



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
6:30 p.m. Tuesday, March 1, 2005**

Meeting called to Order at 6:37 p.m.

Members present: B.Boltres (6:45 p.m. – 7:04 p.m.), D. Dunville, W. Kladder, B. Kurtz, P. Scott, E. Takayama (6:50 p.m.), F. Zarafonitis (6:39 p.m.)

Members excused: None

Motion by Kladder, support by Scott to enter closed session to discuss litigation in CCAT v. Acme Township vs. The Village at Grand Traverse, LLC. and Meijer, Inc. because discussions in open session would have a detrimental impact on the township's financial position. Motion carried unanimously.

Public meeting recessed at 6:39 p.m.

Motion by Kladder, support by Dunville to exit closed session at 7:05 p.m. Motion carried unanimously.

Bzdok summarized the executive session discussion for the public. At the beginning of January, the Board asked the Planning Commission to consider a moratorium on big box stores in the township. Near close of business on January 25 the township received an application from Meijer, Inc. to develop on the southeast corner of M-72 and Lautner Road. At the Commission's January 31 meeting they voted to hold a public hearing regarding the potential moratorium on February 28. On February 25 a letter was received from law firm Dickinson, Wright claiming that the township cannot enact such a moratorium, in part because they believe the Board has a conflict of interest through association with CCAT. This is a similar claim to the one made by the same attorneys about the Board relative to The Village at Grand Traverse in November 2004. Several court motions have been filed by the Village in this regard seeking to appoint a receiver for the township and to sue individuals for perceive conflict of interest.

In November the Board voted to place the question of whether or not a true conflict of interest exists before the judge for resolution one way or the other. It is Bzdok's recommendation to now ask the judge to make the same judgment regarding the claims of conflict of interest regarding the newly-proposed Meijer development. The same individuals are making the same claims and are indicating that an eventual financial claim on the township may be made.

Motion by Kladder, support by Scott to add a claim to the pending CCAT v. Acme Township v. Village at Grand Traverse an Meijer Inc to ask the Circuit Court to rule on allegations of conflict of interest recently made by Meijer Inc in relation to its application for site plan approval on its property on the east side of Lautner Road.

Kladder asked how soon a determination might be made. Bzdok stated that the Circuit Court has issued a scheduling order stating that the hearings regarding the appeal would be scheduled after the issue of standing was resolved. All other matters will be resolved after the appeal issue. It is difficult to place a specific timeline, but he expects action within a few months.

Motion carried by unanimous roll call vote.

INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

A. CONSENT CALENDAR: Motion by Kladder, support by Zarafonitis to approve the Consent Calendar as presented, including;

RECEIVE AND FILE:

1. [Treasurer's Report 1/13/05](#)
2. [Clerk's Report 03/01/05](#)
3. Minutes:
 - a. Planning Commission: [02/09/05](#) approved & [02/28/05](#) draft unapproved
 - b. [Farmland & Open Space Advisory Committee 02/22/05](#) draft unapproved
 - c. [Public Safety Advisory Committee 02/22/05](#) draft unapproved

ACTION:

5. Approval of regular and closed session Board meeting minutes for [February 1, 2005](#)
6. [Accounts Payable](#) in the amount of \$25,690.53 through 2/24/05, including \$16,907.42 to Olson, Bzdok & Howard, P.C. and \$5,885.11 Sewage Bonds Fund

Motion carried by unanimous roll call vote.

B. LIMITED PUBLIC COMMENT:

Denny Hoxsie, 6578 M-72 East, asked if there has been any progress in scheduling the annual township clean-up day. Corpe replied that she has been trading phone calls with Mark at American Waste, and that when they last spoke he had two available dates in April.

Lewis Griffith, 5181 Lautner Road, asked for an explanation of the purpose of a public meeting. Last night there was a public meeting of the Planning Commission. He believes that 75% of the members of the public who spoke opposed the proposed big box store moratorium. It is still under consideration; he believes this is because the people on the Board and Commission already have their minds made up. Why waste time if you won't pay attention to what the public has to say?

C. CORRESPONDENCE:

1. **12/28/04 Letter from Grand Traverse Conservation District re: 2005 [Gypsy Moth spraying](#):** Kladder asked if funds had been allocated to this line item that can be reallocated since there will be no spraying, Kurtz stated this is the case.
2. **02/17/05 Letter from [LaVern "Andy" Andres](#):** Mr. Andres asked that his letter be read for the public, which was read last night at the Planning Commission. Kurtz read the letter aloud.
3. **01/14/05 [Letters from the State Department of Treasury](#):** Kladder asked if training will be needed; Corpe indicated that it is a very easy process.
4. **02/25/05 Letter from the [Northern Michigan Environmental Action Council](#)**

D. PRESENTATIONS:

1. **Consider contract with the Grand Traverse Regional Land Conservancy to [hire a Farmland Protection Specialist](#) to be shared by Acme & Peninsula Townships:** Matt McDonough, GTRLC: Kladder is a member of the Farmland & Open Space Advisory Committee; he recognized other individuals on the committee including Nels Veliquette, Chair Bob Garvey, and Denny Hoxsie. Kladder gave a brief summary of the farmland preservation program and how it will operate in Acme Township. A millage was passed in November; these funds will be used to match grant funds obtained for development rights acquisition. The township's program works in conjunction with a County Farmland Preservation Board; the process of appointing that group will begin next week. The state will have approximately \$2.6 million in grant funds available, to be

announced on April 4 with applications going out in September and awards to be made in December.

The advisory group feels it would be a good idea to partner with the Grand Traverse Regional Land Conservancy, which is experienced in the realm of land preservation, including in Acme Township. They can help educate the Acme public about the program, assist the County Board in processing application, and the like. For this reason, the advisory group recommends to the Board of Trustees that they enter into a contract with the GTRLC and contribute \$10,000 towards hiring a farmland protection specialist to assist Acme and Peninsula Townships and the county.

Mr. McDounough stated that Peninsula Township would use approximately 75% of the specialist's time. It is hoped that Rotary Charities will contribute, so it would cost Acme Township about 1/8 of the cost of the position for 25% of the individual's time. They can house the specialist as well.

Larry Inman, County Commissioner introduced Dennis Aloia and stated that there will be a meeting Tuesday at 7:30 a.m. to structure the process of selecting members for the county board.

Motion by Kladder, support by Takayama to enter into a contract for a period of one year at an amount not to exceed \$10,000 with the Grand Traverse Regional Land Conservancy to hire a farmland preservation specialist, said contract having been reviewed by Township Counsel.

Zarafonitis asked when it will be known if the Rotary Grant will be achieved; the results should be made public in June and may be privately conveyed in May. Until June 1, Mr. McDonough will personally handle any issues. Nobody will be hired until it is certain that all funding is in place.

Kurtz thanked Inman and Aloia for their help in moving the process along, and thanked the advisory group for its ongoing hard work to make the program successful. The region will be watching how things go in Acme.

Zarafonitis noted that the costs will come from the Farmland Preservation Fund, supported by the millage.

Motion carried by unanimous roll call vote.

2. **Discuss future of Sewer Project Phase II/potential defeasance of County Sewer Bond:** Kurtz stated that Mark Lewis is serving as the infrastructure advisory committee chairman. He could not be present this evening, but provided a memo regarding potential defeasing of the bond entered into for construction of the relief sewer phases 1 and 2. He suggests discussion this evening for consideration and action on April 4.

Kurtz feels that defeasance option 1 is the most likely scenario. Mr. Aloia stated that the County is willing to work with the township, understanding that the new Board has different priorities than the old Board. The bonds can't be pre-paid until 2012. He noted that the County Treasurer originally indicated a higher rate of interest could be received by investing the bond proceeds and using the interest to repay the bond interest until the bonds can be called in 2012. This is not true any longer, but there would be a \$707,000 interest savings and over \$1 million in principal savings by defeasing.

Estimated costs for completing the engineering work for phase 2 of the relief line as recommended by Lewis has been provided by Jim Minster, Gourdie Fraser. The estimate may be somewhat low.

Kladder asked if Kurtz has spoken with the Resort about this matter. Kurtz has had an initial conversation with J. Michael DeAgostino. The township will be sending a written request for some information to the Resort. We recognize that the Tribe owns a sewage treatment plant at Turtle Creek which may have an impact on the Resort's continued need to use the County's sewer infrastructure.

Kurtz reiterated that he hopes that study throughout March will be able to lead to a decision on April 4. Kladder indicated that there should also be discussion with LochenHeath about their expected sewer infrastructure needs.

E. PUBLIC HEARINGS

- 1. Consider adoption of proposed Zoning Ordinance Amendment #130 to Section 8.27, Wineries:** Corpe stated that the Planning Commission held a public hearing on January 31, and the County Planning Commission reviewed the ordinance on February 15.

Public Hearing opened at 7:44 p.m.

Steve DuCheney, 7924 Saylor Road, lives adjacent to the parcel on which Ken Engle proposes to build a winery. He asked if County Planning made any recommendations regarding changes to Saylor Road relative (passing/turning lanes) to the proposed Engle winery. Kurtz stated that tonight's discussion is not about Mr. Engle's proposed winery but about the winery ordinance in general.

Denny Hoxsie commented that it is important for the township to support ordinances like this that will further define what can be done in the agricultural district. The landscape will have to change if agriculture will survive in this area. Wineries are one potential land use than can help agriculture and open space survive. He feels it is a good ordinance to which much time has been devoted and will be advantageous to Acme Township.

Public Hearing closed at 7:47 p.m.

Kladder asked Corpe about the amount of cropland required as part of a winery. Corpe read from the ordinance, where it states that a winery developer must own at least 40 acres of land or the equivalent, at least 20 of those acres must be within the parcel to be used for the winery, at least 10% of the winery parcel must remain under active agricultural production, and at least 2 acres must be producing a wine crop.

Kladder asked if there is there a limit on things like making busses turn their engines off to prevent diesel fumes and noise. He is concerned that busses could be left running next to private homes. He is also concerned about the definition of special events. How do we prevent this from becoming a wedding banquet facility with a nice view rather than an agricultural facility? Corpe stated that as part of the original SUP considerations a winery applicant must request a maximum number of events to be held per year. Additionally, every year they must provide the Planning Commission with a specific list of events to be held. If any nuisance complaints are generated by any of the events, a public hearing must be held regarding the following year's event schedule. So, ultimately the Board would decide what the appropriate number of special events on a property per year will be through the SUP process.

Takayama asked about Liquor Control Commission rules for licenses to sell wine at special events. Mr. Ken Engle stated that there is a special license for selling wine you

produce at events at the facility if at least half of the cost charged is for food and if all of the alcohol is consumed on-premises. He is not completely familiar with all of the regulations. He can have wine tastings, or wine tasting dinners, but he can't sell a bottle all by itself for on-site consumption.

Mr. Engle also stated that at the Planning Commission public hearing it was mentioned that if special events cause problems for winery neighbors, the township can put a halt to such events. Kladder noted language in the ordinance stating that special events must clearly be secondary to the winery itself. To him, this means that the bulk of the revenue should come from wine production and sales and not from special events.

Kladder asked how long it might be before a winery in Acme Township could produce wine. There are no grapes currently growing within the township. Mr. Engle stated that the ordinance does permit cherries or other crops to be used for wine production, and most wineries in this region import at least some of their basic winemaking supplies and juices from other areas of the state or nation. He noted that while a minimum of 2 acres must be planted in crops, a winery essentially protects 40 acres from development.

Kladder suggested that the question of how to determine that the main focus of a winery remains on agricultural production and how to define this should be addressed. He also stated that some consideration should be given to treatment of busses and whether this type of development is more appropriate near a major thoroughfare. Mr. Engle stated that he hadn't quite understood the need for special events to be secondary to winery activities; although he had understood that you must have the winery up and running before you can have special events.

Motion by Takayama, support by Dunville to approve proposed Ordinance Amendment #130 as presented.

Takayama asked if Kladder would be more comfortable adding language to ensure that busses act appropriately on site. Takayama believes this is the first time the question has come up. Ron Reinhold, 4446 Westridge, mentioned that a similar question came up regarding the Yuba Creek Natural Area, and the steering committee found it hard to define a way to control the problem. Eventually they decided to rely on the management plan as constructed but to review the situation regularly to see if further action is required.

Kladder noted that special event space per the ordinance could be up to 8,000 sq. ft. This would seem to equate to an event for approximately 500 attendees.

Motion carried by a roll call vote of five in favor (Dunville, Kurtz, Scott, Takayama, Zarafonitis) and one opposed (Kladder).

F. NEW BUSINESS

1. **Consider approval of SUP/Site Plan #2005-1P, Phase I Development of LochenHeath:** Joe Elliot – Gourdie Fraser Associates and Russ Clark, R. Clark Associates presented the Phase 1 plan on behalf of the applicant. Phase I involves a portion of both the old and new section of LochenHeath approved during the summer of 2004. This phase includes construction of a main, gated and boulevard entranceway to the site, renovation and reuse of several structures and some grading. The new entrance will serve both the old and new portion of Lochenheath. A new golf club member's facility will also be constructed. There will be a bus stop and mailbox area near the guardhouse at the entrance. The boulevard will be staggered at decreasing elevations to the west. Trees will be clustered, and fencing along the road right-of-way including masonry and wrought-iron would be used. There are four key drainage plan

areas. The one near the entrance drains towards the southwest. Road will use curb and gutter, and there will be temporary drainage basin and equipment staging area near the entrance. There will be a modest increase in impervious surface near the members' pavilion. Existing water and sanitary facilities will be employed. The traffic study on US 31 has indicated a need for a new right-turn lane on the southbound side and a flare lane on the northbound side so people can go around those turning left into the development.

Kurtz noted that the Planning Commission reviewed the project last night at public hearing. Corpe indicated that it is in keeping with the conceptual master plan for the development approved last summer. Takayama applauded the design and construction of the facility, finding the applicants to be "well-qualified" and a "class act."

Motion by Dunville, support by Takayama to approve SUP/Site Plan Application #2005-1P. Motion carried by unanimous roll call vote.

2. **Consider adoption of proposed Ordinance #2005-1, Inspection and Maintenance of Privately Owned Fire Hydrants:** The ordinance has been proposed by the DPW. Battalion 8 Fire Chief Henkel reports that there are private hydrants in Acme Township in the Resort, and on Deepwater Point for example. The ordinance is geared towards keeping the systems maintained or permitting the DPW to perform needed maintenance at the system owners' expense. Zarafonitis asked if the Resort will be subject to the Ordinance; Corpe responded that it is owned by the Economic Development Corporation and the land is not in Tribal Trust status, so she expects it would be. Kladder asked if the hydrants are pressure tested.

Motion by Kladder, support by Zarafonitis to approve Ordinance #2005-1 as presented. Motion carried unanimously.

3. **Consider Hazardous Materials Response Services Agreement with Traverse City Fire Department:** Henkel reported that an agreement has been in place for years of this nature. Traverse City maintains a hazardous materials response unit that serves everyone west of I-75. For \$300 a year we get the benefit of expertise to contain a hazardous spill until the entity creating the spill cleans it up. The township must be involved because if a spill occurs, state cleanup funding must be applied for by the municipality to cover the full costs of the containment response. Corpe noted that the annual cost has already been paid on the township's behalf by Metro Fire; no funds need be expended from the General or Fire Funds.

Motion by Kladder, support by Takayama to approve Hazardous Materials Response Services Agreement with the Traverse City Fire Department. Motion carried unanimously

G. OLD BUSINESS

1. **Consider recommendations from Selection Committees re: Requests for Qualifications**

- a. **Consulting Planner(s) to review The Village at Grand Traverse, LLC & Meijer Inc.:** Kurtz stated that there were six responses to the RFQ, only one from the local area. Four of the applicants were interviewed by Owen Sherberneau, Planning Commission Chair, Supervisor Kurtz, Trustee/Commissioner Takayama and Office & Planning Coordinator Corpe. 30 firms from a list provided by the Michigan Township Association received the RFQ. 9 responded; 3 thanked the township for the contact but declined to bid and 6 provided excellent application materials. Corpe indicated that the committee is recommending a contract with Beckett & Raeder; finding them well-qualified, having taken the time to learn

extensively about Acme Township prior to the interview process, having worked in the local area previously with the City of Traverse City and with Garfield and East Bay Townships. They also seemed like the best cultural fit during the interview process.

Kladder asked for clarification on some of Takayama's questions and the responses received from the minutes of the interviews.

Motion by Takayama, support by Kladder to hire Beckett & Raeder as consulting planner for the purpose of development plan review for The Village at Grand Traverse and Meijer Inc. Motion carried by unanimous roll call vote.

- b. **Township Counsel**: Kurtz noted that when Olson, Bzdok and Howard were appointed township counsel in November it was on an interim basis. The committee reviewing the applications consisted of Boltres, Kurtz and Corpe, although due to illness Boltres was able to assist in choosing interviewees but was not able to attend the interviews. Zarafonitis substituted for him. 6 firms expressed interest; the committee chose to interview Olson, Bzdok & Howard; Running, Wise & Ford and Young, Graham & Elsenheimer. Kurtz stated that there has been intense scrutiny on all parts of Mr. Bzdok's service to the township. The committee is recommending continuing with Olson, Bzdok & Howard at this time, largely due to a feeling that it would be unwise to make a change in the middle of litigation. Young, Graham and Elsenheimer was viewed very favorably as well, and the committee is strongly interested in working with them in the future on planning & zoning issues.

Motion by Zarafonitis, support by Kladder to retain Olson, Bzdok & Howard as Township Counsel on an at-will basis. Motion carried by unanimous roll call vote.

Kladder expressed pleasure at the open way both service providers were chosen.

Chuck Walter, 6584 Bates Road, asked if the public would be given an opportunity to comment on these major decisions. Kurtz noted that all of the interviews were posted as open meetings, and he was quite surprised that nobody showed up to watch. Mr. Walter asked to comment; Kurtz referred him to the public comment period at the end of the meeting.

2. **Discuss status of Township Finances for Fiscal year-to-date (refer to Clerk's Report)**: Kurtz noted that the Board has been in office for somewhat over three months. Auditor Dave Basler from Tobin & Co. has been working closely with the Clerk and Treasurer. Reconciliation of the township's accounts is proceeding well. Kurtz feels that a thorough discussion of the budgetary status on April 4 is in order, taking up the bulk of the meeting. Accurate reporting of our financial status will be in place. The Revenue & Expenditure report is readily available to all interested parties. There are some accounts that are showing \$0 budget amounts; this will be addressed. Kurtz commended Dunville's work in straightening out the records.

H. REPORTS

1. **County Commissioner's Report** – Larry Inman: Received and filed
2. **Sheriff's Representative Report** – Deputy Matt McKinley: Received and filed

3. **Buildings and Grounds** – Tom Henkel: Received and filed
4. **Office and Planning – Sharon Corpe:** Corpe stated that she will be joining Charles Blankenship in making a brief presentation at the beginning of the monthly Chamber of Commerce/New Designs for Growth Breakfast on March 17. New Designs has a subcommittee working on potential model transportation corridor overlay zoning ordinance language for the region. Mr. Blankenship will speak about the project, and Corpe will provide thoughts about Acme Township's experience to date with its draft M-72 Corridor Overlay District ordinance. She asked for input and support as she prepared for the presentation.
5. **Zoning** – John Hull: Received and filed

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

Chuck Walter, 6584 Bates Road, spoke first to the finances. The expenditure report states that \$33,000 has been spent during the fiscal year on legal fees. He feels this should be monitored closely. So many issues can be resolved by dissenting parties through face-to-face discussion, but he doesn't believe much initiative has been taken in this regard. He is also disappointed that there wasn't more public input into the consultant hiring process, and finds it strange that one reason for hiring Mr. Bzdok was not changing representation during litigation, but James Christopherson was let go mid-litigation after years with the township. Regarding hiring the consulting planner, he is aware that there was a desire not to hire a firm that might have conflicts of interest, yet we have hired a firm that has consulted with East Bay and Garfield Townships, two of our competitors in economic development. He feels it is a direct snub to Russ Clark, a fine local planner. He also mentioned Mr. Hoxsie's question about whether or not clean-up day will be held and when. This is one of the best received projects ever done in the community and he hopes it will be scheduled soon. Finally, regarding the letter from NMEAC asking the township to spend money on another environmental study regarding the Rollert property, when a professional engineer signs their name to a report they accrue liability. Two studies have already been done; why is another needed? It would be wasted money.

John Nelson, Traverse City, chairs NMEAC. His board asked him to attend this evening to emphasize the letter they sent to the Board. NMEAC shares the community's interest in protections of our bay, creeks and streams, which is why they are calling for a completely independent assessment of the environmental issues on the proposed Village property.

Dan Hanna, 7239 Lautner Road, noted that private septic systems can discharge contaminants into the bay, so he feels it is a bad idea that the Board has halted construction of phase 2 of the relief sewer project. Kladder stated that the project has not been formally halted at this time.

Steve Smith, 1651 E. Hayes Road, Ithaca, MI, (The Village at Grand Traverse, LLC.) asked if the RFQ for planner had stated that any firm having previous contact with any individual for firm related to The Village at Grand Traverse, LLC. or Meijer, Inc was excluded. Corpe stated that this was not the case; the RFQ asked applicants to disclose any prior contact so that potential conflict of interest could be assessed. In fact, several of the firms interviewed indicated that they had worked or had contact with one of the entities mentioned at some time. Mr. Smith questioned why Mr. Bzdok would be hired by the township when in his opinion there is clearly a conflict of interest in hiring him because he has represented CCAT against the township and the Village.

Jay Zollinger, 4232 Williamston Court, said it would have helped the public to know what the selection criteria for consultants were. Kladder asked if the RFQs were posted on the website; Corpe replied that they were and contained the criteria for selection. The interviews were posted on-site and on the web as public meetings; all were welcome to attend and observe.

Dan Rosa, 4707 Hampshire Drive, commented on the NMEAC letter. If the township is going to move towards extensive environmental impact studies on large developments, it should also be required of anyone who wants to do anything within half a mile of a body of water. "Let the little guys feel some of the pain too."

Meeting adjourned at 9:03 p.m.