



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
Tuesday, September 2, 2008 7:00 P.M.**

MEETING CALLED TO ORDER WITH PLEDGE OF ALLEGIANCE AT 7:00 P.M.

Members present: D. Boltres, D. Dunville, R. Hardin, W. Kladder, P. Scott, E. Takayama, F. Zarafonitis
Members excused: None
Staff present: S. Vreeland, Township Manager/Recording Secretary
C. Bzdok, Legal Counsel

INQUIRY AS TO CONFLICTS OF INTEREST: None noted

APPROVAL OF AGENDA: Motion by Takayama, support by Dunville to approve the agenda as amended to add a New Business Item F6, Discussion regarding Mitchell v. Acme and Thomas Henkel. Motion carried unanimously.

A. CONSENT CALENDAR:

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

RECEIVE AND FILE:

1. **Treasurer's Report** as of 07/31/08
2. **Clerk's Report** as of 08/27/08
3. Draft Unapproved Meeting Minutes:
 - a. Planning Commission
 1. **08/11/08 Special**
 2. **8/25/08 Regular meeting**
 - b. **Facilities Advisory 8/18/08**
 - c. **Public Safety Advisory 8/20/08**
 - d. **Shoreline Advisory 8/20/08**
 - e. GT County DPW Sewer & Water Committee Draft Meeting Minutes **06/30/08** and **7/28/08**
 - f. Road Commission Meeting minutes for **07/16/08** and **08/06/08**
4. Metro Fire **08/15/08 Newsletter**
5. Letter **to Road Commission urging reclassification of Holiday Road and Bunker Hill Road**
6. Copy of 08/18/08 letter to County Administrator Aloia regarding **Construction Code Department Fees**

ACTION – Consider approval:

7. Township Board meeting minutes of **08/12/08**
8. **Accounts Payable** of \$120,940.21 through 08/26/08

Motion carried by unanimous roll call vote.

B. LIMITED PUBLIC COMMENT: None.

C. REPORTS:

1. **Sheriff's Deputy** – **Mike Matteucci**: July and August statistics were provided. There was one fatal traffic crash during August on US 31 North. There were 238 total calls for service, with 29 involving criminal complaints. A repair package for the radar trailer has been received so some corroded parts can be replaced and seals repaired, and the trailer can be back in service soon. He has a hitch on his car so he can place the trailer himself now.
2. **County Commissioner's Report** – **Larry Inman**:

3. **Parks and Maintenance** – Tom Henkel: received and filed.

D. **SPECIAL PRESENTATIONS:**

1. **Annual Road Commission Update - Mary Lajko:** The Road Commission has been performing some repaving projects around the county in partnership with the County Commission, which provided some bonding. Elk Lake Road is on the list for repairs within the next few weeks, as is Hobbs Highway. Much of the work occurred in Garfield and Long Lake Townships. The repairs were structured to last at least as long as the bond issue. Other projects included introducing left turn phasing at the intersection of Garfield and Hammond through a safety grant. There is also a new signal at the intersection of Silver Lake and Franke Road, which runs behind Meijer. The Silver Lake/Zimmerman Road intersection is due to be upgraded with left turn phasing through grant funds. They are seeking funding for more durable pavement markings, and to provide rumble strips on centerlines and edge lines where there are high rates of crossover crashes. Two big projects for next year are the connection of Hammond to Keystone, which should relieve some traffic from Birmley Road. They are acquiring some right-of way along Cedar Run Road between Harris and Gray so that some of the curves can be smoothed out. Acme's gravel roads have received their second brine application for the year. The Road Commission has rented a crack sealing machine. Crack sealing can extend the life of roads in fair condition that need some attention. The new 2008 road maps were received today.

Linda Wikle, 7902 Deepwater Point Road, asked if speed limits on Cedar Run Road have been examined. The road work done there 8 years ago has allowed higher speeds and safety concerns for the people visiting the medical office parks there. Lajko explained the way speed limits are set through requests for studies from township officials, which lead to State Police-led speed studies. Ms. Wikle related the problems her mother has getting in and out of her driveway on one of the key curves in this area, and the accidents she has seen in that area.

Kladder asked how the different type of brine used this year worked as compared to the brine previously used. He received one complaint about it. He also asked what size cracks the sealing machine can handle; Lajko is not personally aware of the answer.

Hardin noted a complaint last winter about visibility due to some pine trees for the new connection between Springbrook West and Bunker Hill Road. Cars also disappear behind the snow banks that accumulate in the winter. Lajko reported that the intersection was designed to meet federal sight distance standards for cars, but agreed that the height of snow banks could be a problem. Hardin believes that pruning the pine trees would help people see cars coming down Bunker Hill. If the trees are in the right-of-way the Road Commission can do some trimming.

2. **Annual County Department of Public Works Budget Presentation – Director Chris Buday:** Buday provided some sheets that provide a summary of the DPW budget as it relates specifically to Acme Township. The O&M Expenditures item for sewer service relates to the amount the DPW is contractually obligated to pay to the City towards its plant operating and maintenance contract with OMI. Looking at the amount budgeted to be due from Acme for operating expenditures and debt payments as compared to expected revenues, currently there is a projected small revenue surplus shortfall for the coming DPW fiscal year of \$3,485 if an additional 35 sewer benefits are added and/or fees are increased. Kladder noted that last month the Board discussed projections for the sewer fund, and will discuss again next month what should be done in terms of whether there should be a fee increase again this year. Buday stated that many area townships are facing similar situations with the need to generate additional revenues to meet operating expense needs during a slow growth period. Kladder believes, based on projections, that if revenues are not increased, the township will experience a \$126,000 shortfall. The township also has to determine how to address the water and sewer systems at LochenHeath. Most of the localized systems in the township such as LochenHeath and Orchard Shores are operating at a surplus at this time, but maintenance work is needed on the Hope Village system which would generate some significant expense.

Buday provided a page summarizing existing bond debt. The structure by which the debt responsibilities are shared differs for each bond, and the calculations can be quite complex. Some are based on set formulae, and some are based on changing flow rates. The Board noted an error in the 2009 Bond Debt worksheet relating to Fund 334, where several of the numbers appear to be incorrect and they don't total across the row correctly.

The portion of the budget increasing most significantly year over year is the OMI operating and

maintenance expenditure. It is unclear whether the increased costs are personnel-related or if the cost of chemicals is rising, or some other factor such as power costs has the greatest impact. In some years the DPW receives a rebate, in some years there are extra expenditures above budget expectations. The DPW has also improved its flow metering, so townships are being more accurately charged for their shares of total flow volume. A study will begin soon to determine what likely flow growth in the near to mid-future will be and allow townships to determine how they wish to deal with the issue. Gourdie-Fraser, Wade-Trim and URS are being interviewed as the potential engineering firms to perform the study next Monday. The interviews will be filmed and broadcast.

Kladder asked for budget comparisons for Acme Township for the past three years. He is particularly interested in the customary percentage increase we have been experiencing, to ensure that the projections we are using to decide how funding needs should be addressed are appropriate. Buday stated that for the past five years they have been operating on a "maintenance" budget: no staff increases and minimal administrative and equipment cost increases. In fact, the number of staff has decreased by one this year. The township supervisors who make up the Board of Public Works ultimately decide the budget. Kladder would like to examine the DPW budget more closely to see if there are appropriate savings that can be realized, and Scott echoed the sentiment. Kladder noted that the budget does not take into account any potential effect resulting from the recent County salary study. Buday expects that this will not come into play in the current year, and would be phased in.

Kladder commended George Champlin, the current DPW manager. Recently a firm doing some digging for AT&T damaged a manhole near the US 31/Bunker Hill Road intersection. Last time there was similar damage it took over a year for the township to be reimbursed for repairs is paid for. This time George ensured that the contractor performed the repair work immediately and at their direct expense.

Buday plans to work closely with the BPW to help the members become intimately aware of how the budget is constructed, probably using the 2010 budget as an example. The OMI contract runs for 5 years, and planning to bid it out or possibly transition to a different operation would likely take several years. There is no room for error, as plant operations are environmentally sensitive.

Scott calculates that if there are no new benefit sales, the township will fall \$144,000 short in revenues to meet the 2009 DPW budget expenditures.

E. CORRESPONDENCE: None

F. NEW BUSINESS:

1. **Consider resolution to retain Resource Recovery Surcharge and centralized recycling drop-off sites to County Board of Commissioners:** Commissioner Inman reported last month that the landfill surcharge would sunset at the end of 2008 and that he hoped the County Commission would see that there is no clear community consensus and would extend the surcharge while the matter was worked out. At a Physical Resources Committee meeting a few days later Commissioner Lemcool moved to recommend to the full Commission that they discontinue the surcharge at the end of the year and was seconded by Commissioner Thomas. At the Commission meeting last week the recommendation was turned down. A meeting has been scheduled for the end of September to gather additional input from local units of government and the general public. The surcharge pays for 9 drop-off recycling bins scattered throughout the county and other waste collection services. Some people feel there should be county-wide curbside recycling instead of the drop-off bins. Inman finds that in the townships he represents (Acme, Fife Lake and Whitewater) the drop-off bins are a popular service. It's widely viewed as being free, even though it is paid for by passing the landfill surcharge through to residential and commercial customer bills. Inman believes that proceeding with the proposed resolution will help send a message to the County as to Acme's wishes, and he encouraged the township to send a representative to the upcoming meeting. He supports continuing the surcharge while the matter is studied for a minimum of six additional months.

Scott asked how much it might cost the average homeowner if curbside recycling is made mandatory. His bill increased dramatically last year, and he was told it was because Acme had made it mandatory. He subsequently changed waste haulers. Vreeland recalled that Acme did not make a change in its policy last year, but one of the waste haulers did say that we had as an excuse to raise rates. Inman also noted that even if the surcharge is discontinued there is no guarantee that the waste haulers will reduce customer bills accordingly. Hardin observed that waste haulers receive income from selling recycled items they collect. There was also an article in the September *Traverse City Business News* about a

man who has started a business locally collecting recycled materials, which he sells to cover his costs and donate to charity. Kladder noted that if recycling is not convenient, people will not do it and the County will not meet recycling quotas expected by the state and/or federal government. He believes the County needs to show leadership by seeking new solutions. Waste haulers tend to oppose the surcharge because they have administrative costs related to it, and some people believe that commercial customers are paying more than their fair share as compared to residential customers.

Motion by Takayama, support by Zarafonitis, to adopt Resolution #R-2008-23 supporting continued centralized recycling opportunities. Motion carried unanimously.

2. Consider **resolution changing the trustees of the Acme Township Retirement Plan:**

Motion by Scott, support by Takayama to adopt Resolution #R-2008-24 changing the trustees of the Acme Township Retirement Plan. Motion carried unanimously.

3. Consider resolution regarding **commitment of township general funds to match grants received for the Shoreline Preservation Project:** Vreeland prepared the proposed resolution, which would commit \$50,000 from the General Fund as a match if and when grants are received for the Shoreline Preservation project. The township has to date applied for about \$6.5 million from the MDNR Trust Fund, \$200,000 from the Carls Foundation, \$200,000 from Rotary Charities and \$100,000 from the Biederman Foundation. We are in the process of preparing applications for \$600,000 to MDOT for Enhancement funds and \$100,000 to the Oleson Foundation. We will apply to other programs as opportunities arise. Grant applications always ask how much of its money the applicant is supplying towards a project, and not demonstrating a financial commitment can damage an application. The \$50,000 can be committed but unused for now, similar to the funds set aside for the New Urbanism project. If the funds are expended, at this point in time it would likely create a current year deficit (spending higher than projected current year revenues), dipping into the nearly \$1 million current general fund balance forward. While the current administration has a strong anti-deficit spending orientation, Vreeland suggested that long-term community projects such as this may be one of the things such a fund balance is for.

Motion by Zarafonitis, support by Takayama to adopt Resolution #R-2008-25 committing \$50,000 from the General Fund to match Shoreline Preservation Project grant applications. Motion carried by unanimous roll call vote.

4. Consider resolution approving **application for Rotary Charities Capital Grant for the Shoreline Preservation Project:** As mentioned previously, one of the grant applications being made is to Rotary Charities of Traverse City. Rotary requires that the board of an entity seeking funding adopt a motion and/or resolution to proceed with the application, a step not all funding sources require. The application was actually submitted today with a blank copy of the proposed resolution, and Rotary is aware that the Board will be considering its adoption this evening and is willing to accept a signed copy after today's application deadline.

Motion by Takayama, support by Hardin to adopt Resolution #R-2008-26 approving application to Rotary Charities for a \$200,000 capital grant for the Shoreline Preservation Project. Motion carried unanimously.

5. Discuss response to **Federal ADA and State Civil Rights Complaints by James Schmidt:** Vreeland summarized the staff memo prepared by her and Mike Grant, which is primarily a timeline of the contacts over the past year between Mr. Schmidt and the township. After indicating interest in being appointed Supervisor when Bill Kurtz resigned and not being interviewed, Mr. Schmidt alleged that the township hall is not ADA accessibility-compliant, particularly because it does not have a pressure-assist automatic front door opener. Grant, Vreeland, Dunville and Henkel have checked and re-checked both the facility and ADA guidelines. Only three minor non-compliant issues were found involving the restrooms, and all were immediately corrected. The township is not required to have a pressure-assist entry door as long as it meets certain dimensional requirements, which it does. Mr. Schmidt purports to have filed civil rights complaints with federal and state authorities and indicates he may file a civil lawsuit against the township to have a pressure-assist door installed. Staff is seeking direction as to how the Board would like to proceed.

Bzdok stated that the civil rights agencies will let us know if they need any information from us. The Department of Justice (DOJ) has informally indicated that the township's research is correct and we

are not out of compliance with ADA standards. Mr. Schmidt's correspondence indicates that he may file lawsuits against the township, but a search of court records indicate none have been filed at this time. He does not believe the township will ultimately have to spend a large amount of money regarding the situation. Bzdok suggests sending a polite letter to Mr. Schmidt letting him know that we are aware that he has filed similar complaints against other entities in the past, and that if he files against us and is unsuccessful the township might seek to recoup its costs and/or damages from him in turn. His research indicates that Mr. Schmidt's lawsuits tend to be dismissed as frivolous, but generally involve serious accusations against government entities. Bzdok stated that the township has acted correctly in every way in the situation.

No lawsuit has been filed against the township at this time. It is not confirmed whether or not the complaints have been sent to the agencies as the faxes received from Mr. Schmidt indicate. The goal of a letter would be to try to fend off any potential litigation. Work done to date by Bzdok's office was performed under the township's general retainer. The major expense to date has been staff time by Vreeland and Henkel.

Scott supported sending a letter only if and after an indication is received that he has actually taken action against the township; otherwise it may be perceived as a threat. He also asked where the question of Mr. Schmidt's legal residency status stands. The board reached consensus that a letter will be sent if Mr. Schmidt takes further action against the township.

6. **Discuss Mitchell v. Acme Township and Thomas Henkel:** In late January 2006 Parks & Maintenance Supervisor Henkel was involved in the first automobile accident of his life while in the company vehicle. The individual in the other car has filed a lawsuit against the township and Henkel personally. The township is not alleged to be at fault; it is held partially responsible because it owns the vehicle involved in the accident. It should be covered by the township's insurance policy. The township has to respond to the complaint within 4 weeks from when we were served. Bzdok expects the matter will be handled entirely by legal counsel for our insurance company, but he will keep aware of timelines and monitor the insurance company's activity. Bzdok can put in an appearance just to be copied on all court correspondence related to the case.

G. PUBLIC HEARINGS:

1. **Proposed 2009 Metro Fire Department Budget and 2008-09 fiscal year Emergency Services Special Assessment levy rate** (combined for Police and Fire protection): Metro Chief Pat Parker presented the 2009 Metro Budget. The process began in June and the budget was revised several times before being approved by the Metro Fire Board. It comes to the Acme Board with the Public Safety Advisory's recommendation for adoption, and has already been adopted by East Bay Township. The budget represents a modest increase, primarily for staffing expenses. Metro is moving towards a part-volunteer, part-paid organization, as volunteers are harder to find. Acme Station 8 now has more calls for service than East Bay Station 9. They are trying to staff our station during the day every day but can't find enough help even at \$12/hour. Acme Station 8 is receiving a full-time captain, and is planned to be staffed 16 hours a day, plus on-call night duty crews. Two full-time people are being added system-wide, plus additional part-time staffing for all four stations.

Hardin asked if the increased staffing is bringing Metro noticeably closer to the staffing levels it feels are necessary. Metro does not plan to become completely full-time paid organization. He would like to ultimately have two people on duty at each station every day. The stations cover each other when needed. It is hard to attract day and evening staff. They would like to meet the national average of reaching the scene of an emergency within 6 minutes 90% of the time. Metro will be asking the Insurance Services Office (ISO) for a rating reduction from the current "6" to a "4." The result would be modest decreases in residential insurance premiums, but significant decreases in commercial insurance premiums. Given enough funding they could easily attract full-time staff, as many people are eager for a career firefighting position. Metro is known for having a lot of action, which is an attraction. Full time firefighters start at \$30,000/year and are eligible for healthcare and retirement plan benefits.

Takayama noted a significant projected increase in overtime pay, and wondered if it could be reduced by using part-time employees on regular-hours pay. Chief Parker responded that much of the overtime is related to required training and to fire investigations. Zarafonitis asked if Metro could apply again for a SAFER grant; they did. Metro was unsuccessful in receiving funding for 4 firefighters last year but has applied for 6 this year. The grant would pay 80% of their cost in the first year, 60% the second, 40% the third and 20% the fourth, with the department picking up the full cost thereafter. Metro has

calculated that the savings in the need for part-timers would cover the cost of the new full-timers for the first five years.

The proposed special assessment levy for emergency services for 2009 is 2.25 mills. 2.0 mills would cover the Metro Fire budget contribution, and would be same rate for this purpose as was levied last year. 0.25 mills would go to our cost for our Community Policing Officer, Deputy Mike Matteucci, and would be slightly lower than the 0.257 mills collected last December. This levy rate was recommended to the Board by the Public Safety Advisory at their recent meeting.

Public Hearing opened and closed at 9:14 p.m., there being no public comment.

Motion by Scott, support by Hardin to approve the 2009 Metro Fire Budget as presented. Motion carried by unanimous roll call vote.

Motion by Scott, support by to adopt Resolution #R-2008-27 setting the Emergency Services Special Assessment levy for this year at 2.25 mills. Motion carried by unanimous roll call vote.

2. **Proposed Metro Fire Authority Articles of Incorporation:** The proposed Articles of Incorporation have been under consideration for approximately 3 years. The law firms for Metro Fire and Garfield, East Bay and Acme Townships have been involved. The agreement formally creates an emergency services authority including the three townships. When Metro Fire first was formed in 1980 the Articles of Incorporation were thought to be appropriately constructed, but were found not to be so several years ago.

The new authority would have a Board consisting of two representatives from each township, as opposed to one each now. The Metro Board will have direct control of the budget, which must be ratified by each member township. Other townships could join the authority later, and additional services such as EMS or policing could be operated through the authority later.

Public hearings were not required for adoption of the proposed Articles of Incorporation, but all three township Supervisors wanted to hold them to ensure transparency in the process. Chief Parker would like to have a joint signing ceremony after all three townships ratify the agreement to celebrate the culmination of a long and difficult process.

Hardin asked how multiple types of emergency services could be effectively managed by Metro administration. For now it will be just a fire service agency. How agencies might combine to work together in the future has not been addressed, but the ability to explore the possibility if desired in the future has been provided.

Bzdok recommends approval of the proposed documents, but asked to highlight several items to be sure everyone understands them. He stated that if the Metro Board approves a budget it will be presented to the member township boards. If two of the three townships ratify the budget it will be approved for one year. This means that township residents could end up being assessed for expenses the township board does not approve, but there are checks and balances. At least 1 of the 2 representatives from each township must approve the budget at the Metro Board level. At least two township boards must ratify the budget. Any multi-year capital expenditures or new debt must be approved unanimously by resolution by all member townships. If a particular township board does not approve the annual budget for two years in a row, it will be deemed to be withdrawing from Metro unless it adopts a resolution stating that it does not intend to withdraw. If a township withdraws there is an accounting of assets and liabilities that must be performed to allocate them properly. Bzdok is not in agreement with that particular provision, but feels it is acceptable and a reasonable compromise that should be approved.

Public Hearing opened and closed at 9:30 p.m., there being no public comment.

Motion by Scott, support by Dunville to approve the Grand Traverse Metro Emergency Services Authority Articles of Incorporation.

The Board commended Chief Parker on his hard work on this process.

Motion carried unanimously.

H. OLD BUSINESS: None

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

Nels Veliquette, 311 S. Maple Street in Traverse City, has advocated for expanding the township sewer district, particularly along the lakefront. Today's report from DPW Director Buday seems to imply that new benefit sales from development growth are often expected to subsidize user fees. Mr. Veliquette believes that people should be educated by this subsidy situation, and why eliminating it requires an increase in user fees to maintain and expand systems and services. The economy as a whole is not growing right now, so neither are new user sales. He believes people need to learn to conserve water, which will reduce flows through the system and save expenses. He also believes he heard that there are two "profit centers" in Acme's infrastructure: LochenHeath and Orchard Shores. He has a personal interest in the LochenHeath situation, and is requesting more involvement by the township in resolving their standoff with the project developer, who will not spend any money and says it is not their problem. The lot owners need assistance from the township to compel the developer to step up.

Meeting adjourned at 9:35 p.m.