



ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
6:30 p.m. Tuesday, July 12, 2005

Meeting called to Order with the Pledge of Allegiance at 6:38 p.m.

Members present: B. Boltres, D. Dunville, W. Kladder, B. Kurtz, E. Takayama, P. Scott, F. Zarafonitis
Members excused: None

Kurtz noted that a closed session previously scheduled for the beginning of the meeting has been cancelled.

INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

A. CONSENT CALENDAR:

Motion by Kladder, support by Scott to approve the Consent Calendar as presented, including:

RECEIVE AND FILE:

1. Treasurer's Report as of 05/31/05
2. Clerk's Report as of 07/06/05
3. Draft unapproved minutes
 - a. 06/27/05 Planning Commission meeting
 - b. 06/27/05 Public Safety Advisory meeting
 - c. 06/13/05 Infrastructure Advisory meeting
 - d. 06/27/05 Infrastructure Advisory meeting

ACTION:

4. Approval of Board meeting minutes:
 - a. 06/22/05 meeting (Kladder asked if these should be approved, given that the meeting had to be held again because it was not published in the newspaper in advance properly. Corpe responded that although the budget hearing held that evening could not be official due to the publication error, a public meeting was still held and it seems appropriate to approve the minutes.)
 - b. 06/30/05 meeting
5. Accounts Payable in the amount of \$114,787.99 through 06/30/05

Motion carried by unanimous roll call vote.

B. LIMITED PUBLIC COMMENT: None.

C. CORRESPONDENCE: None.

D. NEW BUSINESS:

1. Consider approval of SUP Application #2005-6P by Breakout Vending/Susan Brosch, 3254 Holiday View, Traverse City MI 49686 for SUP/Site Plan approval to construct a warehousing facility at 6101 S. Railway Commons (Lot 1, Railway Industrial Park) on property currently zoned B-4, Material Processing & Warehousing: John Urban, Elmers Engineering, presented an overview of the application and displayed the site plan for a warehouse/storage/office building. Kladder asked what would be done with the water that runs off from the roof of the building. Mr. Urban responded that the roof is peaked and will drain onto the parking area, which in turn will drain into the retention basin on the north side of the property. Scott asked about exterior lighting and how long into the evening it would last.

Motion by Zarafonitis, support by Boltres to approve Application #2005-6P. Motion carried by unanimous roll call vote.

2. Consider approval of SUP Application #2005-7P by New Hope Church 5100 Bethesda Court, Williamsburg MI 49690 for amendment to the existing church Special Use Permit/Site Plan #97-3P to allow for construction of a new administration building on property located at 5100 Bethesda Court and currently zoned A-1, Agricultural: Josh Standfest, Elmers Engineering, presented the application and site plan for a new church administration building. In 1997 the church project was originally approved displaying the site of the building as parking to be constructed during a second project phase. No new impervious surface will be created by the requested change in plans. The building will be occupied 8-5 Monday-Friday and will not create additional traffic to the site. Moving

the staff to the new building will free space in the main building for existing programs and services. An existing water retention basin will be enlarged, and separate well and septic systems would serve the new structure.

Zarafonitis asked if there are still plans for soccer and softball fields; Mr. Standfest stated that the softball field has already been developed and a portion of the recreation area is used for soccer. Previously-planned pavilions were eliminated from the plan at an earlier date.

Kladder asked for clarification regarding the reduction in parking area. Mr. Standfest stated that existing parking area will not be reduced; proposed undeveloped parking area will be replaced by proposed structure. Kladder asked if all other site conditions are up to required standards; Hull stated that he is unaware of any outstanding compliance issues. Kladder recalls that in 1997 there was discussion of a fence being placed between the Maitland and church properties; Hull found no reference to a fence in the files and Mr. Standfest is not familiar with it as part of the church's history. He noted that the very first approval for the church came in 1994; in 1997 the current sanctuary/auditorium was added by permit amendment.

Mr. Standfest noted that in keeping with the 1997 approval, the Planning Commission has recommended a deviation from the standard landscaping requirements regarding trees to permit smaller flowering varieties rather than the customary deciduous/evergreen varieties so as to protect air drainage for neighboring orchards.

Motion by Kladder, support by Dunville to approve Application #2005-7P pending receipt of final agency approvals as required. Motion carried by unanimous roll call vote.

3. **Choose service provider for 2004-05 Fiscal Year Audit:** In recent years Tobin & Co. has provided audit services. They put in a bid for the job again, as did Dennis, Gartland & Niergarth; Rehmann Robson and Plante Moran.

Kladder recommended that a firm other than Tobin & Co. be selected this year. Given recent audit concerns in neighboring communities, having the books reviewed by a fresh set of eyes seems prudent. He would particularly like the chosen provider to give the township feedback regarding the state of its accounting and control systems and to look for any errors, whether they may be intentional or otherwise. Boltres stated that a forensic audit is more costly than the township can likely afford at this time. A standard audit review will likely be sufficient.

Boltres favors the Plante Moran proposal, noting that they have an excellent reputation. Zarafonitis concurred, noting that there was a wide range of prices in the bids and that Plante Moran was somewhere in the middle and had excellent credentials. Kladder has previous experience with the firm and has always found their work to be excellent. He asked if the audit is done by looking at every detail or if a random sampling of items is reviewed; Boltres stated that the audit will be a line-by-line, detailed review. They will be looking for problems. Kurtz noted that the County uses Plante Moran, as did the school board during his administration.

Motion by Boltres, support by Zarafonitis to retain Plante Moran to perform the 2004-05 annual audit.

Kladder asked what happens if an error is found; is the public notified or the Supervisor? Boltres stated that they will notify the Board so that appropriate action can be taken.

Motion carried by unanimous roll call vote.

4. **Choose planning consultant to assist with public input towards creation of future land use map for inclusion in Master Plan:** The Master Plan was adopted in 1999 without a future land use map, which is a key component of any such guiding document. On April 18 the Planning Commission asked the Board to allocate funding to bring in a consultant to assist with creation of one. The Board sent out requests for proposals and received four responses: Beckett & Raeder, R. Clark Associates, Wade-Trim and Nederveld Associates. Beckett & Raeder and Russ Clark were already well know to the review committee composed of Planning Commission Chair Sherberneau, Kurtz, Takayama and Corpe, but most of the committee was not familiar with Wade-Trim so they were invited for an introductory interview. Sherberneau expressed a preference for Wade-Trim, due to qualifications, price and proposed approach, as did Takayama, Corpe and Kurtz.

Motion by Zarafonitis, support by Boltres to hire Wade-Trim to assist the township with creation of a future land use map for addition to the Master Plan. Motion carried by unanimous roll call vote.

5. **Consider Supervisor's appointments to filled expired Planning Commission terms of office:** This year the Planning Commission was expanded from 7 to 9 members. Diana Morgan and Ron Hardin

were appointed at this time to terms expiring on July 15, as does Dave Krause's term. Kurtz has spoken with all three and is asking the Board to consider re-appointing all three individuals to new 3-year terms. He noted that Hardin and Morgan have recently completed the MSU Citizen Planner program.

Kladder asked Sherberneau if the larger Planning Commission has been a good thing in his opinion. Sherberneau stated that it is good to have more individuals give their input into the decision-making process. Having more individuals can also create some logistic difficulties, but overall it has been positive. Kladder asked if the members' attendance has been good; Sherberneau stated that it has. John Pulcifer has been absent more often of late due to some unusual personal concerns but is highly motivated to continue.

Boltres asked if it would be possible to "get by" with 7 members, particularly in light of the need to keep costs in check. Kurtz noted that the numbers of meetings have been reduced and attorneys are present when needed but not throughout all of each meeting. Kladder feels it might be a bad time to reduce the Commission size. Kurtz stated that a few months ago Matt Vermetten came to a Board meeting and was asked how the Commission was operating at its larger size. At that time he felt it was too early to say.

Boltres is concerned about some of Kurtz's recommended choices, feeling that some of them seem to be in opposition to the way the Board is attempting to direct growth in the community. The current Board was elected by the citizens of the township based on a certain point of view about growth. Kurtz feels that balance and differing points of view are healthy factors. He has not attended Planning Commission meetings or made calls to Commissioners, as he does not want to place undue influence on them. Perhaps in the future a re-evaluation of commission size would be in order, but not now.

Motion by Kladder, support by Dunville to appoint Dave Krause to a 3-year term on the Planning Commission. Motion carried by a vote of 6 in favor (Dunville, Kladder, Kurtz, Scott, Takayama, Zarafonitis) and 1 opposed (Boltres).

Motion by Kladder, support by Zarafonitis to appoint Diana Morgan to a 3-year term on the Planning Commission. Motion carried by unanimous roll call vote.

Motion by Kladder, support by Zarafonitis to appoint Ron Hardin to a 3-year term on the Planning Commission. Motion carried by a vote of 6 in favor (Dunville, Kladder, Kurtz, Scott, Takayama, Zarafonitis) and 1 opposed (Boltres).

6. Consider changing August meeting date from 08/02/05 to 08/09/05 due to referendum election:

Motion by Kladder, support by Dunville to change the next regular meeting date from 8/02/05 to 08/09/05. Motion carried by unanimous roll call vote.

E. OLD BUSINESS:

- 1. Consider approval of revised contract for legal services from Olson, Bzdok & Howard:** At the June regular meeting a revised contract was presented by Chris Bzdok that proposed a fixed \$1,000 rate per month for legal work not directly related to litigation, drafting ordinances or a particular development application. Scott understood that costs for reviewing ordinances drafted by others would be included in the monthly retainer and that only creating new ones from scratch would be at an additional cost. Zarafonitis and Takayama feel that review only should be included, but that revision or drafting from scratch would be billed separately. Takayama supports the proposed arrangement, as does Zarafonitis.

Motion by Kladder, support by Zarafonitis to authorize Kurtz to sign the proposed revised contract for legal services with Olson, Bzdok & Howard. Motion carried by unanimous roll call vote.

- 2. Update regarding status of SUP/Site Plan Approval Application #2004-23P by POW Investments, LLC:** Brad Kaye and Troy Molby, Gourdie Fraser, represented the application. Sandy Pownall, the applicant, was also present. The Cottages at Windward Ridge is a proposed 44-unit condominium development on the west side of US 31 North opposite the resort. In April the Planning Commission recommended approval contingent upon several conditions. The key condition was that it be demonstrated that the project would be served by an adequate water supply. The applicant had expressed interest in receiving water from the Tribe/Resort. Mr. Kaye passed out a letter dated 07/01/05 signed by Steve Feringa, Corporate Architect for the Tribe's Economic Development Corporation, expressing an intent to enter into an agreement to sell water to the proposed development.

Mr. Kaye noted that the Resort water system, since it is owned by the Tribe, which is a sovereign nation, is regulated by the EPA rather than the DEQ. Due to the nature of the ownership, the township would not be assuming any liability for the operation of the system. The Tribe is a federal government entity and, according to Mr. Kaye, has the same right to offer a water utility as any other governmental body. Boltres expressed concern about potential competition between the township and the Tribe in

providing the service; Mr. Kaye stated that it was his understanding that twice the Tribe had offered to sell bulk water to the township and twice been refused. Kurtz stated that the current Board has not refused any such offer; in fact the township through the Infrastructure Advisory Committee is in discussion with the Tribe about the possibility of bulk water purchase.

There was some discussion about the fact that while the Tribe's EDC owns the Resort, the Tribe itself owns the Resort water tower and delivery system. There are some non-Resort/non-Tribal properties served by the Resort water tower (the condominium developments at the Resort, TraVino Restaurant, Wolverine Heights), but Corpe noted that all of these properties were part of the Resort property itself before the Tribe purchased it and can be considered grandfathered situations of a sort.

Mr. Kaye suggested that the township's concern regarding provision of the essential service to the development is being met through the letter of intent from Mr. Feringa and that approval of the application should proceed. Takayama recalled that the Tribe has stated at public meetings that they would prefer to deal directly with the township in a bulk water sale rather than making deals with individual property owners. Zarafonitis does not believe that the situation is at a final enough stage yet (the intent to form an agreement between the Tribe and POW will not be considered by the EDC board until next week). Boltres touched on the grandfathered nature of the existing non-Resort properties served by the Resort water system, noting that no new such situations have been created since the Tribe purchased the Resort. Kurtz feels that the issue of potential water agreements should continue to be reviewed by the Infrastructure Advisory first. Takayama noted that there may be a considerable amount of work ahead in determining which public agencies must be involved, how they must be involved, and whether franchise agreements are required if the Tribe is to operate a water utility within the township.

Mr. Kaye, speaking from the applicant's perspective, expressed concern about the application being delayed due to the ongoing discussions between the township and the Tribe. There was discussion about the ongoing development of lots within Wolverine Heights that are being served by water; Corpe and Hull noted that this neighborhood was approved as part of the Resort's PUD when KSL owned the property and therefore differs from Windward Ridge, which has not been part of the Resort PUD, but Mr. Kaye did not feel this was a meaningful distinction.

Takayama echoed Boltres' statements that the potential impact on the community extends beyond the Resort and Windward Ridge. Mr. Kaye stated a belief that the current situation is no different from any other potential private water system being developed elsewhere in the community.

Kladder noted that Kurtz mentioned an upcoming meeting of the DPW, and asked about the significance. Kurtz replied that the DPW has been asked to assist the township in evaluating the situation, which will have a regional impact beyond the township impact. While Kurtz would like to see the Windward Ridge project move forward, he feels it would be appropriate for the Tribe to first bring to the Infrastructure Advisory their proposed agreements for bulk water provision for discussion and a recommendation to the Board. Mr. Kaye asked about the impact of any delay on his client, noting that from her perspective there is a private developer-to-Tribe agreement that is completely separate from any potential township-Tribe agreement.

Kladder asked why the Tribe would be interested in dealing with Windward Ridge but not the township; several individuals stated that it appears that the Tribe is interested in proceeding with discussions with the township. It may be that the Tribe simply felt that they could assist the developer move forward more quickly on a parallel track while the township-Tribal discussions continue. Mrs. Pownall views the situation as being that the township required her to demonstrate the ability to provide water and she has done so. Other entities such as TraVino are purchasing water from the Tribe, and she feels it would be unfair to have the same ability denied her. She has made a deal that she feels will provide her development with clean water under appropriate conditions. Scott suggested that if a side agreement becomes a reality between POW and the Tribe, once the township and the Tribe reach an agreement the Windward Ridge development should be expected to adhere to the wider township agreement and the individual agreement would be discontinued. Mrs. Pownall believes that the Tribe would prefer to work on a broader scale rather with fewer entities than with a greater number of smaller entities.

Boltres and Takayama asked why the developer is not proposing to drill wells on the property. Mr. Molby stated that it would not be feasible to put in that many individual wells on the site. Boltres feels it would be most appropriate to defer any decision regarding Windward Ridge until further discussion between the township and Tribe can be held. Mr. Kaye has stated that whether or not the township is a middleman, the developer intends to receive water from the Tribe. Mr. Kaye does not believe that the township has the right to try to prevent the Tribe from selling water to individual properties. The Board feels that further investigation as to what can, can't, should or shouldn't be done is critical, especially since the realm of law between townships and Tribes is not currently clear to the Board.

Mr. Kaye has asked if the township requires anything further from the applicant, and if the application has met all of the zoning ordinance requirements. Kurtz reiterated that the current Board has not turned

down any offer from the Tribe and is working with them. Scott noted that a letter of intent to put an agreement for water is in place but it isn't a "done deal" yet, so an approval this evening is premature. Scott and Kladder both stated that in the presence of actual and appropriate agreements they are in favor of approving the project. Kladder stated that had documents been available in advance of the meeting for consideration, it may well have made a difference.

Discussion of this application will be continued at the August meeting.

F. REPORTS:

1. **County Commissioner's Report** – Larry Inman
2. **Sheriff's Representative Report** – Deputy Matt McKinley
3. **Buildings and Grounds** – Tom Henkel: Kladder asked if Henkel's report regarding number and type of fire service runs could be made consistent. The category titles tend to change from month to month and it makes it hard for him to evaluate the month-to-month trends.
4. **Zoning** – John Hull

Takayama recalls that when he was a member of the audience, reports would be given verbally and sometimes there would be issues for Board discussion or decision-making. He hasn't found those types of issues in his written reports, and wonders if there just haven't been any. Dunville noted that Henkel has recently completed an improved bathhouse path in the park at a cost well under budget and that has received many positive comments.

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

Andy Andres, 4946 E. M-72, asked why people from Detroit and Ann Arbor are being hired to assist the township when there must be firms within a 50-mile radius who could do the job. What do people from so far away know about us? Also, Boltres talked about the Tribe potentially taking money from the township, but what about the money that is taken away from the township and given to the lawyer by fighting Meijer and The Village at Grand Traverse, LLC. He feels that a more consistent approach should be taken, and feels that sending Mrs. Pownall away without an approval tonight was "terrible." He has been turned down for rezoning of his home for 7 years, and is applying once again. He said "I won't forget it, and someday I will come back with you guys when you want something."

Dorothy Fauver, 3141 Scenic Hills Drive, mentioned that there is a concern in her neighborhood about a homesite that has been built up significantly. Kurtz reported that the Drain Commission inspected the site this morning and found no conditions that violate their requirements. Ms. Fauver has had flooding problems in the past, and fears that they will be significantly worsened by the new elevation of the lot across the street. Hull stated that the Zoning Ordinance does not contain a prohibition against changing the grade of a property being used as a use by right. Special Use Permits contain a prohibition against such fills, but there is nothing regarding uses by right. Ms. Fauver asked about the height restrictions in the ordinance, and whether structures may only be a certain height above road level. Hull and Corpe responded that structure height measurements are taken from finish grade at the base of the structure. Since the landowner has raised the grade, he has created a new starting point for the measurement. Zarafonitis clarified for those on the Board who didn't know that Lot 28 in Kirkridge Hills has been raised by about 8 feet for a new house.

Takayama asked whether an Earth Change Permit was required to bring in the fill; Hull stated that this is not one of the criteria that the Soil Erosion Department reviews. Ms. Fauver stated that the landowner, who is a builder and teaches at NMC, received signatures from two-thirds of the homes in the development to enable him to build a 1 ½ story house with a 12/12 pitched roof. He stated that he did not realize that there were deed restrictions regarding the building height. He received the signatures, and then unexpectedly built up the site.

Kurtz encouraged Ms. Fauver to work closely with the Soil Erosion/Drain Commission Department at the County regarding potential runoff issues from the newly-raised site.

Zarafonitis asked that the Board direct the Planning Commission to discuss a potential revision to the Ordinance regarding a definition of grade and conditions under which a grade may or may not be changed and how building heights are determined.

Lewis Griffith, 5181 Lautner Road, asked if Mr. Andres' comments were recorded in the minutes; Corpe read back what she typed. Mr. Griffith then referred to some comments made by Kurtz saying that problems and errors with the financial records have been found. He recalls that at an earlier meeting the township auditor reported finding no problems, or only minor ones. Which condition is the truth, and who is lying? Kurtz stated that the audit to which the auditor referred was the 2003-04 audit. The auditor found 25 major adjustments that needed to be made. The audit was delivered late because significant amounts of work, such as compliance with GASB 34, had not been done timely, and this also resulted in significantly higher than customary costs. A new audit was not performed when the new board took office. Deputy Treasurer Doris Boltres reported finding money in the general fund that should have been deposited in the Arnold Road special assessment district special fund, and the auditor had not caught this mistake, as an example.

Chuck Walter, 6584 Bates Road, stated that any business has line-item mistakes. Rather than assessing blame, just fix the mistakes and move on. The people don't want to hear about the mistakes the old Board made, they want things to move forward. Mr. Walter also asked why businesses are displaying banners and signs illegally, particularly on weekends, but the ordinances are not being enforced. Is the Zoning Administrator being kept "tied up in the office by things that Sharon has for him to do?" Enforcement does not seem to be up to previous standards, which he hopes will change.

Kladder reported that the County Farmland Preservation Board will be meeting on July 20 to move forward with the creation of program scoring criteria.

Mr. Walter stated that he did not hear the whole discussion about Windward Ridge, but if we are so concerned with whether the Tribe provides water, why doesn't the township sink a pipe in the bay, create a purification plant and serve the entire township with water? Fire protection ratings might be improved, reducing homeowners' insurance costs.

Zarafonitis stated that the banners such as the one for Curves are being addressed actively by Hull.

Meeting adjourned at 8:45 p.m.