



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
Tuesday, January 8, 2008 6:00 p.m.**

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE AT 6:02 p.m.

Members present: B. Boltres, D. Dunville, R. Hardin, W. Kladder, P. Scott, F. Zarafonitis
Members excused: E. Takayama
Staff present: S. Vreeland, Township Manager/Recording Secretary
J. Hull, Zoning Administrator
C. Bzdok, Legal Counsel

Motion by Zarafonitis, support by Hardin to enter closed session to discuss pending litigation in CCAT v. Acme Township v. The Village at Grand Traverse LLC and Meijer Inc., and in Meijer Inc. v. Acme Township because discussion in open session could have a detrimental impact on the financial interests of the township. Motion carried by unanimous roll call vote.

Regular meeting recessed at 6:04 p.m.

Motion by Scott, support by Zarafonitis to reconvene the public meeting at 7:05 p.m. Motion carried by unanimous roll call vote.

INQUIRY AS TO CONFLICTS OF INTEREST: None noted

APPROVAL OF AGENDA: Motion by Zarafonitis, support by Scott to approve the agenda as presented. Motion carried unanimously.

A. CONSENT CALENDAR:

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

RECEIVE AND FILE:

1. **Treasurer's Report** as of 11/30/07
2. **Clerk's Report** as of 01/02/08
3. Draft Unapproved Meeting Minutes:
 - a. **12/14/07 Infrastructure Advisory**
 - b. **12/17/07 Planning Commission**
 - c. **12/19/07 Joint Parks & Recreation and Shoreline Preservation Advisory**
 - d. **12/19/07 Shoreline Preservation Advisory**
4. Memo from Treasurer Boltres re: **Arnold Road SAD loan payoff**

ACTION:

5. Consider approval of the **12/04/07** Township Board meeting minutes
6. Consider approval: **Accounts Payable** of \$90,123.64 through 01/02/08

Motion carried by unanimous roll call vote.

B. LIMITED PUBLIC COMMENT:

Virginia Tegel, 4810 Bartlett Rd., received an e-mail just before coming to the meeting regarding the Grand Vision process. A meeting specific to the east side of town will be held at the GT Resort on January 24. She hopes Board members will be able to attend. Kladder stated people can register to

attend on-line

Brandon Rinehart owns a duplex at 6012 and 6014 Golfcrest. He thanked Vreeland for her time and effort in trying to find a fair solution to a difficulty he is having in completing the sale of his property. This matter is on the agenda later this evening. He stated that he does not know of anything else he could have done to avoid the problem, and always conducts his personal affairs on-time and with the highest of integrity. The property has been recorded in the township records for 20 to 30 years as a duplex. He agrees that the DPW should have been billing him for a second sewer benefit. He had no idea that the amount he paid quarterly was incorrect as he paid his bills on time. He wants to pay what he truly owes, but paying it all at once would be a significant burden to him. He appreciates Vreeland's suggestion that the benefit purchase price be reduced to what it would have been in 1996 when he bought the property, he is asking that it be reduced to the 1977 or 1987 rate. It is unclear as to when precisely the property became a duplex. He thanked the Board for its consideration and Vreeland for her prompt assistance. He is supposed to close on Thursday, and respectfully asks that the proposed motion be changed to require him only to pay usage charges and for a Land Use Permit.

Nels Veliquette, Traverse City spoke to correspondence item #1, the letter from CCAT. He feels the letter has little to do with the Immanuel LLC rezoning request or the township Master Plan. He attends meetings regularly, and none of the comments offered were offered at any of the discussions about the issue. He feels that this is a "not in my back yard" request from Bob Garvey and being supported by CCAT. He is convinced that an alternate property proposed for rezoning mentioned in the letter refers to the property for which he is requesting rezoning. The Planning Commission stated a belief that the Immanuel property should be rezoned so that development can work with the unique character of the land. It should not depend on a specific site plan, or plans for other properties to determine whether the zoning designation on their property is appropriate.

Bob Garvey, Lautner Road, stated that the staff report regarding the Immanuel rezoning request does not refer to steep slopes on the property, although there was discussion about this. Mr. Garvey asked if he could see as show of hands in the audience for people opposed to the Cherries R Us rezoning application. As to proposed Zoning Ordinance Amendment #141, it deals with a "contentious" zoning classification. The state has felt compelled to substantially participate in land use decisions relating to mobile home parks and gravel pits. The land in question was rezoned to R-1MH at Immanuel's request in 1995; now they are seeking a change to R-3 zoning. Mr. Garvey stated that if the rezoning is approved a "floating zone" could result whereby the township would be required to allow a mobile home use on any other parcel of land in the township. He feels the Master Plan calls for dense housing zoning in central areas of the township and that the Immanuel property is currently zoned appropriately. He feels that mobile home rezoning on Brackett Road would be inappropriate. He thanked the Board for standing up for the Master Plan under attack.

Dale Campbell, Brackett Road asked the Board to consider a **petition** signed by 39 residents of Brackett Road in opposition to Zoning Ordinance Amendment #141 and on Brackett Road. The Master Plan calls for dense land uses in central areas to prevent sprawl. The Cherries R Us request would permit a mobile home park in what he views as an inappropriate area. Mr. Campbell asked whether or not there is another appropriate place planned for mobile home housing in the township, and what possibility there is for Immanuel to sue successfully if their rezoning request is denied.

Denny Rohn, Shaw Road is the president of CCAT. She read aloud the letter presented on January 2. She stated CCAT writes all of their letters themselves.

Larry Street, 4788 Brackett Road stated there is a potential plan to build a mobile home park down the road from his property. He stated that the Immanuel site is appropriately zoned for this land use, where it is unobtrusive and not disruptive to existing neighborhoods. Retaining the current zoning may help prevent further turmoil over zoning issues in the township.

Pat Salathiel, 4888 Five Mile Road stated she is not associated with any particular township interest group. She is a former Planning Commissioner for the township. She is concerned that the

Commission did not fully and appropriately address questions raised by township counsel regarding the proposed Immanuel property rezoning. She feels it is appropriately zoned, particularly if there is going to be an adjacent commercial development where the residents might work. She wondered if part of the parcel could be rezoned but not all of it, allowing different options on the more environmentally sensitive areas of the property but retaining the mobile home designation on the rest.

Andy Andres Jr, Traverse City read from page 73 of the Master Plan, which encourages creation of a neighborhood center plan by the township in conjunction with Bates landowners. He feels the “big picture” must be looked at before proceeding.

Gene Veliquette, 8369 Elk Lake Road, stated that there appears to be a close association of efforts between CCAT and the township taxpayers. He stated that CCAT filed a brief to appeal a Court of Appeals decision to the Supreme Court, and one day later the township filed a similar if shorter brief, dragging the taxpayers into the matter. He does not believe that the chances of appealing a 3-0 Court of Appeals decision successfully are good, and questions whether this is an appropriate choice for the township to be making.

Clare David, 4209 Eagle Crest Drive is a Planning Commissioner. Regarding the proposed Immanuel rezoning, he is speaking as an individual and not as a representative of the Commission. The township was asked to make a decision, and the applicant deserved an answer. One of the factors they were given to evaluate was whether the 1995 rezoning was appropriate or mistaken. He believes it was mistaken because the township has an obligation to provide for affordable housing in the township. To do this, we need to provide for mobile homes. The state does not permit us to establish exclusionary zoning, and the only other piece of property zoned for this use in the township seems inappropriate. Two potential mobile home developers have looked at the Immanuel property and found it unsuitable for the purpose. He thinks the only reason the property was rezoned in 1995 was to solve a different problem.

Bzdok stated that closed session meetings are held at the beginning of the meetings so that any resulting action can easily be communicated to the public. In Late 2007 the township did file an appeal of a Court of Appeals decision to the Supreme Court. The township has offered to withdraw that appeal, but to do so requires consent from Meijer, Inc. and the Village at Grand Traverse (VGT) which has been requested but has not yet been granted. Today we received word that Meijer and VGT have filed a new appeal with the Court of Appeals of a ruling issued by Judge Rodgers pursuant to the first Court of Appeals ruling, which fill further delay development progress. The township continues to negotiate with all parties, but the contents of the negotiations are confidential.

C. CORRESPONDENCE:

1. **01/02/08 letter from Concerned Citizens of Acme Township** (CCAT) opposing Zoning Ordinance Amendment #141: received and filed.
2. **01/02/08 memo from GT County Conservation District regarding Gypsy Moth Suppression**: received and filed.
3. **01/05/08 letter from Paul D. Brink**, 9617 Winter Road, opposing Zoning Ordinance Amendment #141: received and filed.

D. SPECIAL PRESENTATIONS: None

E. PUBLIC HEARINGS:

1. **Consider adoption of Cemetery Ordinance #2008-01 (Resolution #R-2008-01)**: The proposed ordinance and resolution have been renumbered to reflect the year of their potential adoption. In response to concerns raised during last month’s discussion, a definition of “offensive” has been provided and incorporated in the proposed ordinance draft. A second concern raised last month was the idea of considering a township policy reducing fees for plots and cemetery services for destitute individuals. We found that we cannot extend such a

courtesy to a limited group of citizens without making it available to all. The township supports the concept but cannot use township dollars towards it.

The proposed new fee level is consistent with that being charged by other local municipalities.

Public Hearing opened and closed at 7:46 p.m., there being no public comment.

There was consensus that the ordinance was already good as presented last month and was improved over the past month.

Motion by Scott, support by Boltres to adopt Acme Township Resolution #R-2008-01 and Acme Township Cemetery Ordinance #2008-01. Motion carried by unanimous roll call vote.

F. NEW BUSINESS:

- 1. Consider approval of Zoning Ordinance Amendment #141, Rezoning requested by Immanuel LLC to change the designation of approximately 90 acres west of Bates Road and south of the railroad tracks from R-1MH, Mobile Home Park to R-3, Urban Residential:** Rob Larrea, Mansfield Associates represented Immanuel LLC and the application. He displayed a map of the property and the current zoning of the subject and surrounding properties. The area is a transitional area with growing employment opportunities. An aerial photo was displayed which was marked with nearby commercial and industrial businesses. The property map contained topographical markings demonstrating steep slopes. To create appropriate density as a mobile home park and recoup engineering costs the entire site would have to be leveled. As an R-3 property the housing density could be compatible, but the township would have more say over the development design and the development could be worked into the landscape with reduced earthwork. The only allowable land use in the R-1MH district is mobile home parks, so under the current designation this is the only thing that can be done on the site. R-3 would provide housing opportunities for a mixture of price ranges near existing commercial development. The proposed change was recommended by the township Planning Commission and endorsed by the County Planning Commission.

Boltres asked what the proposed development for the site would be. Mr. Larrea stated it is undetermined but would likely involve multiple family homes. They could be multi-story, so the same number of housing units could be achieved with less impervious surface and sitework. Kladder asked if a mobile home park has to be a “field of trailers” or if it can be more like a subdivision.” Mr. Larrea stated it could resemble a subdivision. He explained that a zoning designation allowing for creativity in siting and designing would help recoup development costs. Kladder asked about Mrs. Salathiel’s idea about rezoning only part of the parcel to R-3, leaving some as R-1MH in areas more topographically suited. Mr. Larrea stated that they are seeking an R-3 designation to maximize both value and preserved areas of the land. Kladder asked where on the property would currently be suitable for immediate mobile home development, or conversely what areas might be preserved; Mr. Larrea stated that no site evaluation for development has been performed.

Zarafonitis asked how many units could be placed on the site under R-3 zoning. Vreeland and Hull explained that the ultimate density largely depends on site design and the facts that this district permits a maximum of 30% impervious surface and each housing unit requires 2.5 parking spaces. How the engineering is done has a significant effect on the ultimate number of units.

Mr. Larrea is unfamiliar with why the applicant originally requested R-1MH zoning in 1995. The property hasn’t changed, but there are new techniques for creative development today. This portion of the land would be accessed from Bates Road.

Bzdok prepared a letter for the Board last week. Mike Grant from his firm prepared a memo for the Planning Commission. Bzdok recommends that the Board hire an outside consultant to prepare a recommendation/finding of fact that specifically addresses the six questions raised in Grant's memo. There is a potential exclusionary zoning issue which is reasonably a factor in the decision but should not be the sole factor in the decision. Other potential factors for the decision include the earlier rezoning of the property and the other outstanding rezoning application. He suggests one short report containing the recommendations to provide a solid basis and record of the reasons for any ultimate decision. Mr. Larrea asked Bzdok about the exclusionary zoning concerns. The township's R-1MH zoning provides for extremely limited uses. What is the process for considering a use in a district if it is not listed in the district? Bzdok has not had such a situation during his tenure. The type of use requested and whether it is already addressed elsewhere in the Ordinance could lead to different processes in different situations.

Motion by Boltres, support by to have the rezoning request expeditiously reviewed by a professional planner.

Kladder asked how a consultant would be chosen. Vreeland suggested that John Iacoangeli with Beckett & Raeder has been retained to assist with review of the Bates Crossing project, already knows the applicant and the township and would be a good choice. Kevin Vann, Generations Management expressed agreement if they are given a clear scope of services and price expectation up front and the process is not drawn out.

Motion amended by Boltres, and supported by Dunville to have the rezoning request expeditiously reviewed by Beckett & Raeder.

Hardin stated that he voted to recommend the rezoning at the Planning Commission level not because of the exclusionary zoning issue but because he understood that otherwise there would be a possibility for a mobile home to be proposed for any R-3 zoned parcel. Hull stated that this is a misunderstanding of discussion about potentially adding mobile home parks as an allowable use in the R-3 districts. If there is no land zoned in such a way that a mobile home park could be created, a potential developer could sue to develop one anywhere.

Motion carried by unanimous roll call vote.

2. **Consider update/revision to Acme Township Property Tax Poverty Reduction application and guidelines (Resolution #R-2008-02):** Assessor Dawn Plude was present to answer questions regarding this issue. Kladder noted that we have had some inquiries about the township's poverty tax abatement rules and procedures. The Board of Review acts on such requests, and guidelines must be in place. Since ours were put in place the Michigan Tax Tribunal has ruled on the legality of provisions some places were using, and sent out guidelines to assessors. Kladder, Vreeland and Plude worked together to research guidelines and put together the suggested revised poverty exemption application. Applicants have to be willing to have all the details of their financial lives and those of all property residents reviewed. Hardin asked for the difference between this situation and providing relief on cemetery plot purchases; Bzdok replied that the state has authorized and required townships to provide for tax relief processes, but has not done the same for cemetery ordinances. Applications must be resubmitted annually, and townships are not allowed to limit the number of times an application is made. Full, partial or no exemptions can be granted.

Motion by Zarafonitis, support by Boltres to adopt Resolution #R-2008-02. Motion carried by unanimous roll call vote.

3. **Announcement of public input session for Parks & Recreation Plan Update:** Vreeland summarized her memo, and invited the public to come help establish public recreation needs

and prioritize on Wednesday, January 16 at 7:00 p.m. at the township hall.

4. **Discuss zoning and sewer connection issues regarding 6012 and 6014 Golfcrest Drive:** Vreeland summarized her memo.

Motion by Boltres, support by Zarafonitis to require back payment of \$2,224.00 in sewer usage fees plus a \$75.00 Land Use Permit fee. Motion carried by unanimous roll call vote.

5. **Consider legal rate increase request from Olson, Bzdok & Howard:** Bzdok stated that the township is billed a flat monthly fee for most services, currently \$1,500 a month with actual costs being at least twice that. Items not falling within the scope of the retainer are performed at a discounted hourly rate (for Bzdok normal rate \$200/hour, current rate \$140/hour, asking for \$145/hour.)

Motion by Boltres, support by Dunville to approve legal services rate increase.

Zarafonitis feels the firm does an excellent job for the township.

Motion carried by unanimous roll call vote.

G. **OLD BUSINESS:**

1. **Metro Fire Reorganization update:** Kladder is seeking to update the Board on efforts to reorganize Metro Fire that have been ongoing for about two years. Key issues to be resolved are the makeup of the new Board (current proposal for 2 each from East Bay and Acme Townships and 4 from Garfield Township.) Also at issue is how to fund the authority. Currently, each year each township levies an assessment collected on taxable value and based on SEV. Proposals include funding based on a combination of SEV and number of fire runs in each township. There is also discussion about allowing Metro Fire to be a separate taxing authority rather than having each township levy a separate amount. The voters would decide on a uniform taxing structure based on taxable value across the entire authority area.

2. **Sewer usage fee increase 6-month update:** Vreeland summarized her memo.

Motion by Zarafonitis, support by Dunville wait to review sewer usage fees until spring budget discussions. Motion carried unanimously.

3. **Update – InfraSource right-of-way digging:** Vreeland summarized her informational memo. No action is currently required.

4. **Cherry Capital Cable Council Update:**

Motion by Boltres, support by Scott to jointly hire Dick Ford along with other past and current CCC members to request a final accounting and equitable distribution of assets from Richard Lewis, Traverse City Manager. Motion carried by unanimous roll call vote.

H. **REPORTS**

1. **County Commissioner's Reports** – Larry Inman: Inman reported that the County is televising Board and Committee meetings. They soon will be available on the County website as well. Tomorrow will be a second meeting regarding what to do about the Resource Recovery Department and amendment of the County Solid Waste Plan. The County is seeking ways to maintain a joint relationship with the City regarding the brownfield redevelopment program. The County and City have many longstanding and successful joint ventures. An annual goal-setting meeting will be held January 17 facilitated by Jim Wiesing from MSU Extension. A decision about Road Commission employee benefits has been

deferred pending additional research and will be discussed again on January 22.

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

3. **Sheriff's Deputy** – Mike Matteucci: received and filed.

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

Mrs. Salathiel stated that while she disagrees with the Planning Commission's recommendation about the Immanuel rezoning, she knows they do a difficult job well and she believes they are one of the best in the state.

Mr. Nels Veliquette asserted that the "floating zone" does not exist, and therefore cannot create sprawl or create zoning problems. His company is exploring R-1MH rezoning for some property to answer a need they perceive for affordable housing and concerns about their application should not transfer to an impact on the Immanuel application.

Mr. Campbell stated that we should not assume that a mobile home park cannot be on a beautiful, hill site so that low income housing can enjoy some beauty.

Mr. Andres Jr. believes that the terminology needed comes from New Urbanism: the "transect." He would prefer to explore this option before rezoning a property.

Edith Ziebart, Deepwater Point Road wondered why Immanuel would have purchased a property and zoned it for a mobile home park knowing that they would want to institute a different use? What good is zoning if it is not followed?

Mr. Gene Veliquette feels a bad precedent is set when a property owner is charged for a mistake he didn't make (referring to the back sewer useage charges for the Golf Crest duplex.) He believes that several developments approved in the past don't have benefits available to build them out. Property rights should not be a popularity contest. He stated that the *Record Eagle* accused him of being an Acme Township resident and of having people ghostwrite letters for him. He is not a township resident although his company owns 800 acres in the township and he believes that many of the surrounding landowners oppose his success and vandalize his property. He wrote the letter but asked others to check the facts. There were 8 nails in his wife's car tires this weekend in Whitewater Township, and he is worried.

Mr. Garvey stated that everyone believes in property rights, but some people interpret this to mean that there should be no rules and everyone should do whatever they want on their property. He offered to represent Mr. Veliquette for free if he could find out who vandalized his orchards on Deepwater Point several years ago.

Bzdok stated that after the information came to light about Meijer corporate funding for the recall election, He and his associate Jeff Jocks reviewed the information that became available as well as applicable election law. They met with the County prosecutor's office and turned over their information. The *Record Eagle* will be reporting that the prosecutor's office has confirmed that this took place and intends to open an investigation. Several township Board members who were subject to the recall have chosen to press charges: Wayne Kladder, Paul Scott, Erick Takayama and Frank Zarafonitis. They are doing this as individual township board members. The township is not prosecuting.

Bart Nielsen, Wisconsin thanked the boards, commissions and staff of the township for their professional assistance in processing his application for a special use permit to construct a cheese shop in Acme Township. He continues to negotiate to purchase the property and hopes to be successful soon. He expressed sympathy for the attacks Mr. Veliquette has faced.

Meeting adjourned at 9:30 p.m.