



ACME TOWNSHIP PLANNING COMMISSION MEETING
Acme Township Hall
6042 Acme Road, Williamsburg, Michigan
7:00 p.m. Monday, April 28, 2008

Meeting called to Order with the Pledge of Allegiance at 7:03 p.m.

Members present: M. Vermetten (Chair), B. Carstens (Vice Chair), C. David, R. Hardin, D. Krause, D. White, L. Wikle, P. Yamaguchi

Members excused: J. Zollinger

Staff Present: S. Vreeland, Township Manager/Recording Secretary

J. Hull, Zoning Administrator

M. Grant, Legal Counsel

C. Bzdok, Legal Counsel

INQUIRY AS TO CONFLICT OF INTEREST: None noted.

APPROVAL OF AGENDA: Motion by Carstens, support by Hardin to approve the agenda as amended to move discussion of the proposed content-neutral revision of the Zoning Ordinance to the beginning of the agenda, before the Consent Calendar. Motion carried unanimously.

Continued discussion regarding content neutral zoning ordinance rewrite: The goal is to deal with legal compliance issues that are known to exist in the current Zoning Ordinance. One example is ensuring that the township fully complies with clustered housing requirements in state law. Bzdok and Grant have provided a 62 page memo of annotations discussing the draft revised Zoning Ordinance, a “clean” copy of the draft ordinance and a marked up copy showing the differences between the current and proposed versions. Every ordinance needs ongoing review and updating, and over time as ordinances are revised they develop internal inconsistencies that need to be resolved. Some language was streamlined and some “legalese” removed, and in some very minor cases some reorganization has occurred. The goal is an end product that is up-to-date with current law and easier for everyone to use.

Bzdok observed that is impossible to be entirely content neutral. There may be uses we are required to allow under certain circumstances that the current ordinance does not. New uses were only added if required by law. Approval standards and uses in general remain unchanged. It has been clarified that variances from requirements are always considered by the ZBA, rather than sometimes by the ZBA and sometimes the Commission.

The goal of the memo is to serve as a reference document and to provide complete transparency about the process and the reasons behind the recommendations. It would not necessarily be helpful to read it from front to back by itself. It comments on the legality of some provisions of the ordinance in a way that would normally be kept protected by attorney-client privilege, but Bzdok recommends that it be a fully public document to enhance the transparency of the process and maximize public information about it.

Grant and Bzdok worked independently on sets of sections, and then combined their work. Everything in the document is a recommendation, and the recommendations come with reasons. The Commission must now review the document and decide for themselves. It is the starting point, rather than being an ending point.

Vermetten thanked the legal staff for their hard work to prepare these drafts in a fairly short time period. He believes this project deserves a couple of special meetings devoted purely to it. Staff and legal counsel will come up with a proposal for what topics should be discussed at the first special session, to be held on May 12.

1. **Consent Calendar:**
Motion by Carstens, support by Wikle, to approve the Consent Calendar as presented, including:

Receive and File:

- a) Draft Unapproved Minutes of
 1. 04/08/08 Board meeting
 2. 04/17/08 YCNA meeting
 3. Planning & Zoning News March 2008
 4. Planning & Zoning News April 2008

Action:

- b) Approve minutes of the 03/24/08 regular Planning Commission meeting

Motion carried unanimously.

2. **Correspondence:** None

3. **Limited Public Comment:**

Vermetten attended the NMEAC dinner a few weeks ago. He would like to congratulate Carstens for winning a lifetime achievement award for his environmental stewardship efforts. The Board and Planning Commission also won a “Profiles in Courage” award.

Ken Engle, Saylor Road asked to ensure that electronic copy of the proposed Zoning Ordinance revisions will be available prior to the special meeting on May 12.

Gene Veliquette asked if a scenario would make sense whereby two teams meet and one team is defeated; then the coach of the losing team is invited to rewrite the rules of the game. He feels this is an analogy for asking Bzdok’s firm to create a neutral re-write of the ordinance, which he feels would be impossible for them to do given their involvement in the development debates with the township over the past several years. He feels that their advice regarding proposed ordinance amendment 138 was poor. Olson, Bzdok & Howard was hired about 3 ½ years ago to replace a township attorney Mr. Veliquette feels was providing sound advice to the township. He stated that the minutes just approved called citizens criminals, stating that he had disseminated incorrect information about the ordinance. Mr. Veliquette generally expressed sincere doubt that Olson, Bzdok and Howard can be trusted to re-write the ordinance neutrally. He also asked how the township could take a deposit on sewer benefits if we do not have capacity to serve those benefits, much less expand the district past that point. He feels that there is a conflict of interest between people sitting on township boards who are suing developers or threatening to sue developers. Trying to recall someone, or running against them does not constitute an attempt to overthrow government; it constitutes democracy. Mr. Veliquette supposes that the township enjoys the way the matter has been represented in the press.

4. **Preliminary Hearings:**

- a) SUP Amendment Application #2008-02P by Richard Bruening, Stained Glass Cabinet Company, 4160 M-72 East to permit addition of a weekly outdoor farmers’/crafters’ market on property located at 4160 M-72 East and zoned B-2, **General Business:** Mr. Bruening was present in support of his application. He feels that the addition of a farmers’ market to his business would both enhance his operation and make use of a lovely site. He would like to have 10-15 farmers come sell their wares on Saturdays and/or Sundays. Right now, he sees Acme as a “drive through” community, but that something like this would invite people to stop, enjoy and use the community.

There would be no permanent structures; vendors would bring tables and tents, probably for a 4-5 hour period of time each day it occurs. He would like to hold the event from June through October. He has provided a site plan with boxes on his preferred vendor location sites. The area he would primarily like to use would be within 50' of the bank of Acme Creek, which poses somewhat of a planning problem in terms of the zoning ordinance requirements. Krause asked if he would expand the use throughout the 2+ acres; he would like to expand all along the creek in the current cedar grove if it is successful. Hardin noted that it is hard to park at the successful downtown farmers market, and asked about the plan for handling this. He would like to start with 10-15 vendors, and feels his current parking area can handle 50 cars. He does not want the situation to grow uncontrollably, but to start out "small and quaint" and discuss future expansion as warranted. Mr. Bruening plans to serve the site with two porta-johns. David asked if the market would be limited to produce or would also include craft items; Mr. Bruening would like to compliment traffic to his business, the winery tasting room and the nearby Down Outlet Factory, but not compete with those existing businesses.

Hull reported that the applicant still needs to have his plans reviewed by various local agencies such as MDOT and Metro Fire. The parking and maneuvering areas on the site are currently gravel, which may meet the requirement for a paved or dustless surface. Mr. Bruening stated that these areas are brined to keep the dust down. The site has a sizeable amount of mature vegetation which would seem acceptable in lieu of more formal landscaping.

Carstens wishes there were a way to allow the permit for only one year to see how it goes, and perhaps revisit and see if additional site work is required at that time. Grant stated that this would not be customary but that it might be possible to set things up like this. The suggested use is a special use in the B-2 General Business district. Hardin noted that the requirements must be the same for similar uses, and if site conditions change then SUP amendments are warranted.

Mr Bruening stated that his business gets busy if it rains, but the farmers' market is unlikely to be active under those conditions. Therefore a relatively small amount of parking could serve both parts of the overall use well.

Krause feels that Acme Township has a reputation as a difficult place to accomplish development and he hopes that this application could be processed with minimal delay and difficulty. Carstens agrees that this land use seems desirable and is also concerned with fairness and consistency in the review process. Mr. Bruening stated that he is not going to propose anything that he feels would be a detriment to his business or the community as a whole.

Motion by Carstens, support by Wikle to set a public hearing on SUP Application #2008-02P for the May 19 meeting. Motion carried unanimously.

5. **Public Hearings:** None

6. **New Business:**

- a) **Use By Right Site Plan Review Application #2008-01SP** by Mark Sedgewick, **5555 Bunker Hill Road for development of a coffee shop, salon/spa and office space in an existing building located at 4263 M-72 East (former Sandtrap):** Mr. Sedgewick was present in support of his application. There will be an additional component to the request for this property, an SUP application for a residential-use on the lower level. Hull expressed a concern about whether parking requirements were being met, but also recognizes that the township has long felt that its parking

requirements may be excessive. The parking lot for this building would be shared with TraVino. The uses in this building would be primarily daytime uses; TraVino tends more towards nighttime traffic. Metro Fire has found that this building was already approved for use as an office building so Hull does not expect any new or surprising issues regarding the upper-floor uses; they may have more concerns related to the proposed residential use on the lower level. Their review will be required as customary.

While no public hearing is required, Vermetten asked if there was any public comment; none was offered.

David asked if Mr. Sedgewick expects any traffic to the coffee shop from the golf course; he does not.

Motion by David, support by Carstens to approve Site Plan Review Application #2008-01SP. Motion carried unanimously.

A brief recess was called from 8:01 p.m. to 8:05 p.m.

7. Old Business:

- a) **Continued discussion regarding Zoning Ordinance Amendment #141, requested by Immanuel, LLC. regarding the zoning of property located on S. Bates Road and currently zoned R-1MH, Manufactured Housing:** Doug Mansfield, Kevin Vann and Joe Quandt were present in support of the application. Mr. Mansfield apologized if the Commission or staff were expecting a potential plan for the site this evening; he understood he was to prepare a site inventory of the natural features only. He agrees with staff that it would not be appropriate to prepare a site plan for a rezoning request, unless it were a conditional rezoning request which this is not.

The second page of his presentation was a slope analysis sheet. Purple areas are 0-5% grades; red areas are 30%+ grades. By comparison, County roads must be at 9% or less grade, which would be in purple or green areas. It is difficult to build at more than a 30% grade even with sophisticated architectural and engineering skills. The color patterns tend to suggest likely road corridors within the site, and also suggest areas that might be suitable for runoff water detention and/or sanitary waste treatment areas if there is an on-site system.

He also noted that stormwater control dictates that while no excessive water is released from the site and not at excessive volumes, it also dictates that natural movement of water through the watershed and through this property to other properties should not be overly disturbed or inhibited.

Mr. Mansfield asserted that over a 10-15% grade it would be prohibitive to development of a manufactured home park. He does believe that there is an area on the site of about 10-15 acres, near the west central portion of the site that would be the most feasible location on the site for a manufactured housing park-type development. He is hoping to have demonstrated that the natural characteristics of the site make it impractical to draw a straight line across it to delineate land use type areas.

Mr. Quandt, legal counsel for Immanuel LLC, addressed the proposal of amending the Zoning Ordinance to permit a mix of R-3 residential uses in the R-1MH zone along with manufacture home parks. They believe that as stages of a development plan for this property are brought forth and considered over time, the township might discover than needs for mobile home parks are met by available lands and/or

developments in surrounding communities or on other properties within the township along with or instead of on this site. He has been discussing this idea directly with township counsel, who continues to recommend that the safest course for the township is split zoning for the property rather than the ordinance text amendment proposed by the applicant.

Krause asked for some clarification about how phased site plan review might work. Mr. Quandt stated that perhaps as part of the township's review checklist for each phase there would be review of whether or not sufficient appropriate space has remained set aside for potential manufactured home park use beyond the other uses proposed. And at the same time, the township might find a more desirable and likely site for this use than theirs. David stated that if the higher areas develop first, it seems likely that they will develop with more costly homes. When future discussion comes up about creating a manufactured housing park nearby, there could be significant resistance from the more expensive areas.

Vermetten noted receipt this evening of a memo dated today from Bzdok to Mr. Quandt. Grant raised again a concern raised before; if the township does not have a place where a mobile home park may be developed, it is open to challenges to have other properties rezoned or otherwise opened through legal challenge to that use. He agreed with David that under the applicant's proposal a scenario could develop where half the parcel is developed for higher-income homes that would make future development of affordable housing as contemplated by the site zoning less likely. When the matter returned to the Commission from the Board the expectation was that discussion would center on dividing the property so that a specific area would be clearly reserved for mobile home park development. Deviating from this model enhances the township's vulnerability in his opinion.

Carstens had thought that the applicant was going to propose a way to integrate development of manufactured housing with other housing types in a single cohesive development rather than continuing to find ways to segregate housing types. He isn't sure if this is even possible given the high level of state regulation on mobile home parks. Carstens said he would favor a conditional rezoning that required a certain percentage of total homes developed to be manufactured housing. Mr. Quandt stated the applicant as having a vision of "transitional housing", where there would be more expensive homes on the hilltop and housing values that transition lower as the altitude decreases and leaving an area for the last for a mobile home park. It would be the very last thing they do, perhaps 10-15 years from now, when they feel it is likely that the township will find that the need for such housing has been met or can be met better elsewhere. Vermetten stated that it appears that the applicant is betting on all conditions leading to an ultimate conclusion that a mobile home park will never be developed on this site. It does seem to him that the property does not lend itself to the zoning that it currently carries; that the township may not have considered the natural features of the site when they originally rezoned it to R-1MH from B-4. Mr. Quandt stated they don't feel they will reach a point where development of a mobile home park is up for consideration for 10-15 years, and are trying to provide the township a tool to treat the site flexibly until that time.

Hull stated that the township Zoning Ordinance R-1MH section deals with mobile home parks as defined by state law: a mobile home park where sites are rented to people by one park owner. The township does not otherwise distinguish between stick-built or manufactured housing – absent subdivision restrictions we allow a manufactured home to be placed on any lot. This section is about the "quintessential" mobile home park.

Carstens stated that there is a mobile home park on Keystone Road that may be on a site with a notable slope. Hardin recalls that this area has terracing where mobile homes are situated on the slope; Mr. Mansfield stated that it is a very old mobile home park. Carstens walked the subject site today and does not believe that the areas he walked are any steeper than the Keystone Road site. From his description of where he was, some of the area he crossed was a different property. He did find an area on the site where power lines cross while he was looking for the course of Yuba Creek. He found a relatively flat area that he feels would be suitable for a mobile home park, as well as some possibly suitable swales a little farther to the south. The area he described as suitable for a mobile home park matched that suggested by Mr. Mansfield.

Vermetten asked if there is a particular number of homes required to make up a mobile home park; Hull and Grant believe that 3 or more units are required by state law. Grant stated that to the extent that this property is built-out without a mobile home park and reduces the available area for this use, there can be a problem. Krause asked what would happen if someone approached the township wanting to develop a mobile home park and were directed to the applicant to discuss their site. They might negotiate to purchase a portion of the property. Mr. Quandt again countered that any first phase would likely suggest development of non-mobile-home-park housing on less than half the site, leaving half available for potential mobile home park development. They they might seek development of another 20 acres, still leaving room. In the meantime the township might review its master plan and/or zoning, and decide that better places exist for such a land use and direct it somewhere else. He understands and appreciates the caution being recommended by township counsel.

Vermetten asked what would happen if someone wanting to develop a mobile home park could not reach an agreement on price for the applicant's property. Mr. Quandt stated that the township does not have a legal obligation to facilitate a developer's economic model, so the township could reasonably say that there is an opportunity and if the two parties can't reach agreement that isn't the township's problem. Grant felt that the township could still end up in legal difficulty if there is no economically viable property available for mobile home park land use.

White noted that there is a pending application to rezone a different piece of property for mobile home park use. This would indicate that someone thinks there's a need for this use in the community. He is concerned about creating a practical impossibility of creating a mobile home park. He tends to think this site is not well suited to the use anyway. Carstens stated that this site isn't far from the Village at Grand Traverse or from Bates, where the Master Plan proposes a future mixed use development area. It's near the TART, a non-motorized way for people to travel between development areas. He feels it is very convenient to potential lower-income housing development.

Krause believes that it used to be possible for the township to conduct business without legal counsel at the table worrying over every issue. He thinks this is a creative opportunity. Vermetten agrees that sometimes it seems like the township reacts too much to the fear of lawsuits, but he also respects the fact that township counsel must advise the township to protect itself and make its actions defensible to the maximum extent possible.

Hardin is concerned because while the proposal seems to create flexibility, the flexibility decreases over time as the property becomes more and more built out. At some point the township will be asked to act just as if it had rezoned the property previously.

Vreeland felt she had heard that both a township representative and the applicant agree on a portion of the site that is the most suitable for a mobile home park. The applicant has stated that it will be 10-15 years until developing such a use would be considered, and they hope by that time it wouldn't be needed at all. If this is the case, if by rezoning a portion of the property or by amending the Zoning Ordinance text the real-world outcome is going to be the same, and if a suitable area was identified, why would it be so bad to use the rezoning route? Mr. Quandt appreciated the question about a "distinction without a difference." He stated that the fine point is the flexibility not provided by a rezoning line in the sand to refine the location by an acre or two depending on a more detailed review of site conditions, or to allow the landowner to be able to enter into a deal with a potential purchaser for any portion of the land without worrying about whether or not the portion they wanted is partially within the wrong district for their needs.

Hull stated that just because there are questions does not mean that nothing is known. It does appear to him that the applicant has identified a 10-15 acre area of the site that is suitable for mobile home park development. From an economics standpoint he tends to agree that the more housing of different types that are built elsewhere on the site, the less likely it becomes that there will be value in creating a mobile home park on the rest of the site. He also stated that Mr. Quandt's arguments are "symmetrical." Essentially his client does not want to take the risk of identifying a particular portion of the site for one zoning and the rest for a different zoning, and our township counsel is asking if we want to take the risk of not knowing what the arrangements will be. The real question is: whose risk should it be, and to what extent?

Hardin feels that ultimately there has to be space kept on the site for a mobile home park use until such time as the use is clearly not needed or is met elsewhere. Vermetten believes that the law is correctly interpreted to be not whether each township needs a space for the use, but whether the use is generally met within a broader region. This property was rezoned to R-1MH in 1995 by this same applicant.

David remains concerned that approving the request would be illusory, that clearly there is no intent to provide for a mobile home park.

An additional procedural concern was raised by staff and counsel. This matter has been published as a rezoning request for a particular piece of property. If the application is going to become instead truly considered as a text amendment to the Zoning Ordinance entitlements, it most likely must be republished in its amended form for an additional public hearing.

Mr. Mansfield stated that he was hired by the applicant to look at the property and begin developing workforce/affordable housing for the site. He stated he came to the township and suggested that the 1995 rezoning was inappropriate, that the topography and site characteristics were not fully considered at that time. Their application for rezoning to R-3, a potentially more suitable classification, turned out to provide a timing opportunity for a different applicant to suggest rezoning of a different parcel of land for mobile home park use, and that application caused a public stir. As a planner he does not believe this site is suitable for mobile home park use. Under this zoning classification that's all he can do. As the MTA district representative he was at a recent meeting where the need for workforce housing was discussed. If the township does not want to accommodate their suggestions for more appropriate use of the site, they can certainly turn around and come back with a proposal to level the natural features of the site and make it suitable for a mobile home park. Then, when a fuss is made by NMEAC, who just gave the township an award, or the Sierra Club....He feels he has been accused this evening of attempting

to create illusions. What if a mobile home park were successful? If so, the township would still need to then look at the next possible place for the next one.

While the public hearing portion of this application is closed, Vermetten opened the floor to public comment.

Mr. Veliquette stated that he does not have a copy of Bzdok's memo and recommendation and asked for it to be clearly stated for him. Vermetten read from the text and a copy was handed to Mr. Veliquette by Hull. Their recommendation is that the approach safest for the township is to have the applicant rezone a distinct portion of the property. Mr. Veliquette stated that as he suspected, their recommendation opposes the applicant's request. Further, he feels that it is designed to counter other proposals that may have been made to the township. He feels that when a large project is proposed, the township mustn't cause the applicant to tie down the details too early; that they must be free to change according to market conditions.

Ken Engle observed that the property is already rezoned for mobile home use. If the property owners did not notify people who build other types of housing that a portion of the property is reserved for mobile home park use, it is the property owners who become liable for potential misrepresentation of the property. It may be in their final plan to install a mobile home park because it may fit their economic model.

Steve Feringa, Grand Traverse Resort, asked if this is the only piece of property zoned R-1MH in the township; there is one other that is state-owned land and the site of a former dump.

Vreeland noted that the other mobile home park rezoning request is still pending before the township and will be before the Board on May 13.

Grant observed that if the applicant does not want to commit to using a specific portion of the site to mobile home park use now, a PUD would not help, because an approved PUD would block out specific portions of the site for specific uses. Mr. Quandt stated that he felt the process to amend a PUD plan would be easier than a rezoning.

Mr. Mansfield stated that a few months ago there was a brainstorming session on ways to deal with this issue. One idea was a conditional rezoning, but this idea was discarded because it is not provided for within our ordinance. He proposed the idea of a PUD rezoning. There was further discussion about what is required by the township to amend a PUD. In some cases a fairly minor administrative process can be followed; in others a full public hearing process is required.

Hull stated that if the applicant has stated that if their preferred zoning ordinance amendment is not adopted or the property rezoned to R-3, they would level the site and create a mobile home park. If they do so, it might provide affordable housing, the promotion of which is a stated township goal.

Vermetten reviewed the Board motion sending the matter back to the Planning Commission on February 5. He was thinking that perhaps suggesting a PUD application for the project might provide both some general lines on the map to satisfy the township and the future flexibility desired by the applicant. However, the zoning ordinance does not contain a PUD provision at present; it would have if Amendment #138 was adopted. There is a mixed use development option (MUD) but it is not applicable in this zoning district.

Hardin observed that it is a fallacy to equate affordable housing with manufactured housing. He also observed that there are many properties in the township that could accommodate affordable housing but nobody is rushing to develop it as such. They may continue to develop higher value homes there. But the idea that this site must be a mobile home park, or affordable housing, or none of the above, is fallacious.

Krause favors the proposed text amendment. Wikle liked the PUD idea and wishes it were available. She favors flexibility, but believes we receive good advice from township counsel. She's open to exploration within the boundaries of what our counsel can recommend. Yamaguchi favors the proposed text amendment. Grant clarified that the MUD ordinance is essentially a PUD ordinance, and it is available to the R-3 district, but not the R-1MH district. The original proposal was to rezone this property to R-3.

Motion by Krause, support by Yamaguchi to amend the application for Zoning Ordinance Amendment #141 to become the proposed text amendment and to set a public hearing for May 19. Motion carried by a vote of 5 in favor (Hardin, Krause, Vermetten, Wikle, Yamaguchi) and 3 opposed (Carstens, David, White).

- b) **Continued discussion regarding Application #2007-05P Bates Crossing for shopping center on M-72, west of Bates Rd:** Mr. Mansfield has provided what the applicant believes addresses 95% of the site planning issues. He stated that several things have been omitted purposefully, and some are not available. They do not have final engineered grades to show ADA compliance. Construction Codes monitors this, and they do not feel it is appropriate to provide this level of detail at this stage in the process. They are asking that the township review the site plan over the next few weeks and see if it is acceptable. He stated that they have redesigned the parking area, pedestrian areas and landscaping, but before they have their lighting plan redone they would like to know that the redesign is acceptable. And, before performing additional or final traffic studies they want to be assured that the site plan on which it will be based will be generally acceptable to the township's standards. Otherwise they fear that they will do and re-do studies, yielding a waste of money.

Vermetten expressed some concern because the township's planning consultants for this matter are not present, nor is there anything in the packet that represents their review or response to this version of the proposed plan. He is also concerned about the pending market analysis. He is concerned that the township does not have enough information for our consultants to finish their job for us so we can provide a final recommendation to the Board. He also asked if the township has ever determined that the proposed building nearest M-72, with parking between it and the highway, is in an acceptable configuration. He asked Hull to comment, noting that his report shares some of Vermetten's concerns, including that our consultant has not received the packet to review yet. He commended Mr. Mansfield on a status table that was part of the submission. Hull had nothing to add. David agreed that discussion about the parking near the highway did get dropped. Yamaguchi agreed that the remaining studies and pending information is needed before she can complete her evaluation. Mr. Mansfield noted that Acme's ordinance ties site plan review to SUP consideration. It's been a long time since the site plan portion has been discussed.

Wikle walked the property the other day, and a matter came to mind from 1973. At that time a gas rupture created sinkholes in this area of the township. He believes that one of the areas slated for some directional drilling, which is very close to the creek, is right where one of those pits may be. A major problem could occur.

Mr. Quandt stated that the applicant is seeking some input before spending \$30,000 for the market study and nearly as much for the traffic study. They are not seeking to “box” the township in, but they don’t want to spend the money until they know that there won’t be requested changes to the site plan that would require expensive amendments to the studies. Mr. Quandt referred to some recent correspondence between township and applicant and stated he was making a clarification: the applicant is not refusing to pay for future work by the township’s consultants, but they are requesting a higher degree of oversight regarding their work. They are sending their “last” iteration to John Iacoangeli and expect his recommendation to be ready for the Commission to provide meaningful input back to the applicant on May 19 so that they can proceed with the additional studies.

Vermetten felt that when the application first came in, the Commission was impressed by the level of research and forethought that went into it. The township’s consultants need to be here in the room when the proposal is discussed again so that everyone is present and participating. Mr. Quandt stated that his client has been frustrated because there appear to have been delays and new iterations because commentary was based on faulty information. They hope that the township will exercise “cautious direction” over the consultant; while the applicant may have no choice over their selection or control over them; they are paying the bills. Mr. Vann sought also to clarify his letter, and asked if the consultant must be here in person. They do feel there has been a lot of wasted time and money; they analyzed the planning report compared to the law and some they agreed with and some they decided to work with us about. If they would like to have someone else review the new submittal they are willing, but they do not wish to have Beckett and Raeder review it because they have a problem with their work and believe there is a potential conflict of interest.

Vreeland stated that she has read Mr. Vann’s letter. She is certainly distressed that there could be such a difficulty arising from the township’s consultant. If there is a problem she fully supports getting to the bottom of and resolving it. The letter was very general, and much more detail is required as to the precise problems encountered with his work on this application and where there is a perceived conflict of interest. She said that if Mr. Vann provides this detailed information she will investigate and resolve it. While the township reserves the absolute right to choose its consultant, if it turns out that in this case a change is warranted then a change will be made. It should be recognized that if this were to occur, there would be some delays and expenses involved while a bidding and selection process occurs and the chosen replacement comes up to speed on the project. Vreeland also noted that Beckett and Raeder was chosen for this project absent the usual bid process because the Bates Crossing project and Lautner Commons project are similar to one another in size and scope. In order to maximize the extent to which each was reviewed and handled equitably and comparably, it was thought that using the same consultant would be the best solution.

- c) **Status update regarding Zoning Ordinance Amendment #144, amendment of Section 6.11.2, “Sewer District” requested by Immanuel LLC.:** Vermetten felt that the information provided by staff regarding the status and direction of how any potential sewer district expansion might be considered, and how to reconcile the requirements of three key existing documents, was thorough but concise. Vreeland explained briefly how the Sewer Fund cash flow spreadsheet provided was developed. It was created in 2005 and is updated at least annually; every year it keeps appearing that we remain at a steady 2.5 years from fund depletion. This could be due to several factors, including lower than anticipated operation and maintenance expenditures and the precise timing of large dollar transactions versus the model

assumptions that all cash flows occur on the 15th of every month. This information was provided because Commissioners have requested financial information about the system; some feel it is one key to decisions about system expansion while others are uncertain how relevant this information is to deciding where the boundaries might be. Vreeland commented that it could be relevant because a significant portion of the system debt was based on projections regarding usage expansion that were based on best information available when made but have not come to fruition. Some of that debt was used to expand the system in anticipation of specific growth, but it now appears that some of that expansion may be undersized for the scope of the permits actually issued. There is a stated policy that development should pay for needed system expansions rather than the public, and it would be hard to say that in a specific area of the system that upgrades should be paid for all by developers, or partially by the township. There are a very large number of variable to consider.

The Commission had already directed staff to begin work on the needed processes to consider sewer district amendment. Staff has received direction from the Board on the methodology to use; now they will begin the required steps towards the needed ordinance and master plan amendments.

It was discussed that at present the ordinance language requires public system connections within the sewer district, but it does not specifically prohibit connections to properties outside of the district. What the policy should be going forward should be part of the discussions and process.

d) **Maple Bay Park planning project:**

8. Public Comment/Any other business that may come before the Commission:

Mr. Engle noted that he wrote a letter to the township regarding Amendment #138 shortly after the referendum. He heard earlier this evening that portions of the proposed amendment could have been useful tonight. He continues to suggest that the township needs to move soon to reconsider those proposals.

Mr. Veliquette believes a situation exists where the applicant is asking for one thing, the Commission is recommending something else, township counsel is recommending against what the Commission is recommending and it appears to him that this will set the Board up with an excuse to refuse a second application for rezoning. What purpose does the Planning Commission have? Does it serve at the pleasure of the Board and do only what it suggests? Does it serve only to delay applicants at great expense? Good people on the Commission want to accomplish something, but Mr. Veliquette believes the Board prevents this from occurring. He believes that consultants who worked on the Meijer project encouraged the Board to make a list of conditions that would prevent reasonable development of the property. He believes the whole Commission said they like the proposed Bates Crossings project, even though he doesn't believe it's in the Master Plan. He also believes that the township treats different applicants unequally, requiring more detail from some than others. If the Commission wants to get something done, he believes it needs a different Board and different legal counsel.

Mr. Feringa feels that the Commission is more than capable of handling projects like this and hopes they will work away from using consultants.

Vreeland noted that there was one additional agenda item not covered regarding Maple Bay park. Some materials from a County meeting last Wednesday to gather public input on how that area should be used Maple Bay were provided by County Commissioner Larry Inman, and he believes there is still time to provide comment if desired.

Vreeland also stated that she has been working for the township, including taking minutes at meetings since late 1996 or about 12 years. She has worked with several administrations and mixes of people. While many may say that the township seems geared towards preventing development or making it difficult, she has a different perspective. Her observation is that it would be extremely easy to say “no” to proposals – none of them come in meeting every ordinance requirement perfectly and if the township truly wanted to prevent development they would simply check off the deficiencies on a list, vote no and go home. Instead, she has perceived that everyone on the Boards and Commissions seems to come to the table assuming that they will say yes to the projects presented to them. Sometimes it takes a long time to work through issues and concerns, and sometimes its hard and tiring, and sometimes it seems like it could go more smoothly. But in the end, why would everyone put themselves through the difficulty of it if they weren’t committed to finding a way to say yes? She believes she could count on the fingers of one hand the number of times in 12 years that she has seen a request denied. Vreeland hopes that the Commissioners will consider this idea, and perhaps take heart.

Noting Mr. Feringa’s comment, Vreeland stated that the bulk of the planning and zoning application review is performed in-house. In the case of three recent major projects an outside consultant has been retained, but this is actually the exception rather than the rule.

Finally, Vreeland noted that Mr. Veliquette had commented earlier that he felt it inappropriate that the legal counsel retained by the township prior to the 2004 election was replaced by the current administration with the current counsel, and that he had made statements to the effect that the former counsel had approved of the permits for the Village at Grand Traverse that the current counsel did not. As someone who was personally and intimately involved in the VGT SUP approval process during 2004, who wrote the history of it in the form of the township minutes, and who sat next to the former legal counsel throughout the meetings, Vreeland stated with firm conviction that said counsel expressed strong concerns about the SUP document that was debated and ultimately produced. She believes that review of the minutes from the meetings where the document was discussed will demonstrate this fact.

Meeting adjourned at 10:56 p.m.