



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
Tuesday, August 2, 2011 7:00 p.m.**

CALL TO ORDER WITH PLEDGE OF ALLEGIANCE AT 7:02 P.M.

Members present: D. Dunville, R. Hardin, W. Kladder, P. Scott, E. Takayama, L. Wickle, F. Zarafonitis
Members excused: None
Staff present: S. Vreeland, Township Manager and Recording Secretary
J. Jocks, Township Counsel

A. STUDY SESSION: None

B. LIMITED PUBLIC COMMENT:

Gordie LaPointe, Plum Drive, asked what the \$3.5 million dollars for the proposed general obligation bond are to be used for and what risk is associated with it. He has additional questions about the East Bay Harbor easement extension and hopes for explanation of that as well.

C. APPROVAL OF AGENDA: Kladder proposed moving the discussion about a lease that would allow East Bay Harbor Company to continue use of the Mt. Jack's building to New Business 1.

Motion by Dunville, support by Takayama to approve the agenda as amended. Motion carried unanimously.

D. INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

E. CONSENT CALENDAR: Motion by Dunville, support by Takayama to accept the Consent Calendar as amended to remove the July 5 regular Board meeting minutes for discussion, including:

RECEIVE AND FILE:

1. **Treasurer's Report** as of **06/30/11**
2. **Clerk's Report** as of **07/28/11**
3. Draft Unapproved Meeting Minutes:
 - a. Planning Commission **07/25/11**
 - b. GT Metro Emergency Services **06/15/11**, **06/28/11** and **07/14/11**
 - c. Shoreline Advisory **07/13/11**
4. **Parks and Maintenance Report** – Tom Henkel:
5. **Planning, Zoning & Administrative Update** – S. Vreeland
6. "The Metro Insider" **Newsletter** July 2011
7. **Status Update – VGT-Phase I SUP Application #2009-01P**

ACTION – Consider approval:

8. Township Board meeting regular and closed session minutes of **07/05/11**
9. **Accounts Payable** of \$279,458.87 through 07/28/11 (recommend approval: Dunville)
10. **Appoint Jim Maitland to Shoreline Advisory**

Motion carried by unanimous roll call vote

F. ITEMS REMOVED FROM THE CONSENT CALENDAR:

1. Township Board meeting regular minutes of **07/05/11**: Takayama noted that the second to the motion to direct staff to work on amendments to the Medical Marihuana ordinance is missing.

Wikle recalled that Hardin seconded the motion.

Motion by Dunville, support by Takayama to adopt the 07/05/11 regular Board meeting minutes as amended. Motion carried unanimously.

G. REPORTS:

1. Sheriff's Report – Mike Matteucci: None.

2. County Commissioner's Report – Larry Inman: Inman regretted missing the July meeting due to the death of his brother. The County is working on its 2012 budget. The biggest challenge is reduced revenues from Board of Review challenges and Tax Tribunal decisions regarding taxable values. Unless \$1.2 million is cut from the budget, some general fund reserves would have to be used and the reserves would drop to 18% of annual operating expenses. If no reserves are used, \$2 million will have to be cut from the budget and jobs will have to be cut. Through the County website they are seeking community input on the areas of county government seen as most important to help prioritize budgetary needs. Over the past three years the County has prioritized public safety/law enforcement. A joint County/townships meeting was held at the end of June which included a presentation by County Planning Director John Sych regarding grant funding for land use planning initiatives. The grant provides state resources for economic development planning to townships that enter into an interlocal agreement relative to the program. Townships can join at the outset or later in the process. Sych would be glad to repeat the presentation at townships as needed. The DPW Sewer & Water Committee voted to use the Septage Treatment Plant settlement to pay the Winter 2011 bond payment, to apply money above and beyond that need to the May 2012 and/or November 2012 payments. The County has been lobbying at the state level for legislative changes that would allow County Road Commissioners to be elected by districts. Right now they can be appointed at large or elected at large; the legislation would add a third option. They hope to have it passed by the end of the year. From time to time the County Commission meets with the Tribal Council. Such a meeting will occur August 24 from 1-4 p.m. in Peshawbestown. The Tribal Council will give a presentation about their "Seven Points of Decision Making" that they use to apply cultural values to the public decision-making process." No decisions will be made at this meeting. For several years the Tribe has been promoting the idea of cross-deputization of Tribal Police and GT County Sheriffs. Such agreements are in place in other counties such as Leelanau; the matter is currently under review by our county Prosecutor and Sheriff.

Kladder noted that several years ago when land at Turtle Creek was placed in federal trust status, one effect of this was a reduction in tax dollars to local taxation units. Several years ago the township, county and Tribal representatives met about the possibility of creating an agreement regarding replacement of those taxes. The original goal was to complete an agreement by the end of 2009; however this has not yet occurred. Inman noted that discussions have been ongoing over time and through a significant change in Tribal Council membership. He said that the Tribe is aware that resolution of this issue would be beneficial before they renegotiate their gaming compact with the state within the next year or two.

Kladder stated that the Sheriff has asked for updating/renewal of township contracts with the Sheriff's Department for our Community Policing Officers (CPOs). The existing and proposed contracts call for automatic 3% increases in the amount townships pay each year. The rate of inflation is not constant at this level, nor are tax revenues. Various township Supervisors will be getting together soon to discuss this issue.

H. CORRESPONDENCE:

1. [Email from Gordie LaPointe 07/22/11](#) regarding Marina Feasibility Study: received and filed.

2. [08-04-11 Civic Center Master Plan Public Input Session Flyer](#): received and filed.

I. SPECIAL PRESENTATIONS/DISCUSSIONS:

1. [Marina Feasibility Study](#) – **Jean Aukerman**: Kladder thanked Aukerman for her hard work on this project over the past several years. Aukerman stated that tonight she will be reviewing the peer review input of the final feasibility study, potential project funding options, and next steps.

At a prior meeting it was agreed that we would ask the people who participated in our panel discussion with local harbor masters and municipal leaders would be asked to perform a peer review of the feasibility study. Aukerman posed some specific detailed questions to be answered by the reviewers that would ensure the questions couldn't be answered unless they truly read the study. Elk Rapids Harbor Master Cheryl Werth and Traverse City Manager Ben Bifoss agreed to assist. Their input was summarized in the Board packet materials. Based on their input and input from additional members of the public several changes were made to the feasibility assumptions. Dredging costs were left the same, but the bond period was shortened from 30 to 20 years. A bond interest rate of 4.5% was implemented, but this is entirely unpredictable.

Aukerman has hosted several meetings over the past few weeks about the studies and particularly the revenue assumptions. There are now columns for the original market study projections, and a somewhat more conservative projection. One could theoretically add a third column representing a high-end projection to the left of the study projections. Put another way, the study projections are designed to be viewed as a middle-of-the-road projection. There has been some debate about the achievable slip rental rates in Acme relative to what is charged at other local facilities and the standard DEQ rate. It was noted that currently East Bay Harbor is charging a notably higher slip rental rate than most other local facilities at the same time that it has significantly inferior construction and amenities. Nonetheless, income projections for a new state-of-the-art facility have been estimated at DEQ rates and local market-competitive rates.

Aukerman reported that both Mr. Bifoss and Ms. Werth expressed confidence in the market study projection figures. Under this set of projections, with a construction cost estimate of \$9.386 million and proposed bond funding towards that of \$3 million for 20 years at 4.5%, remaining construction fundraising needed would be \$6.386 million. A variety of potential state and federal grant funding options have already been identified for \$3.365 million, leaving \$3 million additional to raise. Aukerman distributed [an additional new projection](#) that shows an additional funding scenario whereby docks and similar improvements with an expected useful lifespan of 30 years would be funded in part by a 20-year bond, and breakwalls and similar improvements with an expected useful lifespan of 75+ years would be funded in part by a 30-year bond. This would lower the annual debt payment portion of the cash flow. There are also options for spreading the construction of various components of a state-of-the-art facility over a greater time period. For instance, construction of a permanent boater services building and fish cleaning station and completion of a fishing pier could be performed in a third construction phase. This could provide more time to allow facility revenues to pay for improvements and reduce the amount of local fundraising that needs to be developed. It also might allow for greater state and federal grant involvement through a multi-year/phase approach.

As to next steps, Aukerman noted that she, the Supervisor and Manager have been managing the feasibility study process. At this point Aukerman is suggesting that the township move forward with a preliminary engineering study. The land to be used does not have to be under our ownership to do this. She would recommend capping the study cost at \$60,000 and applying for a \$30,000 grant towards the cost through the Waterways Fund by the April 1, 2012 deadline. DEQ Waterways prefers to award these preliminary engineering study grants

in situations where there is a clear intent to move forward if all indications are good with actual construction. They do not expect communities to go forward with construction if the preliminary study turns up legitimate deal-breakers or problems with obtaining future grant funding. One idea would be to form a new “harbor board” to move forward with the next steps in the project including writing an RFP/Q for a preliminary engineering study consultant and raising the \$30,000 needed to match the potential Waterways Grant, or else the application would not be submitted. She suggested that a harbor board of 7-8 individuals be set up that includes business and community planning expertise.

Kladder asked the Board members if they had any questions. He noted that Aukerman presented some new information this evening, and that sometimes government has to do things more slowly in phases than a business might because resources are more difficult to come by. He appreciated the new phased completion concepts provided, and the idea of a harbor committee of some sort. People appointed to such a body would have to be ready to do more than just come to meetings and vote on motions – they would need to be very active in completing tasks on a continual basis. He would like to learn more about the differences between the duties of a harbor board before and after a working marina might be in place. In a discussion with Elmwood Township Supervisor Jack Kelly earlier today Kladder was told that the township is doing a good job with the study. Elmwood Township also sometimes feels like it wishes it had taken construction money from sources other than DEQ Waterways that had fewer or different strings attached.

Zarafonitis asked about predictions for the future of the grant programs listed as possibilities based on the economic environment. Aukerman has discussed this question with two leaders at Waterways who acknowledged that they have less money to give out annually right now than they did in the past. They also stressed the idea of making the proposed phase 1 and 2 improvements over a 3-phase construction plan. Zarafonitis also asked if the township would need to provide all the money up front and be reimbursed later by the grant programs in question; in many cases this is true. Sometimes the township needs to sell a short-term bond to cover costs until grant reimbursement is received.

Aukerman noted that the township is looking at acquiring properties both north and south of East Bay Harbor along the shoreline, and perhaps the existing harbor itself if a suitable agreement can be reached by all parties. She stressed, and says the DEQ has stressed, that if the marina is acquired by the township it has to be with no strings attached.

Wikle expressed extreme concern about the idea of stretching out a marina redevelopment over an extended period. The reports the township has received are that the existing facility is at the end of its lifespan and literally crumbling. What would happen if the rate of decay is accelerated to the point where new construction can't reasonably be phased over an extended period of time as discussed earlier. Would the township be financially and otherwise equipped to prudently move forward faster? Is it a good idea to move forward with a marina before placemaking and shoreline redevelopment can occur to create more of a viable destination or after? Aukerman stated that her DEQ Waterways contacts have told her it would be their recommendation, after personally looking at that facility, that it be immediately closed and demolished if it is acquired by the township, and that it not be operated by the township at all into the future. They recommend this even if the site would have to have no facility at all for some period of time.

Zarafonitis expressed understanding that some of the owners at the existing marina have wanted a guarantee of first rights to existing or new slips if they sell to the township, and that this is why negotiations have not moved faster. Aukerman is not privy to the details of any such negotiations, but used the analogy that it would be silly to sell your house to someone else and expect to be able to continue to sleep there indefinitely. It would also be beneficial to have an eager demand for new slips as they might be developed.

Kladder invited comment and questions from the public. Mr. LaPointe stated that for a project this large, gathering a variety of points of view is important. He offers his comments in the spirit of a different, but not necessarily negative, perspective. He noted his letter to the Board, and after being included in a meeting late last week about the study he largely stands behind his earlier comments. He has researched the Boating Infrastructure Grant (BIG) identified as a source of funding and learned that this pot of money is meant to cover all US States and territories, and that they have \$10 million available per year. So, he is concerned about projections that the township might obtain 15% of the nationwide funding available. Total funding available annually under another listed potential grant source is only a little over \$500,000/year. Are the projections about how much grant money we could attract valid?

Mr. LaPointe stated that the current marina has about 76 slips, and we are proposing construction of 93 new slips. If local market demand is estimated at about 500 slips, why are we considering building so few new slips? At \$9.6 million in construction costs, each slip would cost about \$100,000 to build. Each is projected to generate about \$33,000 in annual revenues. Last week he asked about whether or not future slip expansion could go out farther into the water, and he believes he was told it could not. It seems to him that there are restrictions in place today that didn't exist 40 years ago when the existing facility was built, and it would be worrisome if there could not be future expansion to help spread out costs. Rather than measuring ourselves against Traverse City and Charlevoix, he feels our situation is more analogous to Elk Rapids and Elmwood Township.

Dar Fenner, Arrowhead Circle has been at many of the presentations and believes that all he has heard about marinas are the success stories. He is not concerned about whether or not the township ultimately has a marina, but he is concerned about the township's ongoing well-being. He has read about a recent Northport marina expansion, and desired to build a new bathhouse. They can get grants, but they have to find funding to match the grants. They need to find \$10,000 for an engineering study, and they have some deteriorating docks that need replacing. He believes the township needs to look more closely at the potential negative impacts of proceeding with the development. He is concerned about whether the facility can generate enough revenue in tough economic times to full cover bonding costs. He has seen many situations where development starts small but is continually expanded to try to cover costs. He would not like to see East Bay as developed with marina facilities as West Bay.

Paul Brink, Winter Road, is the co-chair of the Shoreline Advisory. Aukerman made a similar presentation at their most recent meeting a few weeks ago. He wondered how the group would react to potential for a marina development and the need for additional parking when they had been working towards public open space. The concept was well-received, and a motion was made and adopted to recommend that the township proceed with a preliminary engineering study as long as the township can find the money for 50% of the costs. Mr. Brink has known Aukerman and her work for many years. No work is always perfect, but hers is always well done and well thought-out.

Aukerman thanked Messrs. LaPointe and Fenner for their comments. She confirmed the availability of \$10 million nationally through the BIG grant, noting that not all states are suited to marina projects and that Edgewater Resources clients have consistently received grant funding through this program. It is true that there are no guarantees when it comes to grant funding requests, but if the township creates a team that creates a solid, phased plan for proceeding with such a facility and forms positive relationships with funding agencies and sources, they will be supportive. They will tell us where we are doing things right and where we are doing things wrong because their purpose is to promote the success of their programs by funding the success of others. Mr. LaPointe expressed concern about starting too small. Aukerman noted that Edgewater Resources agreed, noting in their report that for a comparatively small cost revenue can be significantly increased by adding more slips as soon

as possible. She has been told by the DEQ that if a marina didn't already exist in this location they probably wouldn't be interested in East Bay today. However since there is an existing facility there, they do see a benefit to improving what is there. Expanding farther out into the bay could interfere with wind and wave action, but expansion could also occur north and south along the shoreline.

Speaking to Mr. Fenner's concerns that not enough potential negatives have been discussed, potential disadvantages listed in the study include: increased traffic impacts, the cost of the opportunity to install additional beach and shoreline dunelands, the improbability that additional public amenities outside the marina would be funded by the marina, and the potential that no matter how well you plan that revenues will not be sufficient to fully cover operational and debt expenses. The study listed the potential downsides to proceeding, and also some potential downsides to not proceeding.

Takayama said that he personally doesn't have the "fire in the belly" that Aukerman has been discussing a need for to proceed with the project. He participated in a meeting about the study on Friday. If done well he believes a new facility could be profitable, but he is concerned that the township is trying too hard to acquire an overpriced piece of property. Perhaps the community and township finances would be better off by concentrating on land-based community improvements. The boating season is short, and the funds could be better used to plan the revitalization of the community. As the community improves, private investment in new marina facilities might naturally follow and be a community asset. He would rather plan the community before investing in an individual community, and feels we aren't ready for this yet.

Zarafonitis tended to agree with Takayama. He, like many people in the community, are concerned about a potential repeat of the funding problems with the Septage Treatment Plant. Mr. LaPointe stated in his letter that over 100 people on the Elk Rapids waiting list for slips had to be called before a few vacancies were filled.

Mr. LaPointe feels that for a fairly low cost/low risk investment in topsoil, irrigation, seeds and a gazebo the township can benefit from a park. For a fairly high cost/high risk investment it could have a marina that might have to be expanded later to be profitable. In Elk Rapids right now people who want public open space are fighting a proposed expansion of their marina. If the property around it is purchased and developed as picturesque open space by the township, perhaps the private owners of the existing marina will make the necessary investment to improve their facility.

Pat Salathiel, co-chair of the Shoreline Advisory, and an East Bay Harbor slip owner said that as a community member and not as a boater that she does have the "fire in the belly" for this project. She said that some of the people in town for the horse show have inquired about slips, as have people from Harbor Springs. Local marinas have been having to turn away larger boats for lack of space. She said that for every boat over 30' long that moors, at least \$1,000 is spent in the local community during their visit. She has found the boating season to be about 5 months of the year. She travels to different harbors and sees local non-boating individuals enjoying the marina and dock areas along with the boaters. She urges the Board to go just one step farther for now and commit to a preliminary engineering study. She noted that back about 40 or 50 years ago the community could have purchased the then-mobile home park that is now The Shores at the mouth of Acme Creek for \$75,000, but the value of doing so wasn't appreciated. She urged the township not to make a similar mistake.

Hardin was thinking back to the discussions at the beginning of the marina study. He recalls the point being to bring business from boaters to the community, and making it part of the attraction that brings people to the community. Many things are happening in Acme, and there's no reason why they can't be planned to occur concurrently. Why couldn't a marina be

planned while overall community placemaking is also moving forward. At least moving forward with a preliminary engineering study would provide more information crucial to making an ultimate decision on whether or not to proceed with the project. He agrees that currently the marina property is too expensive. He thinks that the township should move forward with the preliminary engineering study in order to make a better, more informed decision.

Scott does not want to create a new burden on our taxpayers, and as a former Coast Guard he also has witnessed that good marinas do attract strong transient business. The community also needs a decent boat launch for fisherfolk. He believes it would be foolish to not at least proceed with a preliminary engineering study.

Wikle said she could support the idea that the township would not proceed with a preliminary engineering study grant unless the people managing the process come up with the necessary \$30,000 match without using any township funds. This would allow the township to better justify the ultimate decision to the community, whatever that decision may be.

Kladder observed that many of the same concerns being voiced about a marina project were voiced just a few years ago in relation to the shoreline acquisition project. The shoreline project is proceeding well, and many grant and donation dollars have been attracted. It was never the objective to provide only a long uninterrupted stretch of beach. There is room for a variety of amenities and features. He agrees that a preliminary engineering study should be performed by the township, and that it should not be paid for by the township. This issue has energized the community and he believes that passionate people ready to move the process forward can be identified.

Takayama asked what the light green item on the picture of the proposed marina improvement is; it is beach area. He said that the only way he could support moving forward with a preliminary engineering study, especially in light of the idea that getting the grant is seen as a strong indication of interest in building a facility unless the study reveals a catastrophic flaw, he would like to see another plan that shows a larger facility that is more likely to provide sufficient revenues.

Matt McDonough, Land Preservation Director stated that at the present time there is no deal to purchase the marina in place. The most recent offer made by the marina is not in a form acceptable to the major funding sources. There is no pending offer that might disappear if the township does not move forward with a study. Takayama asked if moving forward would risk sending the wrong message to the private marina owners, that they would incorrectly interpret it to mean that we are more eager to purchase their property than we are.

Hardin stated that he recalls Elk Rapids as being empty before the new marina was built. Now it is thriving.

Motion by Dunville, support by Scott to form a harbor committee to seek funding to match a grant and prepare a grant application for a preliminary engineering study.

Takayama asked for confirmation that the motion did not include mention of planning for a larger, likely more profitable design. Kladder stated that several months ago he wasn't sure if he was in favor of a marina. Then he attended a placemaking seminar in Lansing, and list of amenities that create great places was provided. Acme already had most of the things on the list. One of the things on the list was a marina. When creating a place where people want to live and visit, a marina can be a valuable asset. Zarafonitis would agree with moving forward if matching funding is found.

Motion carried by unanimous roll call vote.

Kladder again thanked Jean Aukerman for her hard work and dedication, above and beyond what is expected of community volunteers. He has valued their business and professional association significantly.

2. **Metro Emergency Services Authority 2012 Budget:** MESA Chief Pat Parker presented the 2012 annual budget approved unanimously by those present at the last MESA board meeting. Property values in the MESA service area have decreased by 3.5% over the past year. They will not be receiving the historic annual \$88,000 in fire education funding from the County anymore. There were no wage increases in 2011, but there may be modest increases in 2012. They are predicting no change in health insurance costs and no new hiring. The only capital improvement expense projected is a new squad car to take to emergencies as less costly and more agile than a fire truck. Network computer servers need to be upgraded and fitted with additional backup equipment; existing equipment is 11 years old and no longer supported. They have received a grant from Cherryland Rural Electric and are planning for a \$100,000 contribution for improvements to be used to identify land to purchase in Acme Township for a new fire station. The fire station and township hall currently sharing a small building is becoming increasingly dysfunctional for everyone. The budget proposed is based on 2.3% revenues on current property values. MESA recognizes that these are tight financial times and they continue to look for ways to cut costs without cutting quality of service.

Zarafonitis noted that the township is already levying 2.3 mills for fire protection, so to meet the proposed budget our millage would not have to be raised. Wikle asked about some of the statistics previously cited; Chief Parker had indicated that operational costs in the new budget have been increased by \$100,000 due to adding a new station to the system. Kladder observed that a grant was obtained for the building construction, but it came with the requirement to add new staff because it was job stimulus money. Three new full-time and 9 part-time positions were added, and one of each is on duty 24 hours a day. Chief Parker also noted that because of improvements made to the service over the past five years the ISO rating is being reviewed. Currently we are at a 6, and are projecting a change to a 4 or even a 3. This translates into significant insurance premium reductions for homeowners. Increased staffing and better training, increased public water availability, and central dispatch improvements are key to this success.

Hardin asked about the potential impact of events in Whitewater Township and potential future development in both townships at Turtle Creek. MESA is actively talking to Whitewater Township and the Tribe about their future plans, and including them in our strategic planning. There have been discussions about the possibility of building a joint station out by Bates or Arnold Road, but MESA is concerned about this being too far from Holiday Hills. Based on the history of calls for service, they project it would be optimal to locate a new station within half a mile of our present location. Whitewater Township is leaving Rural Fire effective January 1, 2012 and has asked what MESA could provide in terms of emergency services. Hardin stated that while he agrees with the idea that when there's an emergency people should respond and worry about the finances later. At the same time, the cost in dollars and opportunity of providing aid to townships not in the MESA system becomes a consideration over time.

MESA needs ratification of the budget from each township. By September 30 each township must provide its winter millage levy rates to County Equalization. A public hearing will be held at the September 6 meeting on a resolution to formally adopt the MESA budget and set the emergency services special assessment levy rate.

Chief Parker provided **flyers** about an upcoming open house for the new Station 12.

A brief recess was declared from 9:04 to 9:11 p.m.

J. PUBLIC HEARINGS:

1. Consider adoption of [Zoning Ordinance Amendment 013 – Medical Marihuana](#):

Vreeland summarized the changes to the proposed draft that the Board requested at the July meeting. The first proposed change was to disallow a cultivation facility where multiple caregivers would grow more than 72 plants total. This requested change was upheld as desired by the Board.

The second proposed change was to provide for a 1,000' separation distance between medical marihuana dispensaries and between dispensaries and public parks, playgrounds or schools. Scott expressed concern about the proposed definition of playground. The definition as written does not distinguish between public or private playgrounds. He noted that there is a playground on the premises of Woodland Creek by the private business owner that is open to the public and asked how that would be treated. Jocks stated that the definitions he provided for playgrounds, libraries and parks are verbatim from the federal laws about drug free zones and he wanted to be absolutely consistent. He sees no reason they could not be made more restrictive, but he would not advise making them less restrictive. Wording similar to the language for libraries that includes "private libraries open to the public" could be added to the playground language. Scott recommended removing the proposed buffer from playgrounds entirely, out of concern that if people added playgrounds within 1,000' of all B-2 properties they could effectively eliminate the possibility of new medical marihuana-related businesses under the regulations as proposed.

Jocks said that exclusionary zoning doesn't depend on intent – it can be claimed whether there was intent or not just based on circumstances. Jocks also noted that the courts have not yet ruled in pending cases as to whether dispensaries and compassion clubs are allowable under the existing state law or not. Leaving the playgrounds in the restrictions would probably not become an exclusionary zoning problem for a while if at all, and taking them out would not cause a problem in this regard. Scott felt that creating a buffer from playgrounds would be adequately covered by the buffers from parks and schools.

Hardin reiterated his earlier position in opposition to buffer requirements for this land use. The 1,000' figure proposed was largely arbitrary. Right now it appears that the dispensaries may be legal businesses, and two of the three in the township exist because landlords were willing to rent space to them. He doesn't believe such figures really mean anything or really prevent people from behaving inappropriately on public property, but just make people feel like they've done something. Our enforcement officers need to do their jobs and make sure people follow applicable rules. Scott countered that enforcement officers need all the help they can get, and by having buffer requirements the number of facilities in the community can be managed.

Jocks recommended that a buffer be either 1,000' or not instituted. 1,000' would be consistent with state and federal laws, and choosing a distance that conflicts with either or both could ultimately place the ordinance in conflict with them. Zarafonitis believes the buffer should remain and remain at 1,000'.

Takayama stated that he is not afraid of the dispensaries. However, until medical marihuana use is more accepted, he doesn't envision people being attracted to a marina or the community overall if it is full of dispensaries. As a teenager he witnessed his neighborhood downstate change in character from a family neighborhood to a place full of unsavory businesses where there was litter on the streets and more and more bars on the windows of the homes. Until the laws are refined and community becomes more accepting, he feels we should do what we can to promote a good downtown area.

Public Hearing opened and closed at 9:40 p.m., there being no public comment.

Motion by Scott, support by Takayama to remove the requirements for a 1,000' buffer between medical marihuana dispensaries and playgrounds from Section 9.26.2.k and Section 9.26.2.k.2. Motion carried by a vote of 6 in favor (Dunville, Hardin, Kladder, Scott, Takayama, Wikle) and 1 opposed (Wikle.)

Motion by Zarafonitis, support by Dunville to require a 1,000' separation distance between medical marihuana dispensaries, and between medical marihuana dispensaries and public parks or libraries or schools. Motion carried by a vote of 5 in favor (Dunville, Kladder, Scott, Takayama, Zarafonitis) and 2 opposed (Hardin, Wikle.)

Motion by Scott, support by Zarafonitis to approve proposed Zoning Ordinance Amendment 13 as amended. Motion carried by a vote of 6 in favor (Dunville, Hardin, Kladder, Scott, Takayama, Wikle) and 1 opposed (Wikle.)

The Zoning Ordinance amendment will become effective 7 days after notice of adoption is published in the local newspaper unless an elector of the township follows the appropriate process to indicate intent to petition for referendum.

Scott was excused at 9:45 p.m.

K. NEW BUSINESS:

1. **East Bay Harbor Company Easement Extension Request:** Land Preservation Director Matt McDonough from the GT Regional Land Conservancy observed that this is actually a request for a limited term license to use the property after township purchase, not an extension of an existing easement. The Conservancy is close to being able to assign their purchase option on the Mountain Jack's property to the township to be able to close on the purchase. East Bay Harbor Company has an existing easement allowing it to have office space in the former restaurant building, but that easement has to be extinguished before the Trust Fund would allow purchase of the property by the township to proceed with their funds. The harbor has asked for a lease that would allow them to stay in the building until October 31, 2012, the end the next boating season. The two property owners are negotiating their own terms for extinguishing the easements in place between them, and the potential provisions include the Mountain Jacks property owner putting funds in escrow out of his sale proceeds that could be used by the harbor to construct a new office and bathroom facility on their own property.

The Trust Fund has been asked in very general terms if they would permit continued private use of the building for a limited period of time. They understand that it may take some time to take these particular buildings down. Generally, the Trust Fund requires that acquired properties be fully opened to the public within 90 days of acquisition, but these are unusual properties for the program because they are more highly developed than most. The township would have to file a formal request for an extension of deconstruction time and to approve any lease granted to the harbor.

There is currently no agreement in place for the Conservancy to acquire a purchase option for the harbor. Discussions are ongoing but at this time an agreement does not appear to be imminent.

Kladder observed that there will be extensive engineering work required to determine how the Mountain Jacks property can be demolished without damage to existing retaining walls and sea walls that impact that property and marina property. There are MDOT easements under the property for water drainage for US 31 that need to be evaluated. Asbestos surveys and possibly remediation must be performed, and money must be found for all the work to be done.

Jocks discussed the license document as provided by attorneys for the harbor and modified by him. The harbor's attorney only received his proposed revisions today and has not had time to respond. Jocks proposes that the Board indicate whether or not it agrees in principal with his revised draft this evening, and plan to have a completed draft presented for a firm decision at the September 6 board meeting. He reviewed the various proposed terms of the lease agreement, including statements that the agreement would have to be approved by the Trust Fund and that it does not imply that purchase of the Mt. Jacks property by the township is guaranteed.

Jocks reiterated that right now there are easements on the Mt. Jacks property relative to it and the marina, both outside and inside the building. They must be extinguished before the Trust Fund will help fund the property purchase. This matter is exclusively between the two property owners and the township is not party to it. Once the easement is extinguished, the marina would not have access to the bathroom and office facilities it currently uses in the building anymore. The marina is asking for continued access to the facilities after the township purchases the property but until they build a new facility on their own property, up until a firm date at the latest of October 31, 2012.

Motion by Dunville, support by Takayama to move forward in concept with preparation of a license agreement between the township and East Bay Harbor Corporation as discussed. Motion carried unanimously.

McDonough said that the Trust Fund is beginning to score 2011 grant applications now and will make its final decisions in early December. At this time it does not appear likely that a mutually agreeable purchase option can be negotiated with the marina before the decision date. The marina was included in our 2011 Phase III application. Before the decision is made it is possible to amend the application, and perhaps substitute in for the

Motion by Wikle support by Dunville to give the Conservancy the ability to negotiate with additional property owners to substitute their properties in our Shoreline Phase III Trust Fund grant application, removing the marina property from that application at this time.

Hardin has heard that the Trust Fund's review appraiser is strongly questioning some of the appraisals the township has submitted for final approval on the Phase II properties. The township and Conservancy are working closely with the review appraiser to resolve the questions raised, but none of the Phase II appraisals have been approved for closing yet. He expects final decisions within the next couple of weeks. Several of the purchase options have had to be extended due to the delays.

Motion carried unanimously.

2. **[Resolution to issue Capital Improvement Bonds 2011- Shoreline and Farmland Projects:](#)** Vreeland reported that the township is preparing to close on the purchase of three shoreline properties as Phase II of the Shoreline project, which is currently projected to occur in September or October. The township is using a grant awarded in 2009 by the Michigan Natural Resources Trust Fund for 75% of the closing costs. For grants awarded in that year, the Trust Fund requires that communities pay 100% of the purchase price at closing and file a request for reimbursement for the granted amount. Reimbursement is currently taking up to 9 months. Due to the hardships imposed on townships in terms of extra costs to borrow money to take to closing if they can, the policy has been changed for grants awarded in and after 2010 so that grant funds can be sent to the closing. Matt McDonough is attempting to obtain an exception to the rule for our 2009 grant to have the funds sent to closing or provided one day later, but has not received an official response yet. So, the township needs to borrow

funds to take to closing on the shoreline properties.

The township has also received a federal FRPP grant in the amount of just over \$600,000 towards the completion of three more farmland development rights purchases from round 1 of our farmland PDR program. Again, this program requires the community to bring all required funds to closing and file for reimbursement. We would like to close on all three purchases this fall. The township has somewhat over \$800,000 in our Farmland Fund from prior year millage collections, and will collect the PDR millage three more times in December 2011, 2012 and 2013. This is a voted millage and thus a guaranteed revenue stream that can only be used for PDR-related costs, although the precise amount varies from year to year based on property taxable value changes.

To be able to close on all of these transactions this fall, the township proposes to issue a capital improvements bond in an amount not to exceed \$3.3 million. Repayment of the bond principal would be made from the grant reimbursements, the money in the Farmland Fund, and the remaining PDR millage money to be collected. The Farmland Fund can also pay for the portion of bonding costs and interest to the extent proportionate with the percent of the bond being used for PDR. The costs and interest for the shoreline program-related portion must be otherwise paid by the township.

The resolution provided this evening allows the township to publish a notice in the newspaper of its intent to issue a bond as required by law. There is a 45 day right of referendum after publication during which no activity on the bond would take place. At the end of the referendum period the bonds would be sold. If, between now and then, McDonough can succeed in having the Trust Fund provide their shoreline project grant money at or within a day of closing, then the township can reduce the amount of the bond to \$1 million and all costs would be paid from the FRPP grant reimbursement and PDR millage receipts.

Motion by Zarafonitis, support by Takayama to adopt Resolution R-2011-19 as presented. Motion carried by unanimous roll call vote.

3. **Discuss [Eligibility to become a Charter Township](#):** When a decennial Census indicates that a Michigan township has a population of over 2,000, the Secretary of State informs them of the fact that they are eligible to decide whether or not to become a charter township. The township is required to publish two notices in the paper that the public or the township can ask for a vote on the matter, and the Board may decide whether it wishes to take action to become a charter township or not. A Michigan Townships Association publication was provided to the Board explaining some of the differences between general law and charter townships, and the potential benefits and challenges. Overall the Board perceives that a switch to chartered status would be costly and inconvenient without any significant benefit to the community.

Motion by Zarafonitis, support by Wikle that Acme remain a general law township. Motion carried unanimously.

4. **Consider adoption of [Zoning Ordinance Amendment 015 – Campgrounds](#):** Vreeland summarized the proposed zoning ordinance amendment, which would remove the requirement that campground be of a maximum size of 100 acres and would clarify that normal individual lot setback and structure placement requirements are not applicable to campground sites. These ordinance amendments were discussed as advisable due to a recent request from the Traverse Bay RV Park for a special use permit to allow an 82-site expansion and some questions that arose during the staff review process.

Motion by Dunville, support by Wikle to adopt Zoning Ordinance Amendment 15 as proposed. Motion carried unanimously.

5. **New Designs for Growth Community Growth Grant Application:** Acme Township applied to this grant program unsuccessfully last year. This year Takayama, Kladder and Vreeland worked together on a new application for funds to plan for placemaking in the shoreline district.

Motion by Takayama, support by Hardin to submit the 2011 Community Growth Grant application as presented.

Zarafonitis asked what matching funds would be required. Vreeland is anticipating matching this grant and a recent grant from the Coastal Zone Management program against one another, and suggested that the township could seek approval from the Tribal Counsel to repurpose a 2006 2% grant received for New Urbanist planning. Staff and volunteer time would also be used as in-kind match. Wikle was wondering if a committee should be formed relative to the placemaking initiative, and noted that she is catching Takayama's enthusiasm for the project.

Motion carried unanimously.

6. **Senate bill 215 of 2011, signed into law effective immediately 07/25/11 (info only):** Kladder stated that the Board of Public Works has the final say on many issues related to the DPW, which operates and maintains the water and sewer systems of the member townships. There is a Sewer and Water Committee with membership from the five townships with such systems, but they have little or no power over financial matters. The law was proposed by Grand Traverse County and allows for potential expansion of the BPW to better represent the members of the Sewer and Water Committee who are directly impacted by its decisions.

L. OLD BUSINESS:

1. **Amendment to the Uniform Sewer Use Ordinance of 1994:** A new cover memo, resolution and ordinance draft were provided today. Overall the proposed amendments provide for limits on the levels of discharge of certain wastes into the public sewer system and completely replaces an otherwise relatively unchanged 1994 sewer use ordinance adopted by all of the townships whose sewer systems are owned and operated by the Township.

**Motion by Wikle, support by Hardin to adopt Resolution R-2011-20 as presented.
Motion carried by unanimous roll call vote.**

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

Kladder realized today that an agreement for the Barefoot Triathlon to start in Bayside Park on Labor Day weekend needs to be approved. Kladder asked for approval in concept based on last year's agreement.

Motion by Wikle, support by Zarafonitis to allow the Supervisor to complete an agreement for the Barefoot Triathlon consistent with the terms of previous years' agreements. Motion carried unanimously.

MEETING ADJOURNED AT 10:30 P.M.