



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

**Meeting called to Order with the Pledge of Allegiance at 6:30 p.m.**

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

**Motion by Kladder, support by Zarafonitis to enter closed session to discuss pending litigation against the township which, if discussed in open session could have a detrimental impact on the township's financial interest. Motion carried by unanimous roll call vote.**

**Motion by Kladder, support by Boltres, closed review and discuss written opinion of township counsel which is exempt from the Freedom of Information Act. Motion carried by unanimous roll call vote.**

**Open meeting recessed at 6:34 p.m.**

**Motion by Kladder, support by Takayama to reconvene the open meeting at 7:17 p.m. Motion carried by unanimous roll call vote.**

**Kurtz recapped the closed session for the public. He stated that it is commonly known that the Board authorized him and Zarafonitis to enter into discussions with The Village at Grand Traverse, Meijer, and CCAT to explore possibilities for settlement of their differences.**

**Motion by Kladder, support by Takayama to authorize Bill Kurtz and Frank Zarafonitis to participate in facilitated mediation in CCAT v. Acme Township v. The Village at Grand Traverse, LLC. and Meijer, Inc. and to authorize Acme Township counsel to execute the stipulated order for the mediation so long as the order utilizes the delegation process approved by the 13<sup>th</sup> Circuit Court guidelines for township officials to send two individuals to a mediation and hold a full Board meeting soon after. 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 follows:**

**RECEIVE AND FILE:**

1. Treasurer's Report
2. Clerk's Report
3. Draft unapproved minutes 08/29/05 Planning Commission meeting
4. Copy of Confidentiality Agreement signed by parties participating in discussions towards resolution of dispute between the township, CCAT, The Village at Grand Traverse, LLC. and Meijer, Inc.

**ACTION:**

4. Approval of Board meeting minutes from the 08/09/05 meeting
5. Accounts Payable in the amount of \$130,364.16

**Motion carried by unanimous roll call vote.**

**Approval of the Agenda:** Item E3 has been removed from the agenda at Metro Fire's request. Kurtz would like to add to New Business a discussion of formation of a New Urbanism Advisory Committee.

**Motion by Kladder, support by Dunville to amend the agenda as suggested. Motion carried unanimously.**

**B. LIMITED PUBLIC COMMENT:** None

**C. CORRESPONDENCE:** None

**D. PUBLIC HEARINGS:**

1. **Proposed Resolution #R-2005-13, creation of a new township-wide special assessment district pursuant to PA 33 of 1951 to supercede the existing township-wide special assessment district for fire protection:** At the last Board meeting there was an extensive discussion regarding the status of the township's fire protection millage pursuant to PA 33 and how it could be cleaned up. Bzdok reported that the Public Safety Committee has recommended that some problems with the existing fire district be corrected, such as the fact that the initial vote to institute the township-wide Special Assessment District placed a maximum limit of 1 mill of levy. East Bay Township was in a similar situation, and their legal counsel opined that the limitation was illegal. In East Bay Township they simply removed the cap; it is Acme's Public Safety Advisory's recommendation that the original SAD be discontinued and a new one substituted that meets legal requirements but provides an opportunity for the public to petition for referendum if they so desire.

Scott had thought that the situation would cover police protection as well. Mr. Pat Collins, Chair of the Public Safety Advisory, stated that PA 33 allows for millages for both fire and police protection; however, right now the township has a millage in place to cover police coverage through 2007. The need for fire protection funding is immediate; police protection can be reviewed at a later date. Some of the required procedures and processes have been lost in the shuffle since the SAD was formed in 1975, and the township is attempting to "clean things up" at this time. Scott had thought there was discussion last month about expanding the scope of the resolution to include police protection.

**Public Hearing opened and closed at 7:31 p.m., there being no public comment.**

Zarafonitis asked how the proposed budget figure in the Resolution was derived. Collins responded that the figure is the originally-proposed budget for the current Metro Fire year. The 2006 Metro Fire budget is currently under review. The goal of the Public Safety Advisory is to maintain the current funding levels in the near term.

Scott would prefer to have the resolution say that the funds are for "emergency services" rather than just for fire protection, to include potential ambulance and policing needs. Kurtz asked Bzdok if such a change would cause a difficulty; Bzdok feels that the question of the amount to be raised will be addressed in a subsequent hearing to set the annual SAD levy amount. The Public Safety Advisory will be responsible for the Sheriff's contract as well.

**Motion by Zarafonitis, support by Dunville to adopt Resolution #R-2005-13 as presented. Motion carried by a vote of 6 in favor (Dunville, Kladder, Kurtz, Scott, Takayama, Zarafonitis) and 1 opposed (Boltres).**

**E. NEW BUSINESS:**

1. **Proposal by the Sweetwater Evening Garden Club to place a "Welcome to Acme" sign at the intersection of US 31 N. and Five Mile Roads:** Sharma Zollinger, President of the Sweetwater Evening Garden Club and the township's Deputy Clerk, stated that the club has partnered with the Acme Civic Association on a project to erect a sign welcoming people to Acme Township. A few months ago the garden club received a variance of the township's sign ordinance to allow placement of the sign, which is proposed to be 24 sq. ft. in size. Proposed designs were included in the Board packets, and an updated fact sheet was provided

this evening. Zarafonitis has consented to allow the sign to be located on the Bay View Inn property at the intersection of US 31 and Five Mile Road. Next year a raised flowerbed would be added at the base of the sign. The sign height would be 9' above grade. Day Signs has been chosen as the sign provider. No part of the sign will be within the road rights-of-way. A plaque recognizing the civic association and garden club for the donation would be included. The sign is proposed to be downlit. Good Harbor Electric is willing to install and wire the sign with an automatic daylight sensor and is donating the labor and materials. Zarafonitis is donating the trenching and wiring to extend power from his service to the sign. The flowerbed would be constructed of stone to resemble existing improvements on-site. Zarafonitis is also providing irrigation so that the plantings can be watered.

Kladder asked about the electricity costs; Zarafonitis stated he would be absorbing them. Kladder asked what would happen if the property is sold; Zarafonitis stated he would make continued provision of the electricity a condition of any sale. Takayama said that he hopes the lighting will not be provided by a fluorescent light bar atop the sign.

**Motion by Dunville, support by Takayama to approve placement of the “Welcome to Acme” sign and raised flowerbed as proposed, with thanks to the Sweetwater Evening Garden Club, the Acme Civic Association, Good Harbor Electric and Frank Zarafonitis.**

Kladder asked that the Supervisor to write letters to the parties who are making the sign possible expressing the township’s gratitude. Kurtz verbally thanked the garden club for maintaining the flowerbeds at the township hall and Bertha Vos, as well as Bayside Park. Scott expressed concern that MDOT give approval to the sign placement.

**Motion carried by unanimous roll call vote.**

2. **Proposed Renewal of Electric Service Franchise Ordinance with Wolverine Power Cooperative:** Dick Lang, an attorney for Wolverine Power Cooperative, was present. Wolverine is the cooperative that provides electricity to Cherryland Electric Cooperative. They are a non-profit corporation that had a 30-year franchise with the township that expired several months ago. They are seeking franchise renewal as required by Michigan law; no new construction is proposed. He provided a petition and a proposed ordinance which has been revised somewhat by Jeff Jocks from Olson, Bzdok & Howard. The only outstanding question relates to whether or not the township will impose a franchise fee. Mr. Lang would like to add to Mr. Jock’s proposed wording about a franchise fee some language that any such fee would be as authorized by Michigan law, and similar language regarding the location of power lines and other improvements. He also said that if Mr. Jock’s language requiring that all paperwork submitted to the MPSC be submitted to the township is adopted, the township would be inundated with paper. Finally, Mr. Lang stated that Wolverine has never paid a franchise fee before; they would be willing to pay the township’s legal costs to review the documents, however.

Bzdok stated that he is satisfied with the documents as proposed to be amended. The question of a franchise fee is not that one should or should not be imposed, but to point out that the township has the authority to impose one.

Takayama asked what would happen if new construction is necessary; Mr. Lang replied it would be conducted in keeping with all pertinent laws and regulations. Zarafonitis noted that there is a clause in the document that allows the township to cancel the agreement at any time.

Kladder did some research regarding utility franchise agreements on the Internet. He found at least 30 utilities that pay franchise fees of some percentage or another. The money generally flows to municipalities’ general funds. He did not consider the question of the utility being a

non-profit. Some franchise fees are based on total billings, but this may not be fair in the era of deregulation, when new providers can use other providers' existing infrastructure. Kladder does not suggest that there be an immediate franchise fee, but does suggest that there be language that allows the township to reserve the ability to charge one in the future.

Kladder was also interested to find that while a 30-year contract is proposed, most of the franchises he came across were of 8-10 years in duration. There are ongoing changes in technology and in company ownership, and a company could change from non-profit to for-profit. If the township is to enter into a 30-year agreement, it warrants a considerable amount of study before locking the community into something for the long-term. He would like some more time to study, and/or would like the term of the agreement reduced to 10 years.

Boltres stated that if a franchise fee is added, the cost would likely be passed directly to township residents. He noted that the proposed document does have a clause that permits the township to cancel at any time. Zarafonitis asked if the township would be notified if Wolverine went from non-profit to profit status. Mr. Lang replied that there is no requirement that all municipalities be notified, but a notation that we would like notification can be placed in our file. It is unlikely that such a switch would be made. There are some contracts shorter than 30 years, but the law authorizes 30-year contracts.

Kladder asked if Bzdok's firm has been maintaining separate billing records; the work has been minimal so they have not.'

**Motion by Boltres, support by Dunville to approve the contract as presented for 30-years based on Wolverine covering any costs incurred by the township. Motion passed by a vote of 4 in favor (Boltres, Dunville, Kurtz, Scott) and 3 opposed (Kladder, Takayama, Zarafonitis).**

3. **Proposed Resolution #R-2005-16 authorizing the lease-purchase financing of the acquisition of a building and real property for a new Grand Traverse Metro Fire Department station in the Meadowbrook Industrial Park off Three Mile Road, East Bay Township:**
4. **Authorize Supervisor to execute LochenHeath LLC Water System and Sewerage Agreements:** Kurtz indicated that a meeting was held with LochenHeath representatives last week regarding the on-site water and sewer improvements. The township and LochenHeath had thought that the required paperwork to allow construction and potential turnover of the system to the township had been completed in 1999 but it had not. Katie Zopf, an associate with Dingeman, Dancer and Christopherson has been working on this matter, and has negotiated with LochenHeath's representatives during the latter half of last week and today. The only changes to the proposed standard agreements address the fact that some of the infrastructure has already been constructed. The form and substance are otherwise the same as the agreements offered to all similar township projects.

Boltres asked who is paying the costs of handling these agreements. Ms. Zopf replied that until the systems are operating in such a fashion that they cover their costs, LochenHeath will cover expenses; there will be no cost to taxpayers.

**Motion by Boltres, support by Scott to authorize Kurtz to sign the LochenHeath water and sewerage agreements. Motion carried by unanimous roll call vote.**

5. **Proposed Resolution #R-2005-17 from the DPW to approve capitalization of additional interest relative to reconstruction of septic treatment plant:** The public should be generally aware of the situation regarding the partial collapse of the new septic treatment plant. Dennis Aloia, County Administrator stated that the description of this situation would be as relative to "construction" of the plant rather than "reconstruction." The County has not

yet accepted the plant as complete. The County is offering the township the opportunity to pay for continued construction of the plant without dipping into interest and income. Due to the wall collapse and the fact that only a portion of the plant is in use, with partially-treated waste being processed by the city sewage treatment plant at a cost, the expected revenues are not being generated. County staff is studying the effect on township cash flows; the DPW-member townships have obligations under the bonds that financed the project. The County is asking, since construction is ongoing past the anticipated timeline, to capitalize interest for two payments. The County has received a \$250,000 grant from the federal government for construction which frees up a similar amount of money for recapitalization.

Boltres asked if the losses are due to the collapse of the tank wall. Mr. Aloia stated that 11 days worth of revenue were lost. He believes that all costs associated with the situation will be covered by a limited partnership formed by Gourdie-Fraser and Christman Construction, including lost revenues. Boltres feels that this is a request for some payment by the township and not by the limited partnership, but Mr. Aloia stated that this is not the case. He said that if the townships don't adopt the resolution, they will be \$250,000 short of funds to pay bond interest. Boltres is not convinced that this does not represent a cost to the township and expressed a desire to have more time to study the question.

Kladder asked if the County would be making this request if the accident at the plant had not occurred. Mr. Aloia said there were other problems, such as with the screens that sift the solids, that might have caused a request to capitalize the November interest payment. Kladder asked why he does not believe the township will have to expend extra funds. Mr. Aloia replied that the insurance company will pay everything in the claim related to the building failure, some \$2.1 million. There may be other things that need correction that will change this figure. This is not the full cost of the loss; the additional funds have been pledged by the limited partnership for all other costs of finishing the project. They offered to pay up to \$50,000 of administrative costs and an additional sum for an independent engineer hired by the Board of Public Works to ensure that the rest of the plant is sound and assess the fault in the situation. Mr. Aloia believes Kurtz has expressed a legitimate concern about having all expenses paid, but to date the partnership is concerned about committing to any agreement that may leave their "checkbook open." The partnership has agreed to receiving monthly bills to begin paying some of the costs right away. Mr. Aloia is comfortable that all costs are covered with the possible exclusion of some administrative costs.

Kladder asked when the plant will be fully operational; February is a potential date but some new potential problems, if verified, could extend this timeframe significantly. Sewage/septage treated in July was up 10% from the first month of operation; August was up 11% from July. The figures may continue to go up or may go down; there could have been a seasonal spike.

Scott asked if there might be future recapitalization requests: Mr. Aloia replied that there will not because the townships will have no more funds available. A complete report on the situation to the Water and Sewer Committee is expected within a month. At this time he cannot state that the plant will be at full operation in 18 months, and he believes the original projections for the amount of business to be expected may have been high. Some people may have had their tanks pumped before the associated price increases kicked in. No sincere effort to enforce the requirement that septage pumped in the County be delivered to the plant has yet been made.

Takayama believes that most of the problem stems from the wall collapse, and that the engineer, contractor or both are at fault. He believes that the dollar amounts under discussion, under \$100,000, are relatively minor to firms that large. He fears that the groundwork is being laid for the taxpayers to be picking up some of the costs. Mr. Aloia responded that the \$100,000 is more like \$600,000 when some additional construction costs are factored in. The township supervisors are discussing lost revenues, but there is less net cost of partial

treatment at the septage plant and finishing at the city sewage plant than there was for full-cycle processing at the septage plant. The supervisors are asking how to recoup lost revenues, but it is important to remember that the plant has not been turned over to the County yet and essentially still belongs to the engineer/contractor. Are there damages that the County is not pursuing? After the independent engineer's report is received at the end of September a better assessment can be made. Mr. Aloia feels it's important to keep the engineer/contractor paying the bills. He feels there might be \$50,000 - \$100,000 of costs up in the air, but overall he feels "pretty good" about the situation. The deadline for this resolution is September 30.

Kladder feels that monthly updates on the situation would be advisable, and would like it to appear on the agenda including costs and actions every month.

**Motion by Boltres, to table the resolution until the Board can conduct further review and ask additional questions.**

Kurtz appreciated Kladder's suggestion; it seems like he and the other supervisors are learning something new about the situation all the time. Kladder asked how many other townships have adopted the resolution; Acme is the first to have the matter on the agenda. The decision must be unanimous by all townships or it will not be adopted.

**Motion failed for lack of support.**

Takayama asked Kurtz if he is comfortable with the proposal; Kurtz replied that it is not but it is the best offer available at present. It would buy some time, and he noted that if construction were not finished by November there would have been a request for recapitalization anyway.

Kladder asked how much the township will be "out" if major additional problems are found and the project is unfinished. The bond was for \$7.9 million for 20 years; payments are around \$750,000/year total.

**Motion by Kladder, support by Scott to adopt Resolution R-2005-17. Motion carried by a vote of 6 in favor (Dunville, Kladder, Kurtz, Scott, Takayama, Zarafonitis) and 1 opposed (Boltres).**

6. **Discuss proposed purchase order policy:** Boltres would like to have a purchase order system in place requiring that requests to make any major purchases be presented to the Clerk and Treasurer for approval prior to execution. Based on situations occurring elsewhere in the county and standard business practice he believes it would be prudent. Kladder sees the advantage of a system to track who is buying what, but budgets have been approved for each cost center already. For example, Tom Henkel prepared a Parks and Maintenance Budget. As long as he stays within that budget, how would things be tracked? Boltres is concerned about whether items will be attributed to the appropriate line items – will someone try to put inappropriate charges under the heading of "repairs and maintenance?" Boltres is just proposing that the people signing the checks are aware of how money is being spent before it goes out, and to ensure that shopping around for the best deal is being done. Kladder asked if Boltres is proposing to draft a formal policy. Boltres would just like the Board to require that purchase orders be completed for purchases over a certain amount of the Board's choosing. He is also concerned by the fact that the township has a credit card. Scott asked what would happen if either the Clerk or Treasurer were unavailable; Boltres replied that their deputies would also be authorized to review and sign the purchase orders. Kladder asked if there has been a problem with misuse of funds; Boltres replied that he is seeking to avoid the type of problem that has surfaced in East Bay.

Takayama suggested a spending limit of \$100, above which purchase order approval would be required. Scott supports the idea but is concerned that someone additional be authorized in case the Clerk, Treasurer and/or their deputies are unavailable.

**Motion by Kurtz, support by Zarafonitis that expenses over \$300 require purchase order approval by the Clerk and Treasurer or their deputies, policy to be reviewed in January 2006. Motion carried by unanimous roll call vote.**

7. **Discuss proposed formation of New Urbanism Advisory Committee:** Kurtz has found that there are many people eager to have input into the future development of the township in general, and of a town center in particular. Several people have dropped off information about New Urbanist developments around the nation. There are four pieces of property with the B-3 zoning designation, including one in the Bates area that is listed for sale at \$5 million. Some people have visited other neighborhoods. He is proposing a New Urbanism Advisory Committee, although he is not proposing a chairperson at this time. Kladder suggested that individuals interested in the committee submit a letter of interest to Kurtz so that he could choose a chair nominee and forward the other letters to that chair.

**Motion by Kladder, support by Boltres to form a New Urbanism Advisory Committee. Motion carried by unanimous roll call vote.**

**F. OLD BUSINESS:**

**G. REPORTS:**

1. **County Commissioner's Report – Larry Inman:** The customary written report has not been prepared yet this month due to goings on related to the septic plant, but one will be produced as soon as possible.
2. **Sheriff's Representative Report – Deputy Matt McKinley:** Deputy Ryan Salsbury was present to answer any questions that might arise. Statistics for last month will be available by the end of the week. Deputy McKinley has been promoted to Detective and liaison at West Junior High, and a search for replacement candidates is underway.
3. **Buildings and Grounds – Tom Henkel**
4. **Zoning – John Hull**

**H. PUBLIC COMMENT & OTHER BUSINESS THAT MAY COME BEFORE THE BOARD**

Chuck Walter, 6584 Bates Road, stated that he heard the Board members express concerns about taxpayers footing the bill for the septic plant, but he believes that the real answer is that the users will face increased costs. He believes that a “no-growth attitude” in the township will prevent even new septic hookups, and that the township needs to make an effort to let the world know that Acme is a desirable place to build a home or a business. He also asked about the purpose of a fund balance – it is to be used in case of trouble and not just to be “looked at.” It would take relatively little of the fund balance in his opinion to cover the septic issue.

**Meeting adjourned at 8:58 p.m.**