



ACME TOWNSHIP PLANNING COMMISSION MEETING
Acme Township Hall
6042 Acme Road, Williamsburg, Michigan
7:00 p.m. Monday, May 23, 2011

Meeting called to Order with the Pledge of Allegiance at 7:00 p.m.

Members present: J. Zollinger (Chair), B. Carstens (Vice Chair), C. David, S. Feringa, V. Tegel, B. White (7:10 p.m.), D. White, P. Yamaguchi
Members excused: R. Hardin
Staff Present: S. Vreeland, Township Manager/Recording Secretary
J. Jocks, Legal Counsel

INQUIRY AS TO CONFLICTS OF INTEREST: None noted

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

1. Continuing Education/Special Presentations:

- a) [Acme Township Marina Feasibility Study](#) – Edgewater Resources: Greg Weykamp and Mike Morphy from Edgewater Resources presented a [PowerPoint Presentation](#) regarding the feasibility study. They stated that their study identifies the general area of the existing private marina as the optimal place for a marina in the township. They also stated that a marina cannot be considered in a vacuum, but must be an integral part of the community. Four scenarios have been developed. One shows an addition of approximately 22 marina slips to the existing 72 plus 4 boat launch lanes might fit on the shorefront. 25 parking spaces would be added for the launch lanes on the west side of US 31 North, with a need for additional parking on the east side of the road. A second phase might add more marina slips. A third phase would push the breakwall of the marina farther to the west out into the water, and would curve US 31 slightly to the east to accommodate more parking on the west side of the road immediately adjacent to the marina. Mr. Weykamp stated he would prefer, and he believes the community would prefer, to minimize parking on the site and find an off-site location for additional parking, perhaps with shuttle service to the waterfront. An additional scenario is very similar to a concept plan displayed at the first public meeting related to the study, where US 31 is rerouted up along where Mt. Hope Road is today and the portion remaining along the waterfront is curved to the east to accommodate parking on-site while keeping the waterfront area itself green and open.

Estimated Phase I costs are just under \$4.6 million. The study posits that 50% of the cost could be obtained through MDNR support. This scenario requires removal of the existing Mt. Jack's building. Anticipated gross revenues were set at between \$72,000 - \$86,000/year with estimated operational expenses of approximately \$35,000 and annual net revenues between \$35,000 - \$50,000. These revenues would come from slip rentals and launch ramp usage fees. The study asserts that the debt service that could be supported for a revenue bond for construction is between \$620,000 - \$872,000. White asked whether the projected operational expenses include dredging; they do. Estimated ongoing maintenance/upgrade costs as construction ages was estimated at \$430,000.

Estimated Phase II construction costs are estimated at \$5 million including breakwall expansion and a fishing pier. Anticipated gross revenues were set at \$247,000 - \$309,000 with operational expenses of \$61,735 and annual net revenue of \$203,000 -

\$265,000. Debt service that could be supported would be between \$3.5 million - \$5.3 million. Because of efficiencies of scale, Mr. Weykamp indicated a recommendation that if possible it would be desirable to begin with construction of both of the first two phases shown. Zollinger asked if the proposal includes returning the Mt. Jack's site to road grade; the consultants actually recommend taking it to below road grade to mitigate the visual effect of parking to the west of US 31.

The final recommendation from the consultants is that a municipal marina is both physically and economically feasible for Acme Township. Mr. Weykamp spoke briefly to some of the placemaking that could be done along the US 31 Corridor in terms of street and pedestrian improvements and creating linkages from the park to the commercial spaces on the east side of US 31, and from those commercial spaces towards other spaces in the township.

Land acquisition costs are not included in any of the cost estimates. Demolition costs are included for existing structures. Mr. Weykamp also suggested seeking DNR funding for Phase I but not for Phase II so that the township would have more flexibility in how Phase II was operated.

Tegel asked if a boating economic impact model has been prepared as was discussed at the third public meeting for this process. Mr. Weykamp stated that the economic impact of an additional 22 boat slips is minimal so the full model has not been run. The main impact of the potential project would be as a catalyst for additional community improvements.

Dar Fenner, 5255 Arrowhead Circle, stated that he is aware of articles indicating that a harbor in Leland had sought a state grant for dredging costs that may not be received. He also stated having comparative information indicating that dredging costs could be substantially higher than the estimate in this study.

Bob Hopkins, 3842 Kennedy Place commented on the third public meeting for the study, where the Elk Rapids harbormaster stated that their dredging costs were between \$25,000 - \$50,000 annually, depending on whether spoils were removed or deposited. This harbor would be more comparable geographically to Acme than Leland. Mr. Weykamp commented that dredging costs would be shared between a municipal marina addition and the existing private marina.

David Fry, 10477 Kay Ray Road, asked how far down parking could be placed. This is dependent on hydrologic conditions, but Mr. Weykamp believes that it could be several feet, and to at least as low as the existing marina parking to the north of the Mt. Jack's property is now.

Gordie LaPointe, 6375 Plum Drive noted the proposed Phase I and Phase I/II operating costs. To him the estimated \$70,000 - \$80,000 as a total operating budget through Phase II seems too low, and he wondered how it compares to information from Elk Rapids harbor. He also asked about depreciation costs. Mr. Weykamp stated that the operational costs are based on a financial analysis performed by Bob Bogner from his firm that uses data accumulated from dozens of harbors and appraisals. Mr. LaPointe stressed the importance to the community of having any potential municipal improvements be fully financially self-supporting at a minimum. He also asked if the raw data used to produce the estimates will be available. Mr. Weykamp demonstrated the statistics in the presentation that state that the debt could be fully retired through Phase II, and \$1.15 million would be needed to replace normal wear-and-tear. He noted that things like docks will wear out in about 30 years, whereas the breakwall

would be more of a 100-year investment.

Zollinger thanked Edgewater Resources for their presentation, and noted that this presentation will be repeated at the June 7 board meeting. Vreeland noted that the materials discussed this evening are also available through the township website.

- b) **Attendee Summary of New Economy 401 Training - Carstens, Feringa, Hardin, Tegel, Yamaguchi, Vreeland:** Carstens noted that the presentation made was extensive. It focused on differences between the former, largely industrial economic base and the new knowledge-based economy. Cooperation between a variety of public and private entities was stressed. The goal of the training is to help governments plan and regulate in ways that promote the ability to be competitive on a global scale. Yamaguchi added that Michigan is seen as lagging behind all other states in placemaking and planning for the new, global economy. Carstens was also struck by a statement that communities are more likely to attract funding if they take HUD and the FHA into account. Feringa found an exercise on identifying community assets very helpful to master planning. It involves identifying assets both within the community and in neighboring areas. Tegel echoed this sentiment and feels that this could be started quickly in anticipation of the forthcoming master plan update. The materials mentioned marinas, farmland and water as key assets to identify and promote. The materials also came with a detailed checklist that would be helpful to work through in terms of the master plan. Asset identification is something that the whole community can become involved in.
2. **Consent Calendar: Motion by Carstens, support by Yamaguchi to approve the Consent Calendar as amended to remove the 05/10/11 Board meeting minutes for discussion, including:**
- a) **Receive and File:**
 - 1. **Draft Unapproved Minutes of:**
 - a. [05/10/11](#) Board
 - b. [04/20/11](#) Shoreline Advisory
 - c. [05/06/11](#) Farmland Advisory
 - 2. [March 2011](#) Planning & Zoning News
 - 3. [Planning, Zoning & Administrative Update](#) – S. Vreeland
 - b) **Action:**
 - 1. Approve [04/25/11](#) Planning Commission meeting minutes
- Motion carried unanimously.**
3. **Limited Public Comment:**
Tegel thanked the township and Metro Emergency Services for bringing the piece of the Twin Towers to the community. She also acknowledged the recent passing of Bill Boltres, former Township Treasurer.
4. **Correspondence:** None
5. **Reports:**
 - a) **Status Update – VGT-Phase I SUP Application #2009-01P:** Vreeland reported that she is expecting to receive updated application materials very shortly. The applicant had earlier indicated they would be delivered on May 19, but on May 18 indicated there would be a brief delay. Zollinger and Vreeland mentioned that there are portions of the materials that may be abbreviated in most copies (such as the 72 pages

of tables in the traffic study appendix) and all information will be available at the township hall. Tegel stresses that she finds that she generally needs access to her own full personal copy for comprehension and that she hopes this point will be negotiable.

6. Public Hearings:

- a) **SUP Application 2011-01P** – **Traverse Bay RV Park:** Fred Campbell from JML Design Group was present in support of the application. Vreeland summarized her staff report by saying that she noted only two areas of concern. The first is that the zoning ordinance permits campgrounds (the technical categorization for this land use) to be between 10 and 100 acres in size. When originally approved in 1999 this RV Park was just at the 100 acre size limit. However, in 2004 a minor change was erroneously approved that enlarged the development to 111 acres. In 2008 a major amendment was again erroneously approved for an 82-campsite expansion that would have enlarged the development to approximately 145 acres. The 2008 approval has lapsed due to non-use, which is the reason for the current application. Through conversation with the applicant, three possible ways to address the situation have been discussed: a) amend the zoning ordinance to remove the 100 acre maximum; b) reduce the size of the RV Park (campsites, infrastructure and common open land elements) to 111 acres (the size of approval as of 2004) or c) divide the campground into two legally separate site condominiums. Both staff and applicant are asking/recommending that the township pursue the ordinance amendment route. The current application would have to be continued until such an ordinance amendment might be adopted.

Carstens asked about the questions raised in the staff report regarding whether a certain section of the site contains wetlands or an arm of Yuba Creek. Vreeland is satisfied that the wetlands shown on the plan are separate from the creek on the site. The Commission generally indicated it would appreciate a group site visit to investigate.

The second concern raised by staff is the proposed location of the “coach houses” on each site condominium lot. They are proposed to be located within the “front yard” of each lot, or the area between where the RV would park and the private road from which access is obtained. This is a concern that was raised by staff in 2008 as well; however, at that time the Planning Commission did not feel that the general requirement that accessory structures on parcels of record be in a side or rear yard should apply in this particular situation. The applicant generally maintains that setback and structure placement requirements should be viewed in terms of the entire overall campground development rather than in terms of each individual condominium site. David felt that the setback requirements should be determined in terms of the overall campground from the perimeter boundaries of the campground rather than within each condominium site. The front yard is defined as being the area between the road or easement providing access and the closest point of the primary use on a lot. In this case the primary use is a temporary structure – an RV. It seems challenging to David to declare a front yard relative to a temporary structure. There was discussion about whether the pad on which the RV would park would be the defined permanent primary structure area. Mr. Campbell described practical abilities with moving the coach houses to a different area on the sites, which are each 50’ wide and of varying depths. It was stated that there are coach houses on existing lots that are what would be “in front” of the RV pads on their sites. Feringa believes this is a campground and that the individual lots should not have standard setback and structure location regulations applied to them just because they happen to be set up under site condominium ownership. B. White stated that this is an existing facility that has a working model, and to have change the rules at this point would not appear

to have a benefit.

Given a consensus that this is a unique campground unit situation to which the customary setback and configuration requirements would not apply, the Commission can make a finding to this effect. Vreeland would reflect this in the final findings for the Board decision.

The suggestion was made that a paragraph be added to section 9.4 of the ordinance specifying that campground site are exempt from customary setback and accessory structure placement regulations. It was also suggested that the number of accessory structures on campground sites be limited.

Public Hearing opened and closed at 8:35 p.m., there being no public comment.

Motion by Tegel, support by Yamaguchi to continue deliberations on the SUP request until such time as the issue regarding the size of the overall campground development relative to the maximum campground size in the Zoning Ordinance is resolved. Motion carried unanimously.

Motion by Carstens, support by David to set a public hearing at the June 27 regular Planning Commission meeting regarding a proposed zoning ordinance amendment that would amend section 9.4.2.b to remove the last six words “with a maximum of 100 acres,” and add a section 9.4.2.g saying “Individual campsites are not subject to setback and accessory structure placement requirements that would otherwise be required under the zoning ordinance.” Motion carried unanimously.

- b) **Zoning Ordinance Amendment 013 - [Medical Marihuana regulations](#):** Jocks summarized the proposed zoning ordinance amendments which would establish medical marihuana dispensaries as an allowable special use in the B-2 zoning district and would add provisions for medical marihuana-related home occupations. The proposed ordinances are similar to those in effect in Traverse City, and are as discussed at the last Commission meeting. The meeting packets did include information about assertions by the federal government that local governments and their agents that create regulations for marihuana use could be subject to prosecution. Jocks and others in his office are comfortable that adopting zoning ordinances will not expose the township or its agents to such risk.

The township’s proposed ordinance does not contain minimum distances between medical marihuana-related land uses and churches and schools. Federal law already provides for enhanced penalties for drug manufacture and distribution within 1,000 ft. of a school or a list of other youth-related places. Tegel asked if this applies to day care operations; Jocks would have to research this.

David and several others attended an informational session in Leelanau County last week regarding medical marihuana. One of the things that he took away from the session was advice that while registered individuals are protected from prosecution for medical marihuana use, and registered caregivers are protected from prosecution for growing marihuana for and providing marihuana to their registered patients, the sale of marihuana in Michigan is still prohibited. Also, the number of plants that may be cultivated per patient or per caregiver under state law is limited. David is therefore concerned that the township would be providing regulations for growing operations that are larger than the state-specified caregiver scale. Jocks stated that the draft reflects his understanding of the Commission’s direction but can certainly be

changed. Jocks agreed that it was never the intent of the law to allow for dispensary-type operations, only for caregiver-to-patient transfers. Court cases are ongoing as to whether patient-to-patient transfers are legal under the state law or not. If they are determined to be legal but township law prohibits dispensaries, the township could be sued. If they are determined to be illegal, dispensaries will be closed down by law enforcement. The township has little control over whether or not an activity occurs within township boundaries but it has more control over where and how it occurs. Jocks recommends a very conservative approach in the meantime. He also stressed that the gentleman giving a large portion of the presentation is a well-known and respected planner but he is not an attorney. As to large-scale cultivation, Jocks is comfortable with limiting or prohibiting it in the ordinance if the township so desires. A large scale facility could be akin to a community garden, where multiple caregivers use designated portions of a larger space. Or, the ordinance could limit growing facilities to the 72 plant maximum per caregiver under state law. If a violation of such ordinance requirements were suspected, the Zoning Administrator would have to investigate and would potentially issue a civil infractions ticket for the ordinance violation if discovered.

Yamaguchi asked about the proposed definition of “medical marihuana dispensary.” The definition stated that no other goods or services can be sold, and so worded might be taken to imply that the medical marihuana itself is being sold rather than being “transferred.” Jocks stated that this wording is often used by communities to prevent unrelated retail activities at the site that might be used to support the medical marihuana use. State law does not say that medical marihuana may not be sold, although it does say that medical marihuana is not “sold” as defined in the public health code. Whether transfers for money are sales, and whether they are legal or illegal is being determined in the courts.

Public Hearing opened at 9:06 p.m.

James Redmann, 4656 Arthur Court asked why medical marihuana facilities are necessary in our community. He does not believe they are a needed element of a family-friendly community. Are there so many medical marihuana users that three facilities such as currently existing in the township can be supported? He is concerned about the discussion about large-scale production in the township. Mr. Redmond is also concerned about the potential for additional drug crime-related concerns. Is it truly necessary to address this in the ordinance, or is it being done just to be done?

Mr. Hopkins understands that for separation distance from schools the township is proposing to rely on federal standards. If this is the case, why not reference the federal standards in the ordinance so that there can be local enforcement in the event that the situation is too small-scale to be deemed worthy of pursuing by federal agents?

Public Hearing closed at 9:10 p.m.

Zollinger asked Jocks to address the questions from the public. Jocks said state law allows residents to undertake certain activities free from state prosecution. This includes being a medical marihuana-using patient or being a caregiver to such patients. The law states that these individuals may undertake the “medical use” of marihuana. This term is broadly defined to include production and transfer of marihuana as well as related paraphernalia for using marihuana. There is a spectrum of thought about how this may or may not legally occur, and the Courts of Appeals

will decide what is true. Jocks believes that a plain meaning ruling as favored by many courts will be that patient-to-patient transfers will be allowable, and until proven otherwise this is the assumption under which he would recommend operating. Does the township have to allow dispensaries or apothecaries? If the state deems them legal, yes it does. If the township does not allow an act permitted by state law it is subject to potential lawsuits alleging discriminatory or exclusive zoning. If state law deems them illegal the township can do so as well, and in any event they would be closed down by law enforcement. Not providing for where and how a lawful use according to the state may occur significantly increases the chances that the township would be in legal jeopardy. He recommends that until the final decisions are made the township should allow and regulate the use.

As to the second question, Jocks can add mention of the federal requirement if the township desires, but it is not necessary.

Carstens asked Jocks if the courts have determined that unlimited patient-to-patient transfers are permissible. Under the Compassionate Apothecary case in Mt. Pleasant, the establishment rents lockers to different caregivers who stock the lockers with product labeled with contents and prices. The operators of the apothecary facilitate the transfer between the caregivers renting the lockers and the patients wishing to obtain the product, and a court has ruled that to be legal under the state act. Until an appeals case or other cases are decided, particularly until one is decided in our circuit, lawyers here have to look to and evaluate such cases.

Tegel appreciated Mr. Hopkins' comments about including the federal distance requirement in the Zoning Ordinance. Vreeland asked what would happen if a medical marijuana establishment were to open and a facility such as a school were to later open within the proscribed distance. Jocks answered that the medical marijuana establishment would be grandfathered and able to continue operating. Vreeland additionally asked whether medical marijuana home occupations would be prohibited within an ordained separation distance, and if so whether the township might be attacked for making it impossible for a patient or caregiver to act according to the state law within that area. Jocks noted that the "drug free school zones" are specific to manufacture and delivery of certain substances but not their use. Zollinger asked each person to express their opinion on whether the separation distance should be added to the township ordinance. 6 of 8 felt it should not be added.

Motion by Yamaguchi, support by Feringa to recommend approval of proposed Zoning Ordinance Amendment 013 as presented to the Board of Trustees.

The draft as presented permits large-scale cultivation operations in the B-4 district if multiple caregivers are involved.

Motion carried by a vote of 7 in favor (Carstens, Feringa, Tegel, B. White, D. White, Yamaguchi, Zollinger), 1 opposed (David) and 1 absence (Hardin).

7. Old Business:

- a) **Zoning Ordinance Amendment Request 014 – Rezoning:** Staff has recommended that the deficiencies in the application noted at the April meeting have been corrected, that the application is now complete and that setting a public hearing date would be in order.

Motion by Carstens, support by David to set a public hearing on Zoning Ordinance Amendment Request 014 for the June 27 Planning Commission

meeting. Motion carried by unanimous roll call vote.

- b) **Amendments to B-2 District –Hotel/Motel Uses, elderly housing:** Jocks recalled previous discussions that hotels and motels were previously inadvertently removed from the list of allowable uses in the B-2 district. Jocks inquired as to bed and breakfast establishments, tourist homes and summer resorts and was told they should be defined as needed and included as well. There was also discussion about a maximum height requirement in Section 9.10.1 unique to hotels and motels of 25’ in height when everything else could be 35’ tall. Based on discussion Jocks has drafted potential removal of this requirement. Also discussed was the potential to obtain additional height above normal limitations if additional setback is granted on all sides of the building, and Jocks has proposed language that would limit the additional height to 1 story and a maximum building height of 50’. If the Commission is comfortable with this language it can be moved forward.

Vreeland noted that this is only a portion of the amendments discussed for the B-2 district. The township is also considering adding group assisted living facilities as an allowable use in this district. She has also noted some corrections that need to be made to the Schedule of Regulations to correct for a paragraph that was inadvertently omitted during the 2008 content-neutral rewrite.

Tegel asked if the language in Section 9.10 should refer to hotels, motels and “transient lodging facilities” or if this is vague and/or redundant. Jocks will consider the matter and propose streamlined language in the next draft.

David asked what the “one extra story” would be in the special building height requirements. The Schedule of Regulations expresses allowable building heights both in terms of maximum height in feet and maximum number of stories.

Discussion will be continued at the next meeting.

- c) **Complete Streets Resolution:** Tegel and Carstens developed this proposed draft of a resolution supporting Complete Streets that the Commission could recommend that the Board of Trustees adopt. Being on record as supporting the principle of complete streets can help governments obtain various sorts of funding.

Motion by Carstens, support by Yamaguchi that the Planning Commission recommend to the Board of Trustees that the Complete Streets resolution be adopted as presented. Motion carried unanimously.

8. **New Business:**

- a) **Discuss LED Lighting and “Dark Sky” Ordinances:** The Zoning Ordinance, particularly the “dark sky” exterior lighting requirements, currently prohibits the use of LED lighting. LED lighting use is controversial; it can represent a significant energy and cost savings but is also felt by some to emit a spectrum of light that produces harmful glare. Carstens has been attending Grand Vision Growth and Investment meetings, and a gentleman who has been attending the meetings is a young entrepreneur who grew up in Traverse City and wants to return here to set up a business. In part this business would sell LED exterior lighting. They approached Metro Station 12 about using their products at that building, but ran afoul of zoning ordinance requirements prohibiting their use. These businessmen would like to display their product to the Planning Commission. Carstens and Zollinger met with their representatives, and subsequently Carstens spoke with noted lighting expert Jerry Dobek. Mr. Dobek expressed concern about the character of the light that is

emitted. Zollinger proposes that both the businessmen and Mr. Dobek would be invited to meet with the Commission if there is interest, along with some documents supporting both sides of the debate. He thought that after such a meeting the Commission could decide whether they want to think further about potential revisions to the current ordinances. Feringa stated that the Tribe is doing more and more with LED site lighting and this will be of great interest to them. Based on expectations for what will be on the agenda at the next meeting, Zollinger suggested that this presentation be scheduled for the July meeting.

- b) **Discuss 05-10-11 Board Minutes:** David noted, in the top paragraph on page 4 of the minutes, that there was discussion about the Zoning Administrator position and how much experience and education are desired in candidates. David has observed that of late any major planning questions have been handled by outside consultants. He personally sees this position as being more of a zoning enforcement position and not a significant planning position. Carstens noted that when Sherrin Hood was the Planner/Zoning Administrator this was not as true. If we hire the right caliber of person more of the planning work could be done in-house. Tegel understands David's opinion but feels that having a fully-qualified planner on-staff who can look at the big picture and ongoing history of the township would be beneficial.

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

Pat Salathiel, 4888 Five Mile Road agrees with Tegel and Carstens that hiring a top-quality planner would be the most important thing the township could do right now. With all the issues facing the township right now, hiring the best we can afford would be the best investment. She also stated she would be willing to place a swing on the parklands across from the medical marihuana businesses to establish a "playground" there.

Tegel received a postcard receiving a training session on June 16 in Lansing through the Citizen Planner Advanced Academy program regarding placemaking. Scholarships are available; Tegel has received one to attend and more may be available.

MEETING ADJOURNED AT 10:00 p.m.