



ACME TOWNSHIP PLANNING COMMISSION MEETING
Acme Township Hall
6042 Acme Road, Williamsburg, Michigan
7:00 p.m. Monday, July 27, 2009

Meeting called to Order with the Pledge of Allegiance at 7:01 p.m.

Members present: M. Vermetten (Chair), B. Carstens (Vice Chair), C. David (7:07 p.m.), S. Feringa, R. Hardin, D. Krause, P. Yamaguchi, J. Zollinger
Members excused: D. White
Staff Present: S. Vreeland, Township Manager/Recording Secretary
M. Grant, Legal Counsel

INQUIRY AS TO CONFLICTS OF INTEREST:

APPROVAL OF AGENDA: The order of the shoreline and marina updates was reversed, and both were moved to directly after limited public comment. Krause proposed an additional new business item – a potential ordinance amendment regarding accessory structures in the front yard of waterfront properties. **Motion by Carstens, support by Yamaguchi to approve the agenda as amended. Motion carried unanimously.**

- 1. Consent Calendar:**
Motion by Hardin, support by Zollinger to approve the Consent Calendar as presented including:

Receive and File:

- a) Draft Unapproved Minutes of:**
 - 1. 07-07-09 Board Meeting**
 - 2. 06-10-09 Shoreline Advisory**
 - 3. 06-16-09 Marina Advisory**
- b) Planning & Zoning News June 2008**

Action:

- c) Approve minutes of the 06/29/09 Planning Commission Meeting**

Motion carried unanimously.

- 2. Correspondence**

- 3. Limited Public Comment:**

Andy Andres, Jr., 1107 Barlow Street in Traverse City, noted that on this evening's agenda is the question of planning for the Bates area. He has spoken about this issue to various Commissioners and to Vreeland. This type of planning is called for in the Master Plan, and with advances in potential road realignments in Bates now seems like the perfect time to discuss this.

- 4. Preliminary Hearings: None**

- 5. Public Hearings:**

- a) Proposed Personal Wireless Service Ordinance amendment to the Acme Township Zoning Ordinance: Grant reported that he and Zoning Administrator John Hull are recommending that the required setbacks for cell towers from property lines be changed 100% for safety purposes. They are also recommending slightly**

different wording regarding how applicants should obtain feedback about proposed cell towers if needed from the Federal Aviation Administration (FAA). Grant noted that we have an existing stand-alone cell tower zoning ordinance. With this amendment we are seeking to move the ordinance to become a component of the Zoning Ordinance. This means that the question of in which zoning districts towers are to be allowed must be addressed. Grant proposed some language within the cell tower section that addresses this question without having to amend the language of each affected zoning district.

Public Hearing opened and closed at 8:12 p.m., there being no public comment.

Two typographical errors were noted, one on page 6 and one on page 13 where one word each was omitted. On page 7, item 3b says that when a tower is rebuilt to accommodate antenna co-location, only one tower may remain. David asked how this would occur if originally two towers were permitted by the township on one site. Zollinger understood it to mean that if, for instance, a new tower was built to be taller than an older tower to allow co-location, the original tower should be removed. Nobody interpreted it to mean that a competing tower should be removed and co-location forced.

Hardin asked about requirements for removal of abandoned facilities. How would the township know if a tower is no longer being used? Grant does not know, but he encouraged having a provision for removal of a tower that is found to be abandoned. Krause suggested a requirement that the township be notified of any site abandonment. Hardin also noted that the provision would not become effective unless all co-located antennae cease to be functioning, and asked how this would work in practical terms.

Carstens asked about the tower behind the Holiday Inn Express, and whether it would have been permitted to be so close to the hotel under the proposed new regulations. This would make tower location prohibitive in some locations. This tower would be grandfathered; there is a continuing private civil lawsuit regarding this tower.

Motion by Krause, support by David to recommend approval of the proposed Personal Wireless Services Ordinance to the Board of Trustees. Motion carried by unanimous roll call vote.

6. Old Business:

a) **Update on discussions regarding Bates/M-72 Intersection Realignment:** Krause believes that the existing section of North Bates should be cul-de-sac separated from M-72 in the interests of access management for the M-72 corridor. David also believes that turns east onto M-72 from N. Bates should be prohibited. Yamaguchi asked when signalization of the new intersection might occur. Vreeland indicated that the intersection would be constructed to include the elements needed for signalization, but at this point in time MDOT has heard nothing to indicate that signal warrants would immediately be met. Carstens supported the idea that N. Bates should be separated from M-72 East. Vermetten noted that the issue of not promoting additional traffic along the Bates corridor into the agricultural areas of the township should be addressed. There are concerns that many people coming to Bates Crossings and Turtle Creek from Elk Rapids will choose to travel the Bates corridor.

1. **Discuss planning and zoning designations for the Consumers Energy property at the NW corner of Bates & M-72 and potential Bates sub-area planning:** Krause asked what the Tribe's plans for the "Hoxsie

property” might be; Feringa indicated that vineyard feasibility studies are underway for a portion of the property. The rest of the site would be used for apple and cherry or similar orchards. There would be some accessory buildings for farm uses.

Hardin asked for a copy of Whitewater Township’s zoning and future land use maps for the township boundary area so that we can perform appropriate coordinated planning. They should be included in the process. Grant noted that if we begin a Bates sub-area plan we need to send out “planning to plan” notices as required by the Michigan Planning Enabling Act.

Carstens feels a sense of urgency regarding this project. The Commission generally agreed that the staff should begin the process of Bates area sub-planning.

Mr. Walters supports closing off the existing North Bates/M-72 intersection. There was an accident at the intersection the first day of the horse show. Mr. Walters wishes there would be some traffic counting related to the horse show, and noted that it had the capacity to interfere with Denny Hoxsie moving his farming equipment. He would like to be included in the stakeholder meetings, and he is certain the Rheinheimers from Flintfields would want to be as well. Everyone south of Brackett along the Bates corridor will be invited to participate, as they were invited to the first public meeting about the realignment. Vreeland would like to widen out the stakeholder list along the M-72 corridor as well.

- b) **Update regarding Application 2007-05P Bates Crossing:** Kevin Vann, Generations Management/Immanuel LLC stated that they would like to move forward in some fashion preferably based on a condition that approval could be given contingent on the proposed Bates Road realignment. This was not seen as sufficient by the township’s consultant, so they are willing to have their application remain tabled pending a resolution of this issue. Grant noted that tabling this project for too long could cause it to be impacted by other proposed development processes, such as the Village at Grand Traverse. Vreeland is on vacation this week, but has asked Grant, Hull and Iacoangeli to discuss what feedback we can give the applicant as to how we can move past the current crux point, and we hope to continue discussions with the applicant next week. The application will remain tabled for the time being.

- c) **Draft Wind Energy Ordinance:** Grant briefly summarize the memos and packet contents provided by himself and Hull. One of Hull’s specific concerns was whether landscaping requirements can make wind towers for homeowners or other small-scale applications cost-prohibitive. Grant suggests that towers up to 66’ tall be allowed as a use by right. David asked if the ordinance would allow multiple wind generation units per property; Grant stated that the current draft addresses the question of utility scale wind farms, permitting them if setback requirements can be met. The current draft does not limit the number of towers a wind farm could contain, nor is there currently a limit for residential applications. Perhaps there should be a limit of one tower on a residential property, but multiple towers should be permitted in agricultural settings.

Hardin is intrigued that the township used to prohibit satellite dishes on rooftops of homes, and has sought to limit placement of cell towers, both for aesthetic reasons, but is not necessarily attempting aesthetic regulation regarding wind towers. Why are cell towers potentially seen as more unsightly than wind towers?

Zollinger asked how an application for siting a wind generation system would be treated by the proposed model ordinance language if a property has an owner but is occupied by a renter. Grant believes the language can be amended relative to this question, specifically the number of towers allowed in different situations.

Yamaguchi supports minimizing the landscaping requirements for wind generation, agreeing with the concerns Hull expressed. While cell towers have fences and buildings at their bases, windmills do not have an abundance of above-ground accessory structures. The Commission generally felt that heavy screening landscaping for the base of cell towers would not be necessary.

At a recent Bates Road realignment stakeholder meeting, Consumers Energy representatives indicated that it would be possible to locate a wind farm near the existing substations. For this reason he hopes that large-scale wind farm regulations will be in place soon. It was discussed that the 66' tall and under towers will be largely for landowner use, while wind farming for the "grid" would likely call for taller towers. The Tribe may be considering some wind towers at Turtle Creek. A wind study on the Hoxsie property indicated it could support two towers, probably of the larger variety. Towers at Turtle Creek would likely be smaller.

Hardin observed that tall buildings funnel wind in downtown areas, and asked if there is anything in the proposed ordinance that would regulate the construction of structures near wind turbines for the express purpose of funneling wind to a turbine; there is not. Feringa noted that there are places where such technology is being tried on new skyscrapers, but he does not think it would be practical in our local area or as a retrofit on existing buildings.

Grant observed that Hull is proposing that 66' and less towers be uses by right not subject to site plan review so as not to be cost prohibitive, and expressed concerns about landscaping requirements. Feringa suggested requiring at least a minimal amount of landscaping, as some new turbines have small mechanical units at their base rather than at the top of the tower that we might wish to have screened. He also suggested removing language that requires the applicant to have a "qualified third party" review of their facility; the Tribe for instance has people on staff qualified to evaluate concerns such as potential bird strikes and would not want to hire a third party. He suggests removing the words "third party."

Motion by Zollinger, support by Krause to set the proposed wind generation ordinance with changes as suggested through tonight's discussion for public hearing at the August Commission meeting. Motion carried by unanimous roll call vote.

- d) **Discussion about special events ordinances:** Grant stated that his current understanding of the question has evolved over the past month or so. Therefore he has provided some new materials that are also based on Empire's ordinances. The stand-alone police power ordinance would allow certain special events, but only to the extent they do not violate the zoning ordinance or a special use permit. Perhaps additionally we wish to allow landowners the limited ability to allow commercial activities outdoors on a short-term basis beyond the very limited current allowable circumstances. There is potential that the township might address events through both zoning ordinance amendments (short-term land uses) and a stand-alone police power ordinance (major public events.)

Krause likes the concept of a “temporary outdoor land use” rather than a “special event use.” David wondered why Empire would have used Christmas tree sales as an example of temporary outdoor land uses.

Hardin is contemplating how to treat things like art gallery openings with wine and cheese, the proposed auto show at Woodland Creek Furniture, and things like the Winter Wonderfest at the Resort; how are they similar and how do they differ? To Grant, part of the question is to what extent the event is a normal part of their business, and to what extent do they remain within a private property or extend to other properties or public areas.

Yamaguchi likes the phrase “temporary land use” and appreciated the language of the Empire ordinance. Carstens would like to hear from the business community, but initially feels that a 45-day period is too long. The Resort is configured and located in a way that seems to make larger events safer than perhaps Woodland Creek. The ordinance read says that the event should not have an adverse impact on neighbors, but who determines this and how? Vreeland will be discussing the proposed ordinance concepts with the Acme Business Association at their meeting next week. Carstens also thinks that 700 people is a lot, and perhaps 250 or so would be more appropriate in term of impact on neighbors and providing for parking.

Vermetten believes this will be more and more of an issue as the VGT, Bates Crossings and Turtle Creek develop. He has trouble differentiating between the Resort and Woodland Creek hosting special events, and he is concerned with adding layers of government to businesses that are trying to draw people to their store. Opening the beachfront and perhaps having a municipal marina lead to the question of what will there be for him to do. The VASA is the second-largest single-day cross country ski event in the nation, and the Iceman passes partly through Acme and is the largest cross-country bicycle race. He feels the township should be cautious in approaching this issue. Downtown Captains Quarters has merchandise for sale on the sidewalk more than 45 days per year and probably does not need special permission to do so. Why should we regulate people attracting business to their sites?

David recalls that this discussion began because right now the ordinance basically prohibits such events. Hardin added that the staff was directed to use their discretion in permitting them nonetheless. Dealing with the question of having merchandise outdoors is separate than the question of large public special events, and perhaps both need to be dealt with separately. Vreeland agreed that her recent discussions with Grant have tended in the direction that there are two different issues to address that need two different methods.

7. New Business:

- a) **Report from the Marina Opportunity Advisory re: East Bay Harbor:** Marina Advisory Chair Jean Aukerman reviewed a set of recommendations that will be made to the Board on August 11. Her committee has been studying the possibility of acquiring East Bay Harbor to be a municipal marina as part of the Shoreline Preservation Project. As part of this process they have surveyed current marina users, harbormasters from municipal marinas throughout the state, and have had considerable discussion with relevant high-level staff at the DNR.

The Advisory’s conclusions are that partial acquisition of the marina is not feasible or advisable. If the township can acquire 100% of the facility, it may be desirable for the township to do so. Municipal marinas have the demonstrated capacity to be profitable and self-sustaining. It would likely be desirable to modernize the facility, and it

would support tourism, the business community and general property values within the township and the region.

The recommended next steps would be to hire an experienced firm to conduct a feasibility study. This study would review all current and proposed public shoreline to see where the best possible location for a marina would be, the optimal design for such a site and estimated operating expenses. The DNR can provide grant funding for up to 75% of the cost of such a study, and they do not feel the money is wasted even if the conclusion is that the harbor is already perfectly situated. The estimated total cost for such a survey is \$40,000.

If the township proceeds to obtain the East Bay Harbor property and operate a municipal marina on the same site, it could be operated in its current configuration for several years prior to renovation. Negotiation of a purchase price would be contingent on detailed structural and environmental analyses. Current slip owners could be given first priority for leasing of long-term slips in the municipal facility.

If the township finds that a different harbor location would be preferable, and because it appears that the township's size and location would not support two marinas, it could still try to acquire the harbor for redevelopment as public waterfront and pursue creation of a different marina.

Krause asked if the township has been in touch with the current marina slip/share holders, and if there is any meeting of the minds of a general nature on price. Aukerman stated that we have been in touch with slip owners and it seems that a majority are willing to entertain the idea of selling to the township. There has not been a detailed discussion of price at this time.

Zollinger has been following the advisory meeting minutes, but has not seen a detailed financial analysis for operating a marina. He does not believe that the township should continue thinking about this project without this information. One of the advisory members is finalizing just such a report right now, and this issue has been studied for a 20-year period. Profit/loss statements from a variety of municipal marinas have been reviewed. Many of those statements are based on financing, which Aukerman does not recommend.

David asked if the marina as currently operated is profitable; Salathiel indicated that it is. David noted that it seems that funds are available for acquisition, but asked if there will be funds for demolition/renovation. Aukerman reported that the DNR tends to fund new construction at higher levels than renovation, but they do fund renovation and help seek funding from other sources. She has been unable to find an example of a private marina that has become a municipal marina before. David also asked if the comparisons of the East Bay Harbor to other municipal harbors have been on an equal basis. He is concerned that some of the facilities we have studied offer amenities that we will be unable to offer/compete with. Yamaguchi noted that there is a long waiting list for the Elk Rapids marina, and Vreeland observed that some people who have come to the top of that waiting list have turned down a slip and chosen to remain at East Bay Harbor. Vermetten agreed that amenities will be key.

Aukerman noted that it is hard to envision what the township will be like four years from now. Will there be a mall, or new restaurants? What else will happen over the next few years? Yamaguchi noted that we already have restaurants, stores, a dry cleaner/laundromat and other useful and desirable amenities. Krause agrees that a well-done marina will be a tremendous draw for the township with a huge impact on

businesses along US 31 North.

Hardin asked if there has been discussion about becoming a Harbor of Refuge. This was discussed but is not seen as desirable because there is a long list of responsibilities and issues to meet. The harbor currently offers refuge and aid to anyone who needs it, and this can be continued without an official designation. However, Aukerman has learned about a "Green Marinas" designation/initiative that she sees as very desirable and a good component of an overall marketing program.

Carstens asked if the DNR would pay a larger share of demolition of the existing marina if studies show that there is a better site for a new municipal marina; this is currently unknown. Meetings with DNR leaders indicate that there is strong enthusiasm for adding new public beachfront. He also asked about possibilities for amenities for non-boaters at a new marina; Aukerman believes that during the feasibility study this could be studied.

Feringa lauded the feasibility study. Having been through similar processes, he believes we will find that reusing the existing facility will be found to be best. It is very hard to get approval for new sites. He learned this through the process of development of a new marina at Peshawbestown. Depth of water and dredging needs will also be key siting factors.

Chuck Walters, Bates Road recalls a study for a potential marina from the early 2000's (the township worked with Gourdie Fraser to study the possibility of enhanced boat launching sites) that might be of use. Mr. Walters also opined that Acme Township is known for making it very difficult and expensive for developers to create new projects within the township.

Gordie LaPointe, Plum Drive, asked how the project might be affected by the presence or lack of boat launch ramps associated with a marina, along with required parking. Aukerman's discussions with the DNR indicate that we would be less likely to obtain grant funding if we do not include several boat launch ramps in our investigations and plans.

Glen Cavanaugh, Kay Ray Road, asked if the township has considered insurance issues to date. He suspects that it could be expensive for the township to obtain appropriate insurance coverage for a marina facility. Aukerman agreed that this could be included in a feasibility study.

Susan Helton, Kay Ray Road has a son who was the assistant harbormaster at East Bay Harbor last year. He indicated that this would be an exciting idea because the harbor is turning away overflow traffic on a regular basis. She does not believe there would be negativity regarding competition from Elk Rapids, and she suggested that we could try to obtain statistics from neighboring marinas about how many boats they turn away and when.

Ms. Babcock asked what a possible timeline might be. Aukerman indicated that it would be several years before such a project could come to full fruition. A feasibility study could be performed within a few months. It might or might not be possible to apply for property acquisition as Phase III of the Trust Fund application next April; it might have to wait until 2011. Ms. Babcock also asked if the harbor property acquisition is tied to the Mtn. Jacks property acquisition. Vreeland reported that other than some mutual easements between the two properties for shared use of facilities that the two properties are completely independent.

Mr. Andres suggested that impacts on the properties on the east side of US 31 N across from the marina property be part of the feasibility study. It might be a good idea to think about comprehensive planning for this entire area of the township.

Carstens was curious as to how the shoreline acquisition project and the marina acquisition are or are not connected. Vreeland noted that the Marina Advisory is actually a sub-group of the Shoreline Advisory and that the DNR Trust Fund's interest in the shoreline project was strengthened quite a lot by the possibility of acquisition of the marina to be a municipal facility.

- b) **Report – MDNR Trust Fund Grant – Phase II Shoreline Acquisition:** Shoreline Advisory Co-Chairs Paul Brink and Pat Salathiel stated that we still need to raise \$429,000 towards Phase I of the Shoreline Preservation project. The advisory and the Conservancy are working together on private donor fundraising and on additional grant opportunities. Included in the latter is a pending request for federal funding through Senator Levin's office that could potentially provide all needed funding for all phases of the project. Acme's Board has allocated \$150,000 from the general fund as a grant writing match. Foundations that declined to fund Phase I may be more willing to provide funding now due to the successes achieved to date. Salathiel thanked everyone in the community for their support of the project, as well as the Conservancy and the Shoreline Advisory Committee members. They also thanked the Marina Advisory.

Salathiel reported that there are two upcoming "cultivation events." These are evenings held in the homes of local citizens to which they invite friends for some refreshments and to hear about the project. These have been successful in raising funds for the project.

Current plans for Phase I call for closing on the Knollwood, Willow Beach and Shoreside Inn motels adjacent to the southern boundary of Bayside Park in the late spring/early summer 2010, with building removal to occur within 90 days thereafter.

Phase II will include the Sun & Sand Motel just south of Mtn. Jack the Mtn. Jacks property, and the Sarris property immediately to the north at a total cost of about \$2.9 million. The township match for grant funding will be about \$900,000.

Salathiel and Brink both thanked the Conservancy, saying that without their help we would not have been nearly as successful. Another key to our success has been the interest of the MDNR Trust Fund. In an odd way the economy has also been helpful by providing a window of opportunity to acquire the properties at more affordable prices as well as to give the landowners interested in selling some very welcome liquidity.

Mr. Andres asked if the township has considered signage to indicate fundraising and property acquisition success; this is under discussion and will be moved on when the first three properties are acquired. Rachele Babcock, Bartlett Road, asked if there may be ways to raise funds during building removal. We are looking at ways to have the buildings removed at little to no cost, or even a profit. The Heritage Advisory would like to retain and move the main building at the Knollwood Motel if possible for renovation as a township historical museum.

- c) **Proposed Zoning Ordinance Amendment – David Krause:** Krause pointed to Section 7.2.3, Accessory Buildings, which prohibits erection of accessory structures within any front yard setback. Most waterfront property owners consider their "front"

yard” to be the water side, while the ordinance definition of the front yard is the area between the primary building and the road from which access to the property is obtained. The result is that waterfront landowners must come to the ZBA for variances to place accessory structures between their houses and the road. Krause is the dual Commission/ZBA member, and believes that the ordinance should be amended so that waterfront properties can have accessory structures without needing variances. The Commission generally agreed that the staff should work on a proposed ordinance amendment.

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

David observed that the Commission did not earlier make a recommendation to the Board regarding the Marina Advisory’s report to the Board.

Motion by David, support by Yamaguchi that the Commission vote yes or no on whether they recommend to the Board that the township pursue marina acquisition.

It became apparent that there was confusion as to what the motion was intended to mean: that another vote would be taken, or whether the Commission was recommending that the township continue to pursue marina acquisition or not.

Motion failed by a vote of 2 in favor (Krause, Yamaguchi) and 6 opposed (Carstens, David, Feringa, Hardin, Vermetten, Zollinger).

Mr. Andres observed that the creation of wind generation towers could enhance the possibility of lightning strikes, and asked how the proposed ordinance might address this. He also asked if the ordinance should discuss directing towers to certain places within the township or within the development.

Salathiel stated that at this point in time we are not talking about moving ahead with actual marina acquisition; the question is whether we should move ahead with feasibility studies and learn more about the matter. She doesn’t understand why the Commission would not want to learn more through a feasibility study.

Ms. Helton understood that a feasibility study could be 75% paid for through a DNR grant, and that the possibility of having the marina was one of the key reasons why the whole shoreline project gained support from the DNR Trust Fund. She attended a shoreline fundraising event, and the possibility of a public marina was of key importance to her. Marinas can be huge income generators for the community as well a magnet to it.

Mr. Cavanaugh lives on a private road, and as such committed to pay for its maintenance. The possibility of a road repair millage is being considered, and he thinks it is unfair that Holiday Hills could benefit from a big millage placed on people who are separately paying their commitments. People who bought in Holiday Hills made a commitment to pay for their roads too. Vreeland observed that the law offers many options for fixing roads, including millages or special assessments, but special assessments are not the automatic only way. Many people mistakenly believe their property taxes pay for road repairs, and do not understand how it truly works. Ms. Helton grew up believing that everyone on a road must pay to have their road paved. Perhaps broader public education needs to be performed.

Mr. Andres has attended meetings in Acme and at other townships. This is the only township were a relatively free flow of input is permitted, and he thanked Vermetten for permitting it.

Ms. Helton works with Elk Rapids Township and Elk Rapids Village, and has dealt with the issue of special events. She encouraged the township to review how they have dealt with

these issues, as well as looking at Traverse City. From her perspective, outdoor merchandising should be allowed in favor of helping businesspeople.

Vermetten asked the Commission to look at Vreeland's July 17 memo. The marina advisory has given a report and recommendation to the Commission, which it will also present to the Board. The memo discusses what the Board would be looking for from the Commission for their August 11 meeting: perhaps a consensus as to what should happen next regarding investigations into possible marina acquisition. The township can look at doing nothing, could purchase a portion of the marina (which does not seem feasible from the DNR Waterways perspective), or could think about acquiring the entire marina property. It might continue to operate a marina in the existing location, or turn that property into public beach and create a marina at a different site. What might the Commission think is a next step?

Hardin, as a Board member, stated that spending the money is ultimately a decision they make. However, this is a capital project closely tied to land use planning, and the correct procedure is for the Commission to make a recommendation to the Board as to whether they should decide to allocate the time and funds to this purpose. Everyone is still confused about what the motion meant, and people appeared to have voted on it based on different interpretations.

Motion by Krause, support by David that the township continue the effort towards potential acquisition of the marina. Motion failed by a vote of 4 in favor (Feringa, Hardin, Krause, Yamaguchi) and 4 opposed (Carstens, David, Vermetten, Zollinger)

Motion by Carstens, support by Hardin that the Commission recommend that the Board proceed with a feasibility study with regard to a marina. Motion carried by a vote of 7 in favor (Carstens, David, Feringa, Hardin, Krause, Vermetten, Yamaguchi) and 1 opposed (Zollinger).

Meeting adjourned at 10:35 p.m.