



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
6:30 p.m. Tuesday, April 5, 2005**

Meeting called to Order with the Pledge of Allegiance at 6:33 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 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 by unanimous roll call vote.

Public meeting recessed at 6:36 p.m.

Motion by Kladder, support by Scott to exit closed session at 7:00 p.m. Motion carried by unanimous roll call vote.

Kurtz explained that the Board is holding closed session meetings at the beginning of the meeting so that if any motions result, the public will be present to hear them. Bzdok stated that he filled the Board in on recent developments in the CCAT v. Acme Township v. The Village at Grand Traverse and Meijer Inc. He noted that a request by The Village for an order of superintending control has been dismissed.

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** as of February 28, 2005
3. Draft unapproved minutes of the **03/28/05 Planning Commission** meeting

ACTION:

4. Approval of regular Board meeting minutes for **March 1, 2005** and closed session minutes for March 18, 2005
5. **Accounts Payable** in the amount of \$63,707.05 through 3/30/05 including \$36,657.90 to Grand Traverse County Sewer Bonds (recommend approval: Dunville)
6. Approval of Summer Tax Collection per parcel cost/**Elk Rapids School**
7. Approval of New Road Names
 - a. **Eastern Gate** – Acme Village
 - b. **Windward Way** – The Cottages at Windward Ridge
8. Approval of **transfer of liquor license** for The Williamsburg from Gary Zeits (former operator) to Dan Kelly (property owner)
9. Authorize Treasurer to open a money market account to house funds collected from Farmland Development Rights millage (currently \$235,633.07)
10. Authorize Treasurer to seek competitive bids from local banks for the township's banking business

Motion carried unanimously.

B. LIMITED PUBLIC COMMENT:

Noelle Knopf, 5795 US 31 North, asked Bzdok about his statements as to what happened in court. She understands that CCAT brought suit against the township and developers for not having market and traffic studies available before making a decision on the conceptual SUP, asking that the SUP be sent back to the Board for reconsideration. She understands that the Court found CCAT's claim to be without merit and that it was dismissed, which sounds different than what Bzdok said. Bzdok stated that all he said about the hearing is that one was held and that he discussed it with the Board.

John Zaloudek, 10351 Kay Ray Road, stated that he has followed the issues surrounding The Village. He hasn't heard anything to indicate that the township shouldn't "take a breather." There is business risk. He has heard that this region is underserved regarding retail services, but there is no reason why Acme must satisfy those needs. The November 2004 election made clear the public's feelings. He supports the proposed moratorium.

Shawn Husband, 4167 Cranberry Lane, stated that when he first came to meetings about the moratorium he heard Takayama say he was voting in favor of it because he feels he is speaking for those who elected him into office. Mr. Husband has a differing point of view. He received negative information during the election campaign. The former Board members were facing allegations of conflicts of interest from CCAT. At that time Bzdok was CCAT's attorney; now he is the township's attorney. The negative information put out by CCAT made many people feel that they had to elect new people to the Board because the existing members were corrupt. He works for Meijer as a Pharmacist at the local Meijer so he has a bias, but when he canvassed his neighborhood he received the impression that people are excited about having a Meijer on this side of town and making use of the tax revenues it would generate. Mr. Husband does not feel the general public is opposed to Meijer. He noted that Meijer has something called an e-panel. People can use their Internet access to respond to questions; perhaps this would be a good tool for the township to use that would be inexpensive and would better gauge the public's feelings. He would have more confidence in assertions made about the public's stance if it were accompanied by hard statistics. Mr. Husband doesn't know who is a CCAT member and who is not by name.

Chris Courtwright is an Acme business owner and former resident who has attended several meetings. He feels the Board is displaying "reckless disregard" for public opinion, and will continue to do so by voting in favor of a moratorium this evening. How many more big box applications are expected in the near future other than Meijer? The County unanimously voted that the moratorium should not be adopted? Is this "citizen driven?"

Dan Hanna, 7239 Lautner Road asked if the Board is going to answer the question just posed to it. If not, he would like it noted for the record that no response is given to public questions. The Planning Commission consists largely of new members with very little experience, whereas experienced people on the County Planning Commission feel the moratorium should not be adopted. Mr. Hanna asked that the moratorium be rejected. He believes it was proposed to stop the Meijer store, which he favors. Mr. Hanna asked about the agenda, saying that when some of the current Board members were in the public they denounced the old Board members for not encouraging open dialogue. Now that the regime has changed, the agenda has not. When will there be open meetings?

Lewis Griffith, 5181 Lautner Road, remarked that Kurtz has not answered Mr. Hanna's questions. Is the Board really driven by the public, or by closed-door decisions? He is only aware of about 6 closed sessions held before by other Boards, yet this Board has held one at every meeting.

Bob Roden, 4164 Cranberry Lane has lived here for a year and has not been active so far but plans to be so in the future. He has observed a lack of response from the Board as well. His wife has written to the township several times; one of her letters is first under correspondence this evening. He feels that the township has mistreated Meijer's, which could be a good neighbor. Their tax dollars are needed for public improvements and parks but are squandered on fighting and legal fees.

Bonnie Smith, Deepwater Point Road stated that her neighbors support the proposed moratorium. Many Board members have significant political experience. She supports the original township plan and would support "taking a breath" and slowing down so that the township can think about what it really wants.

Mr. Scott Nowakowski, Meijer, Inc. asked if public comment will be entertained during the moratorium discussion and prior to a decision. Kurtz replied that would be the case.

Chris Stoppel, 7238 Deepwater Point Road has owned a business on M-72 for 20 years. For all of that time he has waited for development along the highway corridor. Twice plans have been approved and twice pushed aside. He characterized what is going on as attempts to thwart the projects that will provide taxes and jobs in an area where nobody would want to build their homes. Development of this nature belongs along key arterial roads. People who can hear the highway from their houses should expect that commercial development would come in that area; they shouldn't have bought there if they didn't like it. Meijer should be where it is asking to be.

Margie Goss, 4105 Bay Valley Road, stated that she spent 6 hours a few weekends ago talking with her neighbors. In her immediate area there were 2 or 3 people among 30 or 40 with whom she spoke who did not favor Meijer's entering the community or did not oppose the proposed moratorium.

Howard Schelde, an owner of TraVino Restaurant, has operated restaurants in the region for over 30 years. About 3 years ago they turned a derelict building into a well-received restaurant on M-72. They understood and were willing to take the risks involved. When they did so they were advised by the public and the township that it would be a good move because growth was coming to the area. They were pioneers, but in the past "many pioneers died along the trail." They hope they don't meet the same fate. Their development was subject to rules about design. Dan Kelly has renovated an empty theater. If the township wants to see this trend continue, sitting on quality development won't help.

C. CORRESPONDENCE:

1. E-mail dated 03/04/05 from **Kimberly Roden**, 4164 Cranberry Lane: included and incorporated by reference.
2. E-mail dated 03/23/05 from **Bryan L. Roth**, 4222 Circle View Drive: included and incorporated by reference
3. E-mail dated 03/28/05 from **Dan Rosa**, 4707 Hampshire Drive: included and incorporated by reference
4. Letter dated 03/28/05 from **Jim and Krista Johnson**, PO Box 1727, Acme: included and incorporated by reference
5. Letter delivered 04/01/05 from **Shawn Husband**, 4167 Cranberry Lane: included and incorporated by reference

Kurtz stated that the letters were attached to the agendas available to the public so they could be read by each individual rather than being read aloud.

D. DISCUSS 2004-05 YTD Budget Status/Recommended Budget Amendments:

Kurtz stated that the former and new Boards were in office for half each of the current fiscal year. The new Board felt it would be prudent to review the budget status and make necessary amendments to the budget to complete the fiscal year. In the past, hearings regarding the coming year's budget have been held in June; it is his hope that work will begin earlier this year.

It took several months for the Board to come to the information provided. In part this was due to having new people in the Clerk's and Treasurer's offices. Discoveries include the fact that revenues have proven to be lower than projections and expenditures higher. Last fiscal year a deficit of \$125,000 occurred. A worksheet for the year to date has been provided which demonstrates that the township is again in a deficit situation which needs to be minimized to the extent possible.

Kurtz detailed some of the proposed budget amendments that he as Chief Financial Officer, the Treasurer, Clerk and department managers among the staff worked on together. The spreadsheet containing the data is included and incorporated by reference.

Kladder noted that later on the agenda will be a discussion of allowing Blair Township to join the DPW. As a result, the township will receive some funds from Blair's buy-in. Will these funds be added to the general fund or to the segregated DPW fund? Kurtz stated they would be put in the DPW fund. Kladder noted a line item for \$21,000 for a TART trail. No money was originally allocated for the trail; can payment of the commitment be postponed or made over time? Kurtz has scheduled it for payment during the 4th quarter of the current fiscal year, as the Road Commission is anxious to receive the funds. Significant construction on the project has not yet commenced but should within a few weeks.

Zarafonitis asked if funds were allocated for the Gypsy Moth program; funds were allocated originally but we have been advised by the County that no spraying is needed this summer.

Kladder asked about the \$15,000 expended on the audit, feeling it is somewhat high. Did we bid out these services? Is this standard for townships or a one-time deal? Kurtz responded that it should be a one-time event. It appears that in the past reconciliation of the accounts between the Clerk and Treasurer has been a difficulty. This was also the first year that new GASB rules had to be observed, and work in this regard was left undone. The current Clerk and Deputy Treasurer have been working closely to reconcile the records. It is expected that normal audit costs are about \$5,000/year. Audit services will be billed out this year.

Kladder asked why FICA costs were removed from a separate cost center and allocated across cost centers. Boltres replied that it will simplify accounting and more properly allocate employment costs across cost centers. It will simplify the audit. He echoed Kurtz's statements that accounts had not been reconciled since Spring 2004, although former Treasurer Hoxsie had reconciled his records with the bank.

Kladder stated that when a business has to dip into its reserve funds, it also looks for ways to economize. Aside from having Bzdok leave meetings early, what other steps have been taken to save money? Has the staff been advised not to expend funds over a certain amount without discussion? Dunville stated that the officers and staff are working closely and constantly to seek bids for goods and services and generally control costs. Kurtz noted that there are more Trustees and Planning Commissioners which adds expense, but the number of meetings has been reduced. Planning costs are a big issue, as this is a large part of the budget. Now developers escrow funds for the actual costs of processing their applications which should have a significant positive impact. Kladder

agreed that the budget needs to be amended, but that expenditures must be controlled closely in the coming fiscal year.

Takayama asked what \$4,300 for software support and processing would have gone to. Dunville stated that new software has been purchased this year for her department. She can provide additional detail. Much of the expense was incurred before she took office. Zarafonitis asked why revenues from cable services has dropped; Kurtz believes it is because many people are switching to satellite service. Zarafonitis also asked why interest income is so low. Boltres directed attention to a graph he provided with his report showing interest rates available through Fifth Third where township currently has its savings. Most of the township's funds had been in money market investments which were earning a very low rate – 0.95% for the 6 months prior to the regime change - for reasons he doesn't understand. Boltres has met with the bank to discuss options that would provide higher yields and is watching for rate to rise in the overall markets. He also stated that it is difficult to invest in longer-term instruments with higher rates because it's difficult to know when we might need to draw on those funds.

Kladder stated appreciation for all the work that went into this project. He asked many questions of the staff and could tell everyone was working together. What is the benefit of having forced Meijer to plan their development on their own property rather than as part of the Village? Now 3 large stores could be built instead of limiting it to one.

Motion by Kladder, support by Takayama to adopt the Budget Amendment Resolution #R-2005-03 as recommended. Motion carried by unanimous roll call vote.

E. PUBLIC HEARINGS

- 1. Consider Adoption of Proposed Zoning Ordinance Amendment #131, Addition of Article XIII – Temporary Moratorium on large retail developments:** Kurtz noted that many people have spoken to this issue already, and the Board has read comments provided at the Planning Commission level. He asked that individuals keep their comments to 3 minutes or less apiece.

Public Hearing opened at 8:46 p.m.

Ken Petterson, attorney for Meijer, Inc. and a township resident, stated an opinion that the proposed moratorium is ill-advised and unconstitutional. He recommended that if it were to be adopted, that it specifically exclude the proposed Meijer and Village developments. He stated that the Town Center Report of the Master Plan specifically discusses a potential Meijer development and a need to have a large anchor retail store to make a town center viable. He feels that the moratorium is actually specifically directed at the proposed Meijer development. Mr. Petterson cited the County Planning Commission's recommendation that the moratorium not be adopted, and stated that he is unaware of a case in this county or surrounding areas where a township acted in opposition to a County Planning recommendation. He believes that the Master Plan and Ordinance already match up to provide for development of a superstore on the Meijer or Village parcels, and that nothing has changed since the time the Master Plan was adopted. It has been discussed that the idea would be to place such development in that area to encourage containment of dense retail development to one area of the township.

Bruce Trudgen, 4613 Hampshire Drive stated that when they built there home 13 years ago one factor in their decision was the idea that Meijer might be nearby. He believes the current Board was elected into office to fight Wal-Mart and congratulated the Board for doing so. However, he favors Meijer and The Village.

Dan Hanna stated that his 5 family members who live in the area have authorized him to say that they all favor the Meijers and dislike driving miles to do their shopping.

Ron Reinhold, 4446 Westridge, stated that the correspondence on the agenda was "ignored for expediency." The letters from Mr. Rosa and Mr. Johnson asked that they be read into the record, but the letters were not read. Mr. Reinhold opposes the moratorium and supported Mr. Petterson's comments about the township's goal to control sprawl.

Ms. Knopf asked if the Board is going to answer Mr. Reinhold's question, and echoed his sentiments. Kurtz stated that everyone is talking as if Meijer is the issue. Meijer has sued him as an individual, and Counsel has advised that he not speak about Meijer directly; therefore she is unable to answer the question.

Jack Challender, 4836 Bunker Hill Road, asked if anyone on the Board isn't being sued and can talk about Meijer. Scott stated it to be his understanding that Meijer presented their application before the moratorium took effect; therefore even if it does take effect their application can proceed. Bzdok stated that the proposed moratorium was first discussed at the January Board meeting. The Meijer application was submitted approximately three weeks later, and only 3 days before the Planning Commission began their consideration of the matter. The proposed moratorium would halt consideration or construction of an large retail stores during its duration. It has been proposed for enactment as a zoning amendment pursuant to precedent set by the Circuit Court, which is a more circuitous route than is normally employed. Because it is proposed as a zoning amendment there is a right of public referendum subject to a certain procedure. If the moratorium is enacted any applications in process will be suspended. Any developments already granted SUP approval could move forward; the Village falls into this latter category. If a referendum is pursued, the zoning ordinance will not be in effect until the public vote is held. Staff has been instructed by him that the Meijer application is being processed independently of the moratorium situation. The moratorium could impact Meijer; so could a potential referendum. The township didn't make the moratorium about Meijer; Meijer made it about Meijer.

Mr. Petterson stated that the application is not moving forward at this time. Corpe stated that the application is moving forward; John Hull met with the township's planning consultant and Meijer's representatives last Friday regarding the project in fact.

Scott Nowakowski, Meijer, Inc. took exception with stated firmly that he has made clear Meijer's intentions to develop on one site or another for a long time. He stated that the moratorium is directly attacking his corporation.

Mr. Courtwright asked how many big box store applications aside from the Meijer and Village might come in 9 months? How many have there been? The township's assets are at risk, and as a taxpayer he may end up paying vicariously for mistakes made tonight.

Mr. Husband asked if funds are set aside for litigation, and if so how much? How much is the township willing to spend? Kurtz stated that this has not been discussed.

Mr. Griffith stated that Mr. Reinhold asked a question and received no answer.

Ms. Knopf asked a question and received only a partial answer. Kurtz stated that he was told not to answer any questions about Meijer by Bzdok. Why isn't the Board answering the public, which Mr. Griffith believes they have been elected to do? Not everyone in the township voted for the current Board.

Mr. Roden asked about the referendum process and for a brief explanation. Bzdok referred him to the Michigan Townships Association website, which contains detailed information on the zoning amendment process.

Ms. Knopf asked Bzdok what might happen 9 months from now if the moratorium ordinance is adopted. Does the moratorium just go away? Bzdok replied that unless a new ordinance is adopted that supercedes the moratorium, it will expire. Any new ordinances adopted would contain provisions that specifically revoke the moratorium. This could be a temporary situation which is defeated by referendum, it could be temporary and no changes could be made so it would expire, it could be temporary and changes could be made to the ordinance that would be ongoing after the moratorium ends.

Jim Johnson stated that he wrote a letter asking that it be read but it was ignored. He asked how much it would cost the township in legal fees if the moratorium is challenged? Bzdok stated that this is a difficult question to answer because it depends on a number of variables.

Mr. Hanna is familiar with referenda, since he was the subject of one not too long ago. How much does a referendum cost the township? It costs money to hold an election. Dunville mentioned costs for election worker wages, ballots, and incidentals, feeling it might cost a few thousand.

Mr. Stoppel stated that "obviously the Board members are members of CCAT and hired the CCAT attorney." He asserted that the current situation is "dangerous," and that people elected to be public servants and look after public funds are squandering those funds on debates between special interests pursued through the courts. He finds it unethical that the former CCAT lawyer is now the township's lawyer. He characterized Bzdok as "opportunist" and urged that his advice be closely examined.

Public Hearing closed at 8:13 p.m.

Kladder stated that he read all of his packet materials and all of the letters submitted. Dunville mentioned she did as well. Kurtz noted that the letters were distributed with the agendas for the public's benefit this evening.

Takayama stated that it is unfortunate that Meijer has been caught up in the proposed moratorium process, as it was not aimed directly at them. It is planned to be a tool for the first step in the process of examining and, if necessary, revising, the township's ordinances. He campaigned on a Smart Growth platform, and spoke face-to-face to hundreds of people. Many said they would like to have a Meijer store but not the entire mass of development proposed. They said they would like convenience for themselves if it would not be detrimental to traffic, the environment and their quality of life. He supports the temporary moratorium to allow time to study the future growth of the township. Without guidelines and tools to help the township grow in positive ways, improve property values and quality of life, and to ensure that traffic to new development is safe and efficient. He is sorry Meijer is involved, as he feels that as an anchor store to a true town center development (as mentioned in the Town Center Report portion of the

Master Plan, which he re-read today) it could be valuable. Corpe commented to him that some of the language of the Town Center report seems open-ended and can be interpreted many ways. If it can be upheld, it would be worth the 9 months to do so.

Kladder asked Takayama what the Planning Commission will do during the 9 months of the moratorium? Will they find a way to limit the number of them that can occur in the township? Will they ensure that any such development is the anchor to a small downtown area, and that it is aesthetically pleasing? Takayama is not sure how to respond as it has not been discussed by the Commission yet. His personal idea is that an extra meeting is being added every other month so that self-generated work can be addressed; right now development applications to be processed each month leave no time. The Commission has been forced to be reactive to development rather than proactive. He is confident that citizens, property owners and developers will all be part of the process. Kladder stated that a Smart Growth seminar was held at the Resort last year by the Land Trust Alliance. There was a presentation in which there was a depiction of a Meijer serving as an anchor to a development. A decision must be made as to whether or not Acme should become a regional shopping draw. It would be better to have everyone sit down together to develop a method by which Meijer could be an anchor for a development of stores serving a very localized market, rather than having a situation such as Chum's Corners or 28th Street in Grand Rapids develop. This would be better than litigation and/or referenda.

Kurtz noted that there are 4 B-3 zoned parcels in Acme Township. There are no store size limitations in any of the other business shopping districts, and there is also potential for mixed use developments that might include large retail stores. During his campaign people told him they wanted the township to stick to the Master Plan. Traffic is a concern, particularly along Bunker Hill Road. MDOT is looking at infrastructure improvements that could cost up to \$30 million. One potential outcome is Chum's Corners style development. Is this what the township wants? Perhaps property owners along M-72 do, but he believes that the average resident would prefer that significant large-scale development remain on the other side of town.

Scott would like to see if there is an opportunity to adopt the moratorium but still consider Meijer. Bzdok recommended that only applications already improved be excluded. He noted that the Phase I application for The Village includes a Meijer store, so they can still proceed that way pending the June resolution of pending litigation. Kladder asked what would happen if a referendum occurs and enactment of the ordinance is upheld. Bzdok stated that the zoning amendment would take effect if the referendum indicates it should.

Takayama read from the Town Center Report a paragraph that he feels summarizes his thoughts. The paragraph recognizes that growth will occur, and that under our current zoning pattern sprawl will result. Accomplishing positive development through standards and development clustering is the goal. Takayama is not saying no to Meijer, which he recognizes people want. He is saying yes to controlled development.

Motion by Boltres to adopt Resolution #R-2005-04 adopting Zoning Ordinance Amendment #131.

Bzdok noted that a proposed resolution has been provided by which the amendment would be adopted. Boltres read it into the record for the public's benefit. Bzdok reported 3 typographical errors; the word "recommend" where it

appears twice on page 1 should be replaced with the word “enact.” In the first paragraph, a reference to the Planning Commission should be replaced by a reference to the Township Board.

Support by Takayama. Motion carried by a vote of 6 in favor (Boltres, Dunville, Kladder, Kurtz, Takayama, Zarafonitis) and 1 opposed (Scott).

A recess was declared from 8:40 - 8:46 p.m.

F. NEW BUSINESS

1. **Consider approval of SUP/Site Plan Application #2004-14P, Engle Ridge Farm Winery:** Ken Engle provided a brief presentation regarding his application. He particularly noted that one area originally proposed to be a future addition to the winery building is now proposed to be an outdoor event area. To some extent the number of people he can host at on-site events will be limited by the sizes of the on-site septic fields. Anything over 200 people will require use of portable toilet facilities.

Kladder asked how many people could be accommodated in the proposed wine tasting area. Mr. Engle responded that this area will be 1,200 sq. ft. The Fire Marshall requires 15 sq. ft. per chair if round tables are utilized, or 7 sq. ft. of space per person if no fixed seating plan is used. Mr. Engle stated that since 911 new codes are in place requiring that facilities have sprinkler systems that not only suppress a fire but put it out. Kladder asked if special events would take place in the tasting room; Mr. Engle plans to generally use other space within the winery such as a cask room. During small events the testing room might stay open for casual visitors, but during large events the tasting room would be closed to general traffic. Sanitary facilities will be the most significant limiting factor.

Kladder asked when the winery will begin producing wine, and whether the special events and B&B can occur before wine production begins. Corpe stated that a B&B would be allowed on this parcel independently from a winery, and that the ordinance is silent as to timing of events relative to wine production. Mr. Engle mentioned that a certain percentage of the land on the winery parcel must remain dedicated to agricultural production for the winery.

Zarafonitis asked how the proposed Activity Plan was prepared. Mr. Engle noted that he has had the assistance of Dawn Ludwig, who has expertise in this area. He does not believe the proposed weddings will be profitable in themselves; they are geared towards generating increased interest in the winery and wine sales. Weddings may generate some revenue but they would also generate additional expense. They may find that this is not a service they want to provide long-term or that it has negative impacts on the neighbors, in which case it would be discontinued. Mr. Engle also noted that the winery ordinance specifically regulates events, although there may not be similar regulations in place regarding B&B-only operations. He also noted that the ordinance does not require him to list activities that would occur entirely in the B&B and attended only by individuals staying at the B&B.

Motion by Boltres, support by Zarafonitis to approve SUP/Site Plan Application #2004-14P. Motion carried by unanimous roll call vote.

2. **Consider approval of SUP/Site Plan Application #2004-22P, Hedden Open Space Development:** Petra Kuehnis from Wells Mansfield presented the project. She stated that there were a few outstanding issues as of the most recent Planning Commission meeting that have been resolved: The Health Department

has provided a letter of conceptual approval; the applicant has submitted a request for DEQ confirmation of the wetlands delineation; and the proposed condominium and conservation easement documents have been provided to the township.

Takayama noted that a revised site plan was contained in the packets and asked what changes had been made since the Planning Commission meeting. Corpe replied that due to provision of an easement to realign the intersection of Kay Ray Road and US 31 North, a portion of the required 50% open space was lost. The new site plan shows that some of the proposed lot sizes have been reduced to recoup the open space, but no significant changes were made. Corpe summarized the proposed changes to the intersections of US 31, Kay Ray and Yuba Park Roads that would separate the entrances to the latter two roads by about 250' with construction to be part of the road work MDOT is doing on US 31 North the summer of 2006.

Kladder stated that a project is underway to provide protection to the US 31 Corridor from Traverse City to Charlevoix, and asked how proposed conditions on this site will fit in with that initiative. Ms. Kuehnis replied that the natural topography sets the development site higher than the road, and that the bulk of the site along US 31 is in the open space that will be under permanent conservation easement. Kladder also asked why a new road will serve some lots from US 31 North, rather than all lots being served from Kay Ray Road. Ms. Kuehnis stated that the topography of the site and the desire to preserve the steep ridgelines and wetlands in the middle of the property made this inappropriate. Kladder asked how the conservation easements will be monitored, and wondered if we have expertise on staff, detailing the way conservation easements are monitored by the Grand Traverse Regional Land Conservancy. Corpe stated that the Open Space Development (OSD) ordinance permits the open space portions of the development to be owned either by the homeowners in the development, the Township or another agency approved by the township such as the Conservancy. In this instance, the developer has chosen to have the open space owned in common by the homeowner's association. In this event, the developer must provide conservation easements and restrictive covenants acceptable to the township. Bzdok is reviewing these documents for us against the standards set forth for them in the ordinance. Kladder requested that the Planning Commission give consideration to enhanced conservation easement monitoring requirements and how appropriate expertise for that monitoring can be in place.

Kurtz asked if any items are outstanding. Corpe stated that the required approval letter from the Health Department has been provided and the easements and covenants are under review by Bzdok and can be negotiated between him and the applicant's attorney. The only other matter is the DEQ wetlands delineation confirmation which could take up to 90 days to receive. The outcome of that report will only affect 2 of the proposed homesites, and only in the case of one of the three possible outcomes. A requirement that no Land Use Permit be issued for Lots 8 and 9 until the delineation confirmation is complete and appropriate setbacks from wetlands can be established should suffice. Takayama came up with a concern about whether or not any of the units could become short-term rentals and generate noise complaints, but this was addressed in the proposed neighborhood association requirements.

Boltres has been considering this application in reference to other considerations for a potential enhanced boat launch site somewhere in the township. It appears to him that the only feasible site for enhancement is the launch on Yuba Park

Road, with creation of additional parking. He is concerned that the potential impact of parking for a boat launch would make this a poor site for cluster development. Corpe stated that unless the township purchased the former campground, which sits between Sayler Park where the parking might be constructed and the proposed development, so she would not anticipate an impact.

Takayama wondered if people living in the development with boats would have to exit onto US 31 to get to Yuba Park Road. Corpe replied that this would appear to be the case, although there might be discussion that could be had with the Road Commission and MDOT.

Mr. Zaloudek spoke on behalf of Friends for Yuba Preservation, and said that the Heddens have gone out of their way to address concerns raised by his organization. One remaining concern deals with seeps in the wetlands area and a seep due west on the bay shoreline about a quarter mile north of the park. Is there a connection between the two seeps? Can an independent assessment of whether or not such a connection exists? Kladder asked what this would entail; Mr. Zaloudek stated that it might cost \$2,500 according to an expert he consulted, so he doubled that to be conservative. He is not an expert, but logic tells him that at least an assessment of whether a more detailed assessment should be done seems prudent to him. What such a study might Ms. Kuehnis stated that the question appears to be what the impact of the development will be on the bay, which is over 1,500' away. This would seem to be the jurisdiction of the Health Department, which has expressed no concerns. There is not history of a negative impact on the site.

Motion by Boltres, support by Zarafonitis to continue the consideration of Application #2004-22P pending further study of any potential environmental impact related to the seeps and the impact of a potential boat launch enhancement at Yuba Park Road.

Sherry Hedden, the applicant, stated that an engineer has performed a study indicating that it would take many, many years for water from the development site to reach the bay underground. Also, there was discussion of including the impacts of existing septic systems on properties abutting the bay on bay water quality as well. Test wells have been dug that have shown that the water quality is acceptable. The Planning Commission indicated that they did not recommend that the testing be done. Takayama is concerned about protecting all wetlands in the township. His concern with a hydrogeological survey is that it would be necessary to gain access to properties between the development site and the bay and perform borings on those properties. Not all might grant access because problems might be discovered that would lead to requirements that neighboring homeowners replace aging septic systems with holding tanks. They might not be willing to take that risk. The development site is over 1,500' from the bay. He suspects a lot more damage is coming from septic tanks much closer to the bay than will come from the development site. Significant sandy soils were found that should adequately cleanse grey water from the new development. Ms. Kuehnis stated that the wetlands on site have been identified and setbacks from it will be respected. The Health Department has indicated that the natural features will not be impacted by the new septic systems.

Motion by Kladder to amend the motion on the table to require that an expert be retained to advise the township on whether or not a concern regarding impacts of the development on water quality in the bay and that the township receive expert advice as to whether central drainfield and

wells would be beneficial to the site.

Mrs. Hedden stated that the idea of a common drainfield was discarded because it would have to have been located within the open space to be placed under conservation easement, which was not desired by the Planning Commission.

Motion to amend the motion failed due to lack of second.

Vote on original motion failed by a vote of 3 in favor (Boltres, Kladder, Kurtz) and 4 opposed (Dunville, Scott, Takayama, Zarafonitis).

Motion by Takayama, support by Zarafonitis to approve Application #2004-22P subject to the conditions that no Land Use Permits be approved for Lots 8 and 9 until the DEQ wetlands delineation confirmation is provided and that the proposed conservation easements and homeowners association regulations are approved by township counsel. Motion carried by a vote of 5 in favor (Dunville, Kladder, Scott, Takayama, Zarafonitis) and 2 opposed (Kurtz, Boltres).

3. **Consider approval of Offer to Blair Township to participate in the DPW:** Kurtz noted that if Blair Township joins the DPW it will purchase a share of the system, which will result in a modest payment to the township.

Motion by Scott, support by Takayama to approve Resolution #R-2005-05 approving offer to Blair Township to participate in the DPW. Motion carried by unanimous roll call vote.

4. **Consider re-adoption of proposed Ordinance #2005-1, Inspection and Maintenance of Privately Owned Fire Hydrants:** This ordinance was adopted last month, but a page was missing from the copy provided by the DPW. The page has been provided and we are being asked to re-adopt the full copy.

Motion by Takayama, support by Kladder to re-adopt Ordinance #2005-1. Motion carried by unanimous roll call vote.

5. **Consider Renewal of Cherry Capital Charter Communications Franchise:** The township is being asked to set a public hearing on the proposed amendment to the township ordinance governing the Cherry Capital Charter Communications Franchise.

Motion by Takayama, support by Zarafonitis to set a public hearing on proposed Ordinance #2005-2 for the May Board meeting.

Kladder asked if someone from the Cherry Capital Cable Council will come to answer questions. Richard Lewis will attend.

Motion carried by unanimous roll call vote.

6. **Consider approval of changing Board May & July meetings dates:**

Motion by Kladder, support by Scott to reschedule the May meeting to May 10 and the July meeting to July 12. Motion carried by a vote of 6 in favor (Dunville, Kladder, Kurtz, Scott, Takayama, Zarafonitis) and 1 opposed (Boltres).

G. OLD BUSINESS:

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. **Zoning – John Hull:** received and filed.

Motion by Zarafonitis, support by Scott to extend the meeting to 10:10 p.m. Motion carried by unanimous roll call vote.

5. Citizens Advisory

- a. **Infrastructure – Mark Lewis:** The Road Commission has proposed modifications to their subdivision standards, mostly of a technical nature. Two key impacts to the township are a new road classification called "community streets" which would enable a developer to create a 24' paved roadway rather than a 30' paved roadway, with the caveat that anything outside of the 24' paved area would not be maintained by the Road Commission. Any work to be done outside of the paved area but within the right-of-way of the public street would still require a Road Commission permit. Several years down the road when people ask for maintenance to the road shoulders it might be difficult for the township to keep track of which townships are entitled to public shoulder maintenance and which are not. It might be an issue potential home purchasers might not recognize as part of their buying decision.

The second key impact would require outlots to adjacent parcels of land at the rate of 1 outlot per 1,300' of development perimeter. This would impact developments with public roads only; most new developments are proposed with private roads. Lewis favors the provision of outlots to provide linkages for traffic alternatives and emergency services, but it might encourage a development pattern contrary to what the township might prefer.

The County is rescheduling the Public Hearing originally planned for tomorrow on the changes.

Takayama stated that at a time when the township is seeking to cluster development, reduced road widths might be a benefit. Lewis believes that narrower road widths can be a good idea, although he has noticed that 30' paved roads are better received by non-motorized road users in developments. This could be countered by provision of a separated sidewalk or non-motorized path.

Kladder asked what would happen if a community road needed to be expanded to accommodate increased traffic loads over time. Lewis responded that if the traveled area of the road is enlarged it would be maintained by the Road Commission, but shoulders still would not. Kladder noted that to repair or improve shoulders it might be necessary to form a Special Assessment District. Zarafonitis also noted that provision for a development's homeowners' association to cover costs of shoulder maintenance could be made. This latter option could be made a requirement of SUP approval for a housing development with public roads by the township. Mr. Lewis noted that the required easement width is not

proposed to change, just the width of pavement within it.

- I. PUBLIC COMMENT & OTHER BUSINESS THAT MAY COME BEFORE THE BOARD:**
Henkel stated that from an emergency services perspective, when there is a special event at a house such as a large party and both sides of the road have parked cars, it causes a difficulty for emergency services vehicles trying to pass.

Mr. Hanna expressed disappointment in the Board and felt that they are being hypocritical. During their campaigns they were critical of how the former Board didn't allow public comment.

Corpe noted that a bill from Gourdie Fraser for approximately \$157 has been presented for work related to the engineering for proposed sewer bypass #2. It would be appropriate to have this bill paid from the County Bond proceeds, as the sewer bypass project is one of the things covered by the bonds. The DPW needs a motion from the Board authorizing the payment.

Motion by Kladder, support by Takayama to approve payment of the Gourdie Fraser bill for work related to sewer bypass #2 from County Bond proceeds. Motion carried by unanimous roll call vote.

Meeting adjourned at 10:15 p.m.