



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
Tuesday, July 3, 2012, 7:00 p.m.**

MEETING CALLED TO ORDER WITH THE PLEDGE OF ALLEGIANCE AT 7:00 p.m.

Members present: D. Dunville, R. Hardin, W. Kladder, P. Scott, L. Wikle, F. Zarafonitis
Members excused: E. Takayama
Staff present: S. Vreeland, Township Manager/Recording Secretary
J. Jocks, Township Counsel

A. STUDY SESSION: None

B. LIMITED PUBLIC COMMENT:

Kirsten Keilitz is running for GT County Probate Court Judge. She currently serves as a court domestic relations referee. She was born and raised in Traverse City and worked in several local law firms before joining the court system.

Adam Lett is running for Probate Court Judge as well. He has practiced family law for 16 years and has lived in the Acme/East Bay border area for many years.

C. APPROVAL OF AGENDA: Kladder added discussion regarding the Hoxsie House as Old Business item L2. An e-mail from Virginia Tegel was added as correspondence item 3

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

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

E. CONSENT CALENDAR: Motion by Zarafonitis, support by Hardin to approve the Consent Calendar as amended to remove the Board meeting minutes for discussion and approval, including:

RECEIVE AND FILE:

1. [Treasurer's Report](#) as of May 2012
2. [Clerk's Report](#) as of 07/02/12
3. Draft Unapproved Meeting Minutes:
 - a. Planning Commission [06/25/12](#)
 - b. Zoning Board of Appeals [06/14/12](#)
4. [Parks and Maintenance Report](#) – Tom Henkel:
5. "The Metro Insider" Newsletter [May 2012](#)
6. [Grand Vision Growth & Investment Minutes June 11, 2012](#)
7. [Mayfield Twp. Zoning Regulations – Deep Injection Wells](#)
8. [Planning, Zoning & Administrative Report – Iacoangeli/Vreeland](#)

ACTION – Consider approval:

9. Township Board meeting minutes of [06/05/12](#)
10. [Accounts Payable](#) of \$524,842.60 through 06/28/12 (recommend approval: Dunville)
11. [BAREFOOT Triathlon](#)

Motion carried by unanimous roll call vote.

F. ITEMS REMOVED FROM THE CONSENT CALENDAR: None

G. REPORTS:

1. **Sheriff's Report:** During June there were 256 complaints in Acme Township. 29 criminal complaints and 16 car accidents were included. Criminal activity included one B&E, one disorderly conduct, one fraud, a malicious destruction of property and a couple of drunk drivers and domestic disputes. 33 tickets were issued and 8 criminal arrests were made.

Consumer fireworks that make noise and fly through the air are now legal in Michigan. Buyers have to be at least 18, but there is no minimum age to possess them. The state law does not establish hours of use. They can be used on private property with permission, but generally not on public or church or school property although permission can be given. They cannot be used while under the influence of alcohol. It is probable that the 0.8 blood alcohol content level will be used as the practical definition of "under the influence." There was a serious injury yesterday to a man using consumer fireworks in Acme Township.

Most of the townships in the County have adopted similar noise ordinances. The standards in the ordinance are somewhat vague standards related to what noise would bother a reasonable person. Use of consumer fireworks can create a violation of the Noise Ordinance subject to a civil infraction, and the Sheriff's Department is responding to such calls for service. Common sense has to be employed when responding to each complaint on a case by case basis. Most people are given a warning the first time, and 90% of those warned comply.

Townships are able to enact local regulations to limit consumer fireworks use except for 30 days per year: 10 specific federal holidays and the days immediately preceding and following them.

Kladder asked how many incidents the Sheriffs have responded to in the past few weeks. Last night's accident was the first personal injury they have handled. They have also handled a case where children using bottle rockets without permission on private property started a fire in a field. Wikle asked about the use of fireworks when the state determines that fire danger is high and there is a burning ban in effect. Even though they had no intent to start the fire, they are liable for the damage under the law.

Jocks asked if there has been discussion at the County level about the Sheriff's and Prosecutor's Office enforcing a township-adopted ordinance limiting fireworks use. The County has not yet considered this.

2. **County Commissioner's Report – Larry Inman:** County Administrator David Benda started work on June 18 and is in the process of meeting community leaders throughout the county. Soon work will start on the 2013-16 Strategic Plan, and a hiring decision will be made soon on a new Health Officer. The New Public Health Building is 75% complete, and a bond issued to construct it will be partially paid for by rental income from the old building. There was a concern raised by state auditors about how the County handles Tribal 2% grant requests that has been resolved. Only two applications submitted for the June 30 application round did not meet the required standards. The Tribe will be renegotiating their compact with the state beginning in 2013. At the last County Commission meeting a vote was taken to have the Finance Department work with the townships on how to make the fall septage treatment plant bond payment. It is possible that the current bond could be paid off with some surplus county funds.

H. SPECIAL PRESENTATIONS/DISCUSSIONS:

1. **Proposed 2012 DPW Operating Agreement:** Blair Township has recently left the DPW; therefore, the operating agreement adopted by all the DPW member townships needs to be amended. The existing operating agreement has been in place in some form since 1985, and the most recent edition was adopted in 2006 when Blair Township joined the DPW. Key modifications from the 2006 agreement are the removal of Blair Township; clarification of

how the septage treatment facility could potentially be paid for; clarification of the provisions by which townships may withdraw from the DPW; clarification of how the operating agreement can be terminated if all the member townships choose to do so and create a new intergovernmental authority; and updating some language in the agreement to recognize what has occurred over the years (for instance, language regarding “if” the Hoch Road property would be purchased was removed since the property was purchased many years ago. A resolution has been provided that would adopt the 2012 DPW Operating Agreement as presented and for the Supervisor and Clerk to sign the document even if it contains some relatively minor non-substantive final changes as long as the Supervisor finds them acceptable.

Jocks concurred with Mr. Howard’s presentation of the proposed new documents.

Motion by Dunville, support by Zarafonitis to adopt Resolution R-2012-13 approving the DPW Operating Agreement of 2012 as presented. Motion carried unanimously.

Kladder asked for the status of the proposed septage treatment plant special assessment. Mr. Howard explained that the BPW can hire an engineer to draw the plans for a project, which in this case will be minimal because the plan is financial in nature. Once the plan is accepted by the BPW they would set a public hearing on accepting the plan and designating the special assessment district, which is currently planned to be any property not using a public sewer system in Grand Traverse County and in Elmwood Township. Proceeds can be used for operating costs and upgrades to the facility, but cannot be used for making bond payments because the facility already exists and was already paid for by issuing the bonds. After a public hearing the amount of the special assessment and the district will be finalized into a final roll subject to public hearing for final approval. If not challenged the roll would be implemented within 30 days of adoption. The current timeline calls for implementing the district in time for collection on the Winter 2012 tax bills. At any step in the process the BPW could decide not to proceed. This option for meeting the financial needs of the septage treatment plant is not well loved, but appears to be the best option remaining after many have been considered. The special assessment district would include only properties with a septic tank or a holding tank, regardless of how their water is provided. Kladder stated that township staff reviewed our assessing records and found that about 50% of our residents use public sewers and 50% use septic systems or holding tanks.

I. CORRESPONDENCE:

1. **06/22/12 County Communication – needed Septage Plant Deficit Reduction Plan:** For the first time the township will need to make an upcoming septage treatment plant bond payment that will not be considered a loan by the guaranteeing townships to the County because the state is mandating a deficit reduction plan for the plant because its revenues do not meet its expenditure and debt service needs. A bill for approximately \$3,000 was presented earlier this year before the deficit reduction plan was required for a bond payment that can be, and was to be, considered a loan to the County that would be repaid at a future date. Kladder indicated that the township would be glad to pay the invoice upon receipt and execution of a suitable loan document. The county Finance Director at first indicated that he understood the desire for such a document and would require one also in our position. While work had been done towards a loan agreement over the past six months no agreement has been finalized. Acme is the only township that has yet to pay the bill while awaiting the agreement and this has become a contentious issue at the County level. The Finance Director has stated he would carry the money paid on his books as a county liability, but it appears at this point that no loan agreement will be forthcoming.

Some members of the public wonder why the plant is kept in operation if it is still losing money even after a lot of work towards reducing costs. Plant revenues are covering all operating costs plus a portion of the debt service, so it might not make sense to just shut it down and have no revenue to use towards debt service. Also, there is the question of what

would be done with the septic wastes if the plant is shut down.

Scott Howard is the BPW attorney, and he agreed that there has been a long-term effort to develop a loan agreement. The County could not, for a variety of reasons, loan the money to the townships but it could structure the process slightly differently. They thought they developed a document that could be given to the townships for approval, but then the auditors found some additional technical accounting reasons why it couldn't be done. The bottom line issue is how the County accounts for advances it makes to the septage treatment plant, and he is uncertain when it would be possible for the county to enter into the desired agreement. In the meantime the five guaranteeing townships are obligated by the bond documents to provide funds to cover any shortfalls generated by the plant. In essence the county made the bond payment by advancing the money the townships are obligated to pay, and is now seeking reimbursement.

As Inman mentioned earlier, the County might purchase the outstanding bonds, and the township and county might be able to re-issue the debt for a longer time period at a lower interest rate that could improve the overall financial position of the septage treatment plant.

There was board consensus to proceed to pay any septage treatment plant bond payment invoices.

2. **Letter from David Schweitzer – concern about noise from Fireworks:** Kladder read the letter aloud. The office is receiving multiple complaints on a daily basis about noise disturbances from fireworks use and fear about the risk of fire and property damage. The manager asked Jocks to be prepared to address questions about the potential for local units of government to prohibit consumer fireworks use on all but 30 days per calendar year. They have begun pulling copies of ordinances from a variety of townships and cities and they all appear fairly standard. Some regulate the hours during which the fireworks may be used. Jocks expressed a question about how the township would enforce such an ordinance. Right now the county Sheriff's Department enforces the noise and junk ordinances for the township, but we enforce all others on our own. Would they be willing to enforce an ordinance if we create one? Would they want all townships in the county interested in such regulation to adopt uniform ordinances to avoid confusion for the deputies? Otherwise the Zoning Administrator would likely have to be the one to enforce the ordinance, working primarily at night. Scott suggested that we should start discussion between townships and the County prosecutor to work towards a common ordinance that the county will be willing to enforce for us. There was also some discussion about whether Metro Emergency Services (MESA) could work with us on enforcement.

Kladder reported that at monthly Supervisors meetings there appears to be general interest in working together with the County on common ordinances, and he will bring the matter up again at this month's meeting. He reported that MESA is also getting pressure to adopt ordinances and perform enforcement. Such ordinances would have to be adopted by the member townships, and Chief Parker will be providing some information and suggestions.

3. **07/01/12 Virginia Tegel e-mail regarding park rules signage:** The e-mail was received Monday morning urging the township to post our regulations prohibiting fireworks use in our parks. The township already has this posted in several parks. It was discussed earlier this evening that state law also makes fireworks use on public property unlawful unless specifically allowed. Kladder has put a notice in the July 4th e-newsletter to help build awareness of this requirement.

J. PUBLIC HEARINGS: None

K. NEW BUSINESS:

1. **Proposed Special Events Police Power Ordinance:** Vreeland summarized the intent of the

proposed ordinance. Zarafonitis asked if the proposed \$100 application fee would be in addition to any review fees imposed by any other public agencies reviewing the proposal, and asked that we look into the total costs to applicants. Staff was asked to add wording that clarifies that other agencies the township consults may impose additional fees. A question was also raised as to whether the way the draft currently exists would require people to get permits for events like family weddings on their private property. Jocks responded that the proposed definition of “special event” is any temporary use of property for a purpose other than that already permitted. People are allowed to have family weddings at their private property now, but they are not necessarily allowed to rent their property for weddings for third parties. There was consensus to clarify the language to make it more clear that private personal events such as family weddings or graduations are exempted from the permitting requirements, perhaps by including examples. Staff was urged to add language specifically addressing review of adequate parking facilities. It was also suggested that the standards for approval are clarified so that the Zoning Administrator may not issue a permit until the requirements of all other agencies have been satisfied. It was suggested that the maximum allowable event length be 5 days instead of the draft 3. Many members of the Board also supported allowing an unlimited number of events per year per property. It was suggested that there be a clause allowing Board approval of an event that does not meet any one of the applicable standards for approval.

2. **Discuss public parkland use policies:** Kladder expressed concern about providing for adequate parking. He passed Bayside Park the other day and there were only 6 empty parking spaces. The township should be sure that events are not permitted that exceed provisions for parking whether on-site or organized off-site with shuttle service. Kladder also wondered about the effects of transient food vendors in the park on competition with fixed taxpaying locations in the township. It was suggested that the policy be referred to the Parks & Recreation Committee to develop a recommended township policy based strongly on the Traverse City policy.
3. **Proposed Zoning Ordinance Amendment 010 – Financial Responsibility:** Vreeland summarized the packet materials. There has been a delay in adoption of this zoning ordinance amendment to review concerns raised by the County Planning Commission review. Jocks remains confident that the proposed ordinance is lawful.

Motion by Scott, support by Dunville to adopt Zoning Ordinance Amendment 010 as presented. Motion carried unanimously.

4. **Discuss Office Space offers:** Recently the township has been offered two opportunities. One would be to acquire and relocate the former Real Estate One building, which will soon be replaced by a new Goodwill store. Kladder has been trying to identify property where the building could be located. The property owner would like the building removed within three weeks. The other is the Acme Plaza strip mall on US 31 N. The current owner is not renewing any leases, and the one remaining lease is due to expire in 2013. This building has limited parking and a layout that might not be conducive to public office use. If the building is not to be occupied and is to be sold, it could be ripe for redevelopment.
5. **Discuss additional hours for Bayside Park Summer Worker:**
Motion by Scott, support by Zarafonitis to adopt budget amendment Resolution R-2012-014. Motion carried by unanimous roll call vote.
6. **Supervisor’s Appointments to Planning Commission and ZBA:** There are three openings on the Planning Commission. Bob Carstens is applying for reappointment to a new term of office. Marcie Timmins has expressed interest to become a first-time member of the Commission. A third candidate for the remaining position will be interviewed on Thursday. All current ZBA have applied for reappointment; Joe Kuncaitis, Larry LaSusa and Larry Belcher.

7. [Supervisor's Appointments to Citizens Advisories:](#)
Kladder has appointed the following to Citizen Advisory committees; Farmland Advisory: Bob Carstens, Yuba Creek Advisory; Bob Carstens, Shoreline Advisory; Jeff Watts, Jean Aukerman and Dave Fry and Parks and Recreation; Howard Yamaguchi.

Motion by Scott, support by Dunville to confirm all appointments as presented by the Supervisor. Motion carried unanimously.

L. OLD BUSINESS:

1. [Proposed Zoning Ordinance Amendment 017 – Public Uses](#) (continued from 05/01/12):
At the May meeting the Board expressed concerns about certain issues surrounding a range of the proposed “essential” public land uses and asked for additional input which Jocks has provided.

As to electrical substations, the township has zoning authority. However, if the utility provide determines that it wants a substation in a particular place or way the township does not allow, it can ask the Public Service Commission for a Certificate of Convenience which would trump local ordinances and allow them to proceed. It seems likely that a utility would choose this option if they met with significant resistance from the township to their desired plans.

The township has zoning authority over water towers. Currently the zoning ordinance allows them in several districts without associated buildings and subject to special use permit approval. Under the proposed ordinance amendments water towers would be permitted in any zoning district, and would require an SUP if a building is constructed along with it. Again, the Public Service Commission has authority over water systems and again could trump the township's zoning.

The township has zoning authority over sewage treatment plants. They are currently allowed in the township zoning ordinance in the R-1 and A-1 districts by special use permit. The proposed ordinance does not change this. A regional wastewater treatment system is defined but not addressed separately under the zoning ordinance.

In summary, Jocks' recommendation is that the township can impose specific zoning requirements over a variety of essential services that generate public concerns, the Board should make a decision as to how much effort it would want to put into creating additional provisions that public service providers might easily sidestep.

Planning Commission Chair Jay Zollinger and Hardin noted that the Commission recommended approval as presented.

Motion by Wikle, support by Zarafonitis to adopt Zoning Amendment 017-Public Uses as presented. Motion carried unanimously.

2. [Hoxsie House:](#) Kladder directed attention to Schedules 12 and 13 of the draft Hoxsie House purchase agreement between the township and the Acme Heritage Society. This schedule discusses which ongoing costs of maintaining or moving the building and for grading the site will be covered by each party. Heritage Society President Sally Frye stated that their proposal is that the township cover all costs that they would have in any case had they deconstructed the building, and the AHS would cover costs specifically related to the ongoing maintenance of the structure and its relocation. She does not believe that the AHS should be asked to pay for burying power lines that are not currently buried.

Jocks has discussed the document with AHS attorney Steve Fox and understood there to be three key outstanding issues: 1) liability insurance, which Jocks suggested the AHS should

carry for the purposes for which it is involved with the house (maintenance, contractor visits, etc.); 2) the number of times the house may be opened to the public for fundraising events (as distinct from the necessary ongoing maintenance activities) and 3) the AHS wanted the township to commit that the property to which the house is relocated would be exempt from property taxation. As to the third item, Jocks stated that the Board does not have the authority to make such decisions, which are a matter of state law. The AHS would provide information to the Assessor for a taxability determination to be made according to state law. Jocks is also suggesting that the AHS should indemnify the township against any liability that may result from their presence, actions on and use of the building.

There was some question about the necessity for a Schedule 13 and who might have added it.

Wikle stated that “one event” insurance policies are available that would cover liability associated with AHS fundraising events on the property. The building is covered by the township’s insurance policy while it sits on township real estate, and once it is moved down the road it would no longer be covered under township insurance. She suggested that it would be prudent for the AHS to carry some liability insurance in case of an unfortunate event involving any workers at the site or for public events hosted by the AHS, which might be sued. It was discussed that the house mover and his employees are insured, and could provide proof of insurance to the township. Jocks suggested that the township should be added as an additional insured to the house mover’s policy.

Mrs. Frye interpreted the proposed document to say that the AHS would be liable for property taxes at their future site, which is why they asked for property tax exemption. The current location is township property that is tax-exempt. The language in the document is intended to say that the AHS is responsible for any liability, upkeep or taxes. There shouldn’t be any taxes, but he suggested the wording in there to cover any potential eventuality. The Board recommended removing the wording about taxes while the house remains on-site.

Schedule 13 was added by Mr. Fox via an e-mail on May 25, but nobody understands why and he will need to be consulted.

Discussion turned to the division of expenses under Schedule 12. Kladder suggested that committing to the proposed seller’s cost to an unlimited amount essentially encumbers an unknown amount of township dollars in a future fiscal year. He offered that as an alternative the township could require those expenses to be paid by the seller, but make a fixed-dollar amount donation towards those costs. The house is being offered to the AHS free of charge, while other bidders who might have paid for the house might also have paid for the cost of filling the foundation hole and grading the site and other removal costs. Scott and Zarafonitis felt that these costs were things the township would pay for anyway if we deconstructed the building, so the township should pay them under these circumstances as well.

Wikle agreed with Kladder that someone purchasing the house would have repaired the site, but also that this is in many ways a cooperative venture with the AHS. She appreciated the idea of making a fixed dollar amount donation towards the costs and having the AHS assume the responsibility for the total costs. Scott and Zarafonitis continued to advocate for the idea that if we were not donating the house we would have to pay 100% of the site repair costs. Hardin agreed that the township knows it has to fill the hole, and it can obtain bids and perform fundraising. Kladder suggested that if we accept responsibility we could earmark some funds in the General Fund Balance Forward. Consensus was reached to accept proposed Schedule 12 as presented.

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

Kladder reported that he is working with the Conservancy regarding fundraising and repurposing existing freestanding signs on the Phase II properties (Sun n’ Sand, Mt. Jacks) to let people know that

they will soon be parkland. Deconstruction of the Mt. Jack's building is expected to begin around October when the marina office vacates the building.

He also reported that through a lot of hard work on many parts, additional farmland development rights have been purchased from Ken and Jan Engle. We are looking forward to competing additional deals with the Send and Sayler families. Jocks offered thanks to the oil & gas companies that worked with us to make the Engle deal possible, including Chesapeake Energy, Trendwell Energy and Liberty Energy who worked with the township and the farmers on this important issue. They are working with us regarding the other two deals as well.

Traverse City and MESA are beginning discussions about a potential contract or merger regarding fire protection services. The City initially seems geared towards a merger, but MESA is initially more oriented towards a contractual relationship.

Wikle thanked any Board and Planning Commission members who are returning file clips from meeting packets to be reused.

MEETING ADJOURNED AT 10:15 p.m.