assist with phone and reception coverage, and some volunteer assistance may be utilized as well.
 - a. **Termination of computer services contract with Galaxy Systems:** Galaxy Systems, which currently provides hardware at cost and computer system maintenance services on a contract basis is terminating all of their contracts effective immediately. This does not pose an immediate concern, as all but the most serious problems are handled internally. However, Corpe did indicate a desire to seek a new service firm this spring, as an upgrade to a larger server (at an anticipated cost of \$2,000 – \$3,000) will be needed this year. Kladder advised utilizing services from firms under consideration before committing to any one, as sometimes you can only tell if their technical support is truly knowledgeable and a good fit after working with them.

- H. PUBLIC COMMENT & OTHER BUSINESS THAT MAY COME BEFORE THE BOARD:** Dan Hanna, 7239 Lautner Road spoke to Bob Garvey's appointment to the Farmland Preservation Advisory Committee. Mr. Hanna stated that when Mr. Garvey first bought property neighboring his they were friendly, but that he views Mr. Garvey as the president of CCAT and an individual who employs any means to an end. When Mr. Hanna was seeking rezoning of his property CCAT sent out a letter alleging that hundreds of homes were proposed to be built on his land when no such proposal had been made. He believes the Garvey appointment is political payback for getting the new board elected.

Mr. Agruda invited all of the Board members to talk with Metro Chief Pat Parker and learn about the history of Metro Fire. Mr. Agruda voted for a 22% budget increase, but effective fire service costs money. New fire inspectors are being hired, and the growing presence of those inspectors have cut down on the number of fires.

Tom Henkel stated that the Metro Chiefs just completed a 2-year strategic plan, and that budget increases are not whimsical or arbitrary. Kurtz thanked Henkel and stated that he believes that public input into the decision making process is key.

Mark Lewis, Chair of the Infrastructure Advisory Committee, stood to introduce himself to the Board and members of the public who might not be acquainted with him. He mentioned 28 years of public and private sector infrastructure engineering experience.

Kurtz expressed that gaining control over the budget will be a focus issue during the immediate future. The annual fiscal year audit was recently completed, and a report on the period from July 1 to the beginning of the new administration on November 20 is forthcoming. He plans to bring the recent 2 years of deficit spending to an end and making the budget an immediate priority.

Meeting adjourned at 9:13 p.m.