



**ACME TOWNSHIP REGULAR BOARD MEETING  
ACME TOWNSHIP HALL  
6042 Acme Road, Williamsburg MI 49690  
Tuesday, November 11, 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  
T. Henkel, Parks & Maintenance Manager  
C. Bzdok, Legal Counsel  
J. Iacoangeli, Consulting Planner

**INQUIRY AS TO CONFLICTS OF INTEREST: None noted**

**APPROVAL OF AGENDA: Motion by Dunville, support by Hardin to approve the agenda as amended to add New Business Items G11, Nader Saco land division on White Road without sewer access, to move Item G10 to G2, and to add Linda Wikle's letter of resignation from the Planning Commission to Consent Calendar action items. Motion carried unanimously.**

**A. CONSENT CALENDAR:**

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

**RECEIVE AND FILE:**

1. **Treasurer's Report** as of 09/30/08
2. **Clerk's Report** as of 11/5/08
3. Draft Unapproved Meeting Minutes:
  - a. **ZBA minutes 10/16/08**
  - b. Marina Advisory **10/20/08**
  - c. Facilities Advisory minutes **10/21/08**
  - d. Parks and Recreation Advisory Notes **10/23/08**
  - e. Planning Commission **10/27/08**
  - f. Grand Traverse Metro Fire **09/23/08**
4. Metro Fire **Newsletter** October 2008

**ACTION – Consider approval:**

5. **10/14/08** Township Board meeting minutes
6. **Accounts Payable** of \$408,976.51 ( GT County Bond payments of \$222,634.94) through 11/5/08
7. **Resignation from the Planning Commission effective 11/20/08 from Linda Wikle**

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

**B. LIMITED PUBLIC COMMENT:**

Virginia Tegel, 4810 Bartlett Road, thanked Bill and Doris Boltres for their service to the township over the past four years, and looks forward to the coming term of office for the individuals remaining on the Board.

Gene Veliquette, 8369 Elk Lake Road in Whitewater Township, believes that the content-neutral rewrite of the Zoning Ordinance will be a detriment to the township, and that it is not content-neutral at all. He believes it deserves more than a small spot on a crowded agenda, and that the proposed document will make it impossible to do business in Acme Township. He finds the requirements for the special use permit process problematic. The purpose and intent section of the Shoreline District

seems to imply to him that it would be unhealthy for there to be businesses located on the west side of US 31 north.

Edith Ziebart, 6981 Deepwater Point Road commented on the proposed rezoning request. The current owner originally sought to have it zoned R-1MH, as it remains zoned today. She does not understand why the Board might consider changing the use designated for this property in the Master Plan, or why the Master Plan should be changed as potential developers make requests. She used to own Acme Motors, and part of the property at their former location was grandfathered for business zoning and part was zoned for residential use, which was difficult. They built their business in 1966 and the zoning changed in 1979 in a way that didn't make sense to her. If the property is currently zoned for mobile home park development it should stay that way.

Fran Gingras, 7057 Deepwater Point Road commented on the proposed Woodland Acres path ordinance. He attended a meeting of the Parks & Recreation Advisory and listed to debate from both sides. He believes the paths should remain as such, and not be used as if they are private property as some people do by leaving furniture, boats and other items there long-term. He is uncertain as to who truly owns the property. If it is the township, the township should create and enforce guidelines. If it is the Woodland Acres neighborhood, they should have help forming a neighborhood association to self-govern the situation appropriately. The areas are intended as pathways to the beach, and not areas where people stay for long periods of time, or dock boats. The township is trying to acquire beachfront property along the waterfront south of M-72 already. He hopes that the ownership situation will be better clarified before action is taken.

**C. REPORTS:**

1. **Sheriff's Deputy – Mike Matteucci:** received and filed.
2. **County Commissioner's Report – Larry Inman:** The County has approved another advance to the five townships that own the septage treatment plant to meet the annual debt payment. Previous loans have been repaid, and the current-year loan is smaller at up to \$300,000. The deficit is being reduced, and an independent study has just been received by the County regarding the situation. Recommendations will be reviewed over the next 60-90 days. The County, Whitewater and Acme Townships have had ongoing meetings with the Grand Traverse Band regarding payments for replacement of taxes on the properties recently admitted to federal trust status at Turtle Creek. The efforts will continue with the new Tribal administration. A County wage study indicated that there should generally be salary increases for most positions as compared to similar counties, but for the next year there will be cost of living raises only and full implementation will be deferred. The surcharge on waste hauling imposed by the county to pay for recycling efforts and centralized drop-off bins will continue pending further exploration of new ideas for recycling and associated funding. The County has requested a copy of a report sent to Governor Granholm regarding how to generate more revenue for County Road Commissions for maintenance and repairs. The County and Road Commission jointly bonded for \$4 million in improvements to primary roads that have been completed. Inman and Kladder went to a County Parks & Recreation meeting regarding Maple Bay Park, and the board seems to be following their advice that usage plans for that park be kept minimal. The County interviewed 15 individuals for the Road Commission Board and will be making appointments soon. Inman congratulated everyone on their re-election and wished everyone a Happy Thanksgiving.
3. **Parks and Maintenance – Tom Henkel:** received and filed.

**D. SPECIAL PRESENTATIONS:**

1. **Grand Traverse County 2009 DPW Budget – DPW Director Chris Buday:** Not present

**E. CORRESPONDENCE:**

**F. PUBLIC HEARINGS:**

1. **Consider adoption of the proposed Ordinance 2008-3 Regulating the Use of Paths in the Plat of Woodland Acres:** Kladder noted that the Parks & Recreation Advisory took commentary on an evening during October at which no quorum was present, so the matter comes to the Board without a recommendation from that body. Kladder feels that the first question is whether the Board would like to proceed without their advice, or whether it should be sent back to the advisory to receive their advice. Zarafonitis asked about Mr. Gingras' question as to whether the township owns the property in question; Bzdok stated that there is "no shadow of a doubt" that the township owns the beach pathways. Zarafonitis feels that the situation has operated well for a number of years without an ordinance, and he sees no need for one now. Dunville tends to agree. Bzdok stated that the current Parks Ordinance covers any property owned by the township that can be used for recreational purposes. For this reason he believes that the Parks Ordinance applies to the pathways. However, these are small strips of land serving as pathways to the beach, which is why there was discussion about creating a unique set of rules that would be more appropriate to their unique situation. Absent any other ordinance, the township would have no way to address complaints about nuisance activities.

Zarafonitis wondered about perhaps fencing the pathways and placing gates for pedestrian access to prevent cars from being drive down them; Takayama suggested placement of several large rocks. Zarafonitis is concerned about the issue raised with people using the paths legally during the day to get to the beach, and then coming back illegally at night. It's unlikely they would be ticketed, but what would happen? Hardin noted that if people leave personal property on these township pathways and someone trips over them in the dark, the township would have liability. Rules that specify what is and isn't allowed provide the township a way to address the issue. Kladder noted that in some ways the existing parks ordinance is more restrictive than the proposed ordinance. He has heard that there have been some weddings down there, and he doesn't know if that's a good idea or not. The general parks ordinance provides that township parks are open from dawn to dusk, but perhaps for these pathways the hours should be from one hour before dawn to one hour after dusk. People are not allowed to bring dogs into the parks now, but perhaps a specialized ordinance could permit this. Kladder believes that firearms should be prohibited on the pathways as they are in most of the larger parks.

If there are rules, then Hardin observed that some sort of signage should also be put in place to ensure people are aware of the rules. Signage would be better placed away from the road than at the road edge where they would attract an inappropriate amount of attention or create an unwelcoming atmosphere.

Scott believes that it has been well-established that the paths are township property, but that the matter should be sent back to the advisory for additional review and concrete recommendations regarding rules, as there is limited time for discussion this evening. Takayama tended to agree that some rules are needed, but that they should not be heavy-handed. Boltres agreed that some regulations are needed and that the matter should be returned to the advisory.

Karen Jennings, 3546 Woodland Trail commented on two weddings that occurred on the beach. Both were on private beaches and were unrelated to the access points.

Michael Hedden, 7020 Deepwater Point, is hearing that the township believes that it owns the property. Yet, older neighbors he knows have told him that the pathways were dedicated to the use of the neighborhood. Is this only Bzdok's interpretation? There could be other interpretations. Bzdok read the statement from the plat that the plat creator "dedicate(d) all portions designated on said plat as Avenues and Paths to the use of the public." When the land is being given only to people in the subdivision, the language on the plat creation documents specifies that it is specifically for the residents of the subdivision. The person who laid out the plat dedicated the paths to public use, which means the local government

jurisdiction. Neighbors may have thought for years that the intent was that the areas be used by the neighborhood only, but this is not the language in the plat.

Chris Stoppel, 7238 Deepwater Point Road stated having 35 signatures on a petition from people who don't want an ordinance governing these paths, which he will present to the Parks & Recreation Advisory for their consideration.

**Motion by Dunville, support by Scott to remand the proposed Woodland Acres pathways ordinance to the Parks & Recreation Advisory for further study. Motion carried unanimously.**

**G. NEW BUSINESS:**

- 1. Consider adoption of Resolution Transferring Fire Protection Authority to Grand Traverse Metro Emergency Services Authority:** At the last meeting the Board appointed Kladder and Zarafonitis to the new Metro Emergency Services Authority Board, with Dunville as an alternate. There are some "housekeeping" items to be addressed, which is the purpose of the proposed resolution. East Bay Township adopted the resolution yesterday evening. Chuck Judson, attorney for Metro, was present to explain the resolution. We are now in a transitional period between the old Metro Fire and the new Metro Emergency Services, which is expected to require approximately 2-3 months. Currently the townships own the assets and liabilities of Metro, all of which need to be formally transferred to the new authority effective January 2009.

Bzdok has reviewed the documents, and all of his concerns have been addressed in the draft presented this evening.

**Motion by Takayama, support by Zarafonitis to adopt the Resolution Transferring Fire Protection Authority to Grand Traverse Metro Emergency Services Authority #R-2008-32. Motion carried by unanimous roll call vote.**

- 2. Discuss letters regarding final distribution of Cherry Capital Cable Council Funds held at the Traverse Area District Library:** Chuck Judson was available as legal counsel to the Traverse Area District Library (TADL), which up until recently housed local public access channel TCTV2. The township received its share of the Cable Council (CCCC) capital funds housed at the City of Traverse City earlier this year, and agreed to hold them unspent for potential future allocation to new public access channel UpNorth2, operated by the Land Information Access Association (LIAA). Some of the funds were housed at TADL for operating expenses, and the final accounting for those funds is being performed in preparation for distribution. There were agreements in place dating back to 1999 between TADL and the City/CCCC regarding payment of TCTV2 expenses. Over time the arrangements became somewhat informal, and during the final accounting a question arose over whether it would be appropriate for the library to be reimbursed for some expenses for which it was not previously paid, to the total of up to approximately \$20,000. The TADL Board has expressed willingness to forgo these expenses if all of the local governments entitled to a share of the assets agree to have all of the funds forwarded to LIAA for continued public access operations. TADL intends to retain approximately \$17,000 through December 31, 2010 to cover potential expenses related to unemployment for the former TCTV2 employees. Any final employment expenses over and above this would be covered by TADL. The original contracts between CCCC and TADL stated that TADL would not be liable for any expenses related to TCTV2 housing or operations.

The expenses claimed TADL involve 2.6% of total TADL Woodmere location overhead, a percentage equal to the portion of the building occupied by the public access operation. Payments for these liabilities were sporadic, as on occasion the library covered the full overhead costs because CCCC could not have paid them and maintained station operations. The current total fund balance is approximately \$110,000. For the 6 years where the 2.6%

allocation wasn't made, the amount owing is around \$24,000. Mr. Lewis agreed that from 2005 forward the 2.6% allocation should have been paid, along with some other administrative expenses. Mr. Lewis also supported the unemployment contingency reserve, but did not approve all of the expenses TADL sought to recover. All of the equipment not declared surplus from CCCC was turned over to the City Manager's Office.

The portion of the TADL-housed funds that may be due to Acme Township is approximately \$1,500. Kladder asked what the township would receive if these funds are turned over to LIAA for UpNorth2. Mr. Judson stated that in his view, these are franchise fees already paid by the township to TCTV2 for public access operations and should remain dedicated for that purpose. Scott and Zarafonitis asked how the township could receive an accounting of the fees not paid by CCCC to TADL over the past 9 years; Mr. Judson stated that contacting the City Manager's office would be in order. Kladder asked if any past audit documents would mention amounts unpaid between the two parties.

TADL has agreed to waive approximately \$44,000 in claimed past expenses if all of the other parties (the townships and villages) agree to waive their amounts as well, contributing everything to LIAA.

Takayama appreciates that TADL worked with the CCCC, but listening to talk about formal and unwritten agreements, he would want to see funding coming back to the township from this source to be used to enhance the township's ability to communicate with the public through cameras and microphones. It's time to move forward.

Zarafonitis asked about a resolution showing an allocation of somewhat over \$6,000 for public access television from the General Fund, when the amount for Acme at TADL is about \$1,500. Vreeland noted that the \$6,000 was received from CCCC funds held at the City earlier this summer, and the \$1,500 would be from the portion of CCCC funds yet to be received from TADL.

**Motion by Scott, support by Takayama to have the TADL-housed money returned to the township and that the township continues looking into an audio/visual system. Motion carried by unanimous roll call vote.**

3. **Consider adoption of Zoning Ordinance Amendment #141, by Immanuel LLC, seeking to rezone all but 15 acres of the south half of a parcel of land near the intersection of M-72 E and Bates Road from R-1MH, Mobile Home Park to R-3, Urban Residential:** Hull recapped the history of this rezoning request, initially to rezone all 90-acres of the south half of a portion of property from R-1MH to R-3. Due to Board concerns about potential exclusionary zoning, the matter was returned to the Planning Commission where potential amendments to the R-1MH district entitlement language that would include many R-3 land uses was recommended. The Board was again concerned about exclusionary zoning issues and the matter was returned a third time to the Commission. The current proposal is to rezone 75 acres of the south 90 acres to R-3, with the 15 flattest acres to remain zoned R-1MH. The proposal has the recommendation of the township and county Planning Commissions.

Joe Quandt, attorney for the applicant, Kevin Vann from Generations Management and Doug Mansfield from Mansfield & Associates were present in support of the application. He noted that the Commission has reviewed six criteria for rezoning as suggested by township legal counsel through a process of "spirited debate." The applicant believes the proposal provides for responsible and environmentally-sensitive use of the property. Mr. Quandt noted that the Commission is appointed by the Board to be their advisors and hopes that weight will be given to their recommendation of approval. Speaking to the debate about exclusionary zoning concerns and expressing respect for Bzdok, he stated that the township is being asked to weigh potential future exclusionary zoning issues that may or may not come to fruition versus real and immediate impact to the applicant. If someone came to the township in the future to

seek a rezoning of a different property to R-1MH the township would be able to decide at that time if the demand for the land use would warrant approval of the request. Mr. Quandt believes that the township has an advantage in the face of any potential exclusionary zoning claim.

Mr. Quandt noted that township consultant John Iacoangeli recommends that a minimum 30-acre parcel is needed for a viable mobile home park, working to establish a meaningful analysis. Mr. Quandt believes that most mobile home park properties in the region are in the 15-20 acre range. He stated that Iacoangeli believes this size is only viable if no central amenities are provided to development residents, and that after debate the Commission was persuaded that 15 acres would be a viable size. Discussing Iacoangeli's commentary about whether R-3 or R-1 zoning would be most appropriate, Mr. Quandt observed that the property is not currently designated for parkland but for a very high density form of land use, and that R-3 would be significantly less dense than what is currently allowed which would represent a step towards meeting township master planning goals. He further stated that at R-1 densities his client would not find rezoning to lead to an economically viable development. R-3 would allow an on-site wastewater treatment system and a community water system via permits from the DEQ and township input to the permitting process. To him, this is preferable to 50 individual sets of well and septic systems. The applicant has worked hard throughout the process and seeks an economically viable and sustainable use for the property.

Kladder asked if it might be reasonable to think that the township should look at the matter in terms of what is best for the land, not in terms of the economic return. Mr. Quandt believes that economic factors are not the only ones, but that they are important ones to consider. If the rezoning is denied, his clients will need to consider potential mobile home park development. Scott does not appreciate the implication that this would be the township creating a hardship for the applicant, since this applicant originally sought rezoning to R-1MH in the first place.

Mr. Vann agreed that his company had the property rezoned to R-1MH in 1995, and their purchase of the property was contingent upon this rezoning. Then it was an investment-backed holding, but more than 10 years later conditions have changed. Beginning two years ago his firm and Mansfield began trying to assess how some of the company's property holdings could be remarketed. They no longer wish to simply hold this property but to do something good with it. They can create a mobile home park, but perhaps they can do something better that preserves the ridgelines and views without creating a very expensive development. He and the family that owns his company grew up in the township and attended Bertha Vos School, and care deeply about stewardship of the land and affordable housing. They perceive a growing need for it here, and now that they are beginning to build homes they would like to bring some quality and creativity to a housing project. The current zoning designation is very restrictive, while R-3 would allow for a mix of single-family, duplexes and multiple family housing. To him this represents a rare landowner-driven request for downzoning and providing the township an opportunity to have a measure of control over the shaping of the project.

Mr. Mansfield apologized for presenting a new memo just before the meeting, stating that he did not expect a new report from Mr. Iacoangeli that he characterized as in opposition to the Commission's recommendation. The R-1MH district allows only creation of mobile home parks and mobile home subdivisions with 6-8 units per acre. He advised Mr. Vann that it would be a shame to flatten the site to achieve this highest and best use, and that the site would be ideal for a conservation development. The R-3 designation would allow for up to 2.9 units per acre at maximum in his estimation, with a possibility to preserve 40-50 acres in open space subject to an evaluation of the prime site characteristics such as steep slopes and ridgelines to protect. He believes Iacoangeli ignored the historical pattern of development in Bates, Williamsburg and Turtle Creek, and that Bates has an over 100-year history with the broadest mix of land uses in the entire township. The one thing missing in his opinion is

workforce housing. He feels that Iacoangeli's report does not recognize that the current zoning is the highest-density housing zoning available, and that the township ordinance describes R-3 as "low to medium" density. The applicant is seeking affirmation this evening of their vision for their property as more than just a place for many mobile homes.

Iacoangeli concurred with Mr. Mansfield's statement that the Commission considered his recommendations but took another course of action, as is their prerogative. In September the Commission received a memorandum with comments from Mr. Mansfield, and a telling statement in the report Iacoangeli wrote that surveys and other planning exercises indicate that most township residents want to see a town center where commercial and residential structures can combine successfully, and to see growth occur in a measured and organized way. Iacoangeli finds this affirmed in township planning documents over and over again. Mr. Mansfield's commentary in the memo was that this observation was irrelevant. Generations Management through another application is seeking to clear-cut and top 70 acres for a 271,000 sq. ft. shopping center. He doesn't find this environmentally responsible. R-3 is referred to in the Master Plan as the most dense single-family residential designation. The Master Plan also states that the next large step in development in the township would be a town center more to the western side of the township, and that eastern areas should be developed more slowly. Some areas of the site in question have 50%+ slopes, and township planning documents recommend that such sites should be developed at R-1 densities at most. R-3 allows high density single family development, duplexes, multiple family housing, and even mixed use development. At this rate Bates could become a major residential and commercial center, which is not consistent with the Master Plan and the Future Land Use Map. The Master Plan talks about Bates as a whistle stop on the rail line. There are perhaps 40 homes within a 1-mile radius of the intersection. The significant Turtle Creek development is nearby, but has been developed outside of the scope of township planning by a separate entity. His opinion remains that the rezoning request is inconsistent with the Master Plan, but if the door has been opened by the landowner to rezoning perhaps the township should consider rezoning in a manner more consistent with the Master Plan.

Iacoangeli surveyed regional mobile home parks. The smaller ones are the older ones. The state indicates that there is no minimum statutory size for a mobile home park, and when asked referred him to the Michigan Association of Manufactured Homes in Lansing. Their opinion is that to be competitive in today's environment a mobile home park has to include housing pads and community amenities such as gathering places, open space and walking trails, and centralized laundry. Their opinion is that any viable site should be larger than 15 acres, and if there is any topographical change the size should be at least 30 acres to be competitive in today's marketplace. It is difficult to perform community planning when it might involve saying "no" to an applicant. If approved, the rezoning will encourage more dense development on the eastern edge of the township, in opposition to a progression of orderly development along the M-72 corridor culminating in a mixed use central development.

Kladder directed attention to, and Iacoangeli verbally summarized, the six-point rezoning request assessment discussion in the September 22 Beckett & Raeder report. Iacoangeli observed that Mr. Mansfield stated that via the rezoning and site design the density on the site could be halved, the resulting density might be very close to the R-1 density level in any event.

Takayama noted that the applicant is Immanuel LLC. Generations Realty is a parent/related entity – same people, different services. This afternoon he visited the site and found it rolling to steep with some flatter areas. He also found that it's difficult to tell whose property one is on, as it doesn't come color coded like the maps in the packet. Caution in understanding precisely the property being considered is important. If this is developed in a medium to high density fashion, what would happen to the adjacent similar properties. He believes it was a mistake by the township to rezone this property to R-1MH in 1995. He suspects that the B-3

zoning on the north part of the property might be related to the adjacent railroad and its use for transportation of goods. Preservation must be a prime consideration in the decision, particularly as there are creek headwaters in the area. Takayama questioned Mr. Mansfield's memo assertion that rezoning would preserve the residential character of the property, a character he did not see during his site visit. He also questioned Mr. Mansfield's assertion that the rezoning would support the Master Plan goals for diversified housing, noting that the Master Plan supports diversified housing *in centralized areas*. Takayama wonders if the applicant is seeking to develop in an exemplary fashion, or if they are seeking to maximize the sale value of the property by receiving an R-3 designation that might open the site to potential mixed use/commercial development. Approval of the request would significantly benefit the applicant financially. Mr. Mansfield stated that the residential character to be preserved is the character of local residential development. He pointed to the Traverse Bay RV Park on an aerial photo of the site and asked the Board to picture that as the development pattern on the subject property. Too much of any one thing is bad, whether it's 450 mobile home sites or one or two palatial homes. The applicant's company is developing award-winning housing developments. He believes people are too caught up by an assumption that the site will remain undeveloped.

Zarafonitis feels that the applicant is "holding mobile home park" over the township's head. In one breath the applicant says that the site cannot be viably developed as a mobile home park, and in the other they say they will do just that. Mr. Quandt stated that some of the company members are in favor of creating a mobile home park there. Mr. Vann advocates internally for more creative affordable housing. They looked at mobile homes that look as if they are stick built, but came to the conclusion that according to township ordinances it would not be permissible to put those in a mobile home park in the township. Mr. Vann stated that his company has no intention of creating a shopping center on the south portion of the site; Mr. Quandt stated that this is why their second proposal was to add all of the R-3 language to the R-IMH section except for the mixed use development option.

Kladder opened the floor to public comment.

Paul Brink, 9617 Winter Road expressed concern for the integrity of the Master Plan. The township should be true to it; deviation too far from it could impair the ability to have them upheld in court.

Pat Salathiel, 4888 Five Mile Road was on the original Master Plan steering committee and helped create the Future Land Use Map along with many other township citizens. She feels that the project could be beneficial, but that it is in the wrong place. The township residents asked for a viable town center with a significant residential component in a central area where public infrastructure is available. There was discussion about smaller development nodes in Yuba and Bates. To ignore the hard work of so many people would be distressing, and she appreciated Iacoangeli's comments and recommendations in support of the Master Plan.

Takayama asked Hull what the possible R-1 density with clustering bonuses would be as compared to standard R-3 zoning. Hull responded that R-1 with a 20% bonus for clustering would yield 90 units with 50% of the land conserved in open space. Based on R-3 zoning the figure would be about 217 units at 1 unit per 15,000 sq. ft. assuming a community treatment system in common with the proposed Bates Crossings shopping center. A conservation analysis of the 50% of the land to remain in open space, with the Board having the authority to choose the features most worthy of protection would be required. Kladder asked if community water and sewer systems would be proposed to be taken over by the township; Mr. Mansfield stated that there would have to be discussions between developer and Board, and that he had previously had very preliminary discussions with former Supervisor Kurtz.

Hull believes that the 1995 rezoning was to some extent the victim of its times. At that time there were trends towards trying to get many people into their own homes, with sub-prime

lending techniques the effects of which are being felt today. He does not believe the township is in a position to truly know what size mobile home park will and won't be viable in several years, and perhaps single family home ownership will no longer be the prevalent model of dwelling. The state definition of a mobile home park has a minimum of 3 home sites. The local Council of Governments feels that large lot size zoning is a significant barrier to affordable housing. To try to guess the future dwelling economy seems to him to be a foolish effort.

Bzdok stated that in August the Board referred the application back to the Commission and specifically sought to have two questions answered: does the amended proposal meet the criteria for rezoning, and is the property proposed to remain R-1MH of appropriate size and layout to support possible development of a mobile home park. He referred to a recent unpublished Court of Appeals case that does not establish law or precedent, but should serve as a caution regarding potential exclusionary rezoning issues. The township currently does not have an exclusionary zoning issue. It does have a future land use map indicating that the township would like to achieve lower housing densities in the area where the subject property is located. The applicant and township seem to have this goal in common, and the consultants for both sides disagree about whether or not the proposal accomplishes this goal. If the R-1MH parcel size does not remain sufficient sized for meaningful mobile home park creation, an exclusionary zoning issue could be created. The consultants for both parties disagree as to what the minimum sufficient mobile home park size is. Hull's comment on predicting the future is reasonable, but the Board is still charged with making a reasonable decision based on the best information available today. Bzdok's role is to advise the Board as to how to proceed in a way that is prudent and defensible. A rezoning to R-1 has not been requested by the applicant or recommended by the Commission. He believes the options available to the Board are to approve the application, deny the application, or deny unless the applicant would accept rezoning of all but a different number of acres than 15 to R-3.

Takayama asked Mr. Vann about a statement he made that according to the township zoning ordinance that a modern manufactured house could not be placed in a mobile home park. Hull stated that the township is in the process of modernizing its mobile home park development ordinance in accordance with the dictates of the Michigan Manufactured Housing Commission. Mr. Mansfield stated that he helped develop Woodcreek. A distinction between mobile home parks and mobile home subdivisions is whether or not a home brought in is placed on a foundation or anchored in place and how land ownership is held.

Takayama asked about the state-owned land zoned R-1MH and why it couldn't be developed in terms of the exclusionary zoning issue. Bzdok replied that the state property is not available to a developer. There was a case where a township rezoned a piece of property for mobile home parks owned by their Supervisor because they knew he would never allow it to be developed in this fashion, and the courts deemed it a sham. Takayama noted that the state sometimes sells land, but Bzdok advises that the township should not be in a position where the only property zoned for mobile home parks in the township is state-owned land. Bzdok also observed that the Board did not specify that the county and township Planning Commissions should recommend whether there should be a 15-acre R-1MH remainder area, but whether an appropriate area is proposed.

Hardin noted that the Commission vote was split 7-2. He read from the description of the conservation/recreation areas of the FLUM, which this property lies within. This description contemplates the possibility of developed use of the land, if discretion is exercised. He also noted sections of the Master Plan discussing high density development and appropriate placement of such areas where infrastructure is or will reasonably be available. He read the section on industrial portions of the community, and possibly comingling with a mixture of uses include of workforce housing. He voted yes for the rezoning after careful consideration of Iacoangeli's information, the application and the Master Plan. The Master Plan can be interpreted many ways and in his opinion is not intended to state that one can or cannot

pursue a certain type of development. The Master Plan also indicates that allowable densities in the R-3 and R-1MH areas are similar. Hardin noted that the applicant team has stated several times that they are not mobile home park developers and that they have no intention of ever developing the property in such fashion. Hardin believes it important to recognize that mobile home parks and workforce housing are not synonymous – there are many varieties of affordable housing. Hardin believes that the people who voted yes each had their varying reasons, but each examined the situation and their reasoning carefully. Hardin asked for some clarification on whether the proposed water and sewer systems will serve both the commercial and future residential developments. Mr. Mansfield stated that the current system design is being calculated for the commercial development plus up to 450 units of housing at R-1MH maximum density for the entire 90 acres in the south portion of the site. There are also permit limitations to consider, such as maximum sanitary flows of 10,000 gallons per day. Hardin noted that this matter has been before the commission multiple times, but under entirely different scenarios each time. Some Commission members feel as if it has been the same question each time around, but it has not.

Takayama does not envision mobile homes as workforce housing, but he understands that we need to provide for this type of development. The best way to do this, and how the area should develop, are important questions. He would prefer to see more exploration of an R-1 rezoning option using clustering and density bonuses. R-3 would introduce an element of more dense housing in an area surrounded by less dense housing zoning currently, and could cause requests for more density in those areas. There is still so much conflict between the points of view represented by each consultant. We have a large mobile home park zoning designation in an area where he feels one doesn't belong, and a proposal before the Board that does not seem consistent with the township's long-term plans and the designations of the surrounding properties. If a few more months would yield a better result for everyone he would favor further exploration.

Hardin does not believe that this property should ever have been zoned R-1MH or should remain so. He believes that the A-1 area on the north side of M-72 is the next likely target for a rezoning request. R-1 zoning is also more limiting in terms of options for a variety of housing. He hopes that the maximum amount of the site can remain in its natural state, and he believes that R-3 provides a better chance for this than R-1. He has tried to envision the community 20 years from now, and in the Bates area there is already a mix of commercial and industrial land uses. The land on the north side of M-72 surrounding Bates Road is largely flat and suitable for development, so he feels the pressure for the neighborhood to grow will be there rather than on the south side of the highway. Hardin is not implying that Bates should grow instead of a village center farther west, but he does not believe that Bates should be prevented from being independently viable as a mixed use neighborhood either. Takayama expressed concern about potential expansion requests for R-3 zoning on the north side of M-72.

Hardin stated that the commercial viability of the mobile home park is not something the applicant wants considered in terms of the size of the area to be rezoned; if this is the case then the Board should not concern itself with the commercial viability of the request. He believes that housing within walking distance of where people work is important, and in keeping with the New Urbanist principles the township has sought to implement.

Scott is concerned with the potential for commercial development in the R-3 district, and asked if it would be possible to limit a rezoning to R-3 to only residential uses. Bzdok replied that this would be an attempt at contract zoning – rezoning based on certain conditions. The township has not chosen to enact ordinances for contract zoning and he is not aware of many places that have worked with it since it was enabled by the state.

Dunville would be more comfortable with the proposal if more acreage were to be left in the R-1MH designation, and also respects Hardin's comments regarding promotion of walkable

communities involving work and commercial opportunities. Boltres believes that a larger area should be left in the R-1MH designation. Kladder stated that he has seen mobile home parks in the Rocky Mountains in steeper conditions than exist on this site. He is unconvinced that a mistake was made when the property was originally rezoned to R-1MH. He is concerned about what seems like an attempt to leapfrog an attempt to create a village center for the community further to the west in a more central area of the township. The township wishes to avoid strip commercial development along the entire M-72 Corridor similar to 28<sup>th</sup> Street in Grand Rapids. Hardin has reached the point where the only debate is whether the people who will be living on the property live in mobile homes or a combination of mobile and stick-built homes. The property is already zoned for a mix of planned shopping center and residential development. Kladder believes that if the rezoning is approved the township will be faced with “leapfrog” development. Hardin noted that there are wetlands in the stretch of M-72 between Lautner and Bates Roads. He believes that infill is more likely to occur between Bates and Whitewater than Bates eastward.

Mr. Quandt stated that Mr. Vann authorized amendment of the rezoning application to leave 25 acres in R-1MH if the rest is rezoned to R-3. The applicant is seeking the ability to develop a variety of housing types and price points as suggested by Hardin’s comments. Bzdok suggested that no long-term suggestions are negotiated this late at night within the meeting, but that a committee of the Board be appointed to negotiate a compromise with the applicant. He does not recommend sending the matter back to the Commission again.

**Motion by Takayama, support by Scott to appoint a committee of the Board consisting of Hardin and Kladder to negotiate a potential compromise with the applicant. Motion carried unanimously.**

**A five minute recess was declared from 10:24 p.m. until 10:37 p.m.**

**Motion by Zarafonitis, support by Takayama to continue the meeting until 11:00 p.m.**

11. Consider request from Nader Saco, 4921 White Road, to permit land division of property on White Road zoned R-3, Urban Residential and within the Acme Township Sewer District without access to public sanitary sewer service pursuant to Section 6.11.2(2)B: Hull stated that currently the zoning ordinance requires all properties zoned R-3 within a certain geographic section of the township in existence at a certain date to be served by sanitary sewer in order for a land division to occur. The ordinance currently also provides a method by which the Board, subject to a recommendation from the Planning Commission, may provide relief from the requirement for properties more than 200’ beyond the existing end of the public sanitary system. Mr. Saco would like to re-divide three existing lots into five total new lots on White Road, which is a significant distance from the existing end of the sanitary service line at Bunker Hill Road and Scenic Hills Drive. The ordinance currently also contains disputed provisions that the lots created may have to be served by a community sanitary system, but when Hull consulted with the attorney who drafted the section their interpretation was that this would only apply to a larger development than the proposed land division. Also notable is that this section of the ordinance may soon be deleted. Otherwise, when Mr. Saco is ready to develop the sites he may need to seek a ZBA interpretation of the ordinance language and/or a variance. Mr. Saco states a current intention to use the new parcels as collateral assets for loans and not for immediate development.

**Motion by Scott, support by Dunville, to approve the request to permit land division for Nader Saco. Motion carried unanimously.**

**H. OLD BUSINESS:**

3. Shoreline Preservation fundraising update & consideration of additional General Fund allocation: Kladder noted that on December 2 and 3 the meetings will be held to announce the recipients of this year’s DNR Trust Fund Grants. The township needs to raise \$1 million

to match a requested \$3 million from the fund. We anticipate a commitment for \$600,000 from MDOT Enhancement funds, have allocated \$50,000 from the General Fund, and have received \$20,000 from the Biederman Foundation and \$100,000 from the Oleson Foundation. Private fundraising is anticipated to reach \$100,000 by the end of the month. Kladder and Vreeland have examined the General Fund balance and are proposing an additional \$100,000 commitment from the General Fund to close the gap on the required 25% grant match. Shoreline Preservation Co-Chair Paul Brink noted that an additional commitment from the township will be well-received by grant funding sources.

**Motion by Zarafonitis, support by Scott to adopt Resolution #R-2008-33 as presented.  
Motion carried by unanimous roll call vote.**

**The Board set a special meeting to complete the agenda for Tuesday November 18 at 6:00 p.m.**

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

Nels Veliquette, 311 S. Maple Street in Traverse City, reported that the deal between Cherries R Us and Bart Nielsen for a cheese shop on the Shaw Property on US 31 North has fallen through. He also observed that in a previous potential rezoning for that property to R-3 when he proposed a potential contract rezoning he was told that the township did not want to undertake such a procedure – to negotiate a rezoning with an applicant. It appears tonight that the township is now going to undertake just such a thing. He is concerned that the township would not negotiate a rezoning from A-1 to R-3, but is willing to negotiate regarding the R-3 and R-1MH districts. He will watch closely. Hull reported that a contract rezoning involves a change to the standard rules for a zoning district, and that the township may not make a demand. The applicant can make an offer the township can accept or refuse. This case is different because it is a request for a “straight” rezoning under existing standard terms of the zoning ordinance.

**MEETING ADJOURNED AT 11:02 p.m.**