



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
7:00 p.m. Tuesday, June 1, 2004**

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

Members present: R. Agruda, D. Amon, D. Hoxsie, N. Knopf, C. Walter
Members excused: None

Amon announced that the microphone we usually use is not working tonight, and the person who usually fixes it is on vacation. Everyone is encouraged to speak loudly to be captured on tape.

INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

A. CONSENT CALENDAR

Motion by Knopf, support by Agruda to approve the Consent Calendar as amended, including:

RECEIVE AND FILE:

1. Treasurer's Report: None
2. Clerk's Report dated May 21, 2004
3. ~~Draft unapproved minutes of the May 24, 2004 Planning Commission meeting~~
4. Letter from Mike Houlihan re: Water System Operating Agreement & Resolution
5. Letter from James Christopherson re: Septage Ordinance & Contract
6. Fax from GT Conservation District re: Gypsy Moth Suppression program
7. Letter from DPW regarding new direct debit system for sewer & water payments

ACTION:

4. ~~Approval of Minutes from the May 4, 2004 regular Board meeting~~
5. Approval of Accounts Payable in the amount of \$62,903.64 through May 7, 2004 (recommend approval: Knopf)
6. Approval of Agreement for Collection of Summer School Property Taxes between Acme Township and the Traverse Bay Area Intermediate School District re: G.T. and Elk Rapids school districts (recommend approval: Hoxsie)

Motion carried unanimously.

Walter asked that New Business item 2 and his report relative to the DDA be moved up on the agenda to directly after item C. He has personal business for which he must leave early.

B. LIMITED PUBLIC COMMENT:

Tom Schulz, an attorney representing The Village at Grand Traverse LLC asked if he would be allotted time to speak during New Business item 2; the Board affirmed.

C. Presentation by Lori Spencer, GT County Equalization Director re: GIS Framework: Ms. Spencer gave a PowerPoint presentation regarding the framework project, which Amon recalled is being made possible due to a grant from the GT Band of Ottawa & Chippewa Indians. An intern would be hired for 12 weeks at \$8.50/hour. This intern would annotate tax maps in the County's digital mapping system. Mapping is the second largest expense the Equalization Department experiences, right behind staffing. As with other departments, this year they had to cut 8% from their budget. The chief casualty was the customary internship position.

Tax maps are tools for assessors required by law. They are also used to consider land division requests and to perform daily planning and zoning functions. They are also used as a record for the official numbering of structures and spelling of street names. In a digital system, a new building can be assigned a street number and when the building is

constructed, its precise location is measured using GPS, which facilitates emergency services.

Ms. Spencer is hoping that Acme Township will choose to partner with the Equalization Department to fund an internship position. A “cadastral framework” of GPS points has been established every 1/8 of a section and is accurate to within 4” – a significant improvement over past methods with errors from 40’ – 200’. Property ownership, road and easement layers can be added to this framework, as can tax map information and aerial photographs. Rather than outsourcing the creation of paper maps and scanning them into the system as a graphic, they hope to create a digital system from which the paper maps can be printed in-house and more cost-effectively, and which can be modified in real time as data changes occur. Custom maps can also be created to assist with specific decisions by using subsets of the various information layers available. Land use planning can be facilitated; for instance you can map the amount of impervious surface within a particular watershed or set of watersheds, track the changes over time, and made decisions to positively impact water quality.

Ms. Spencer demonstrated the effect of the framework project with a section of LochenHeath. It was possible to see how the un-rectified maps failed to match up precisely – the road on the aerial photograph didn’t match up with the road and lots on the tax map. On the rectified map, everything matched perfectly. The same concepts were demonstrated using a map of Dock Harbor Estates. Ms. Spencer also discussed “traverse lines,” which are somewhat imprecise measurements used to close lot descriptions, for instance along a shoreline. Overlaying maps with traverse lines on aerial photographs can help identify areas where property descriptions/ownership extend to the waters edge, but the map traverse lines don’t match the shoreline. Zoning maps and master plan maps can be created with ease. Over 500 different fields in the assessing database can be used in the map. Assessing sketches of building footprints can be placed on the maps. Additional images, such as development plans, can be scanned onto existing layers such as photographs or elevation models to help planning and zoning officials and potential developers to understand what the final outcome of the project might be. There is potential for future Internet accessibility by the general public as well.

Mailing lists of all property owners around a lake can be created in seconds. Assessors can search for homestead exemption errors. Buildings constructed without building permits can be identified. The possibilities for the system are practically limitless, and Ms. Spencer hopes to create a product from which both the County and township can benefit. She estimated that it would cost about \$4,000 to pay an intern for 12 weeks at \$8.50/hour for 37.5 hours/week, and is asking the Township to pay this cost. Her department brings the software and the data to the partnership – the raw materials with which the intern would work. Walter asked if grants are available; Ms. Spencer has looked but has not located any to date. It is possible to approach the Tribe again, but their next grant cycle isn’t until December, which would delay a summer internship another year. Amon thanked Ms. Spencer for her presentation, noting that it’s a complex topic. He would like the Board to consider an expenditure of up to \$4,000 to be in the 2004-05 budget to cover the internship costs. Ms. Spencer noted that the township currently pays for annual map updates anyway, so some of the internship cost would be offset by immediate and future savings in this area. There was general consensus to consider this cost as part of the budget process. Jim Goss, on behalf of the Village at Grand Traverse LLC volunteered to pay the \$4,000 cost for the township’s participation.

NB5. Update regarding DDA development: (right after GIS) Walter stated that the Board delegated to him and Amon the responsibility of looking into creation of a potential Downtown Development Authority within the township. He wrote to several different firms and received four replies from firms that might assist in the creation of a DDA. One firm could not assist due to a conflict of interest, one did not have sufficient time, but Walter took the two remaining responses to James Pavelka of the school district. Mr. Pavelka is quite knowledgeable regarding tax-increment financing, so Walter asked his opinion as to who would be best with which to partner. Walter, Amon and Dawn Plude met with Mr. Steven Lasher of Foster, Swift, Collins & Smith. Mr. Lasher provided a proposal that is detailed in a letter dated May 28 that Walter passed out to the Board this evening. Mr. Lasher has offered discounted hourly rates and that he would not charge for travel, as he has a vacation home in the area. A

final figure was difficult for him to calculate, since he didn't know how much work would actually be involved. As a ball-park figure, he offered less than \$30,000. The scope of work and how much can be done in-house will be factors in any final figure. Walter feels the offer contained in the letter is worthy of serious consideration. He noted that this firm has done extensive work for the Michigan Townships Association, and that they would be willing to consider questions outside of the scope of a DDA as well if we felt moved to ask them. Amon also mentioned that current officials and staff lack sufficient expertise to take on the task of DDA formation alone, which lead to seeking this proposal. Walter mentioned that state revenue sharing is being cut into more and more, and that many things we might currently pay for out of our general fund budget could be paid for from DDA funds, such as sidewalks, sewers, a boat launch facility, or modifications to the US 31/M-72 intersection without imposition of additional taxes on any individual. Knopf asked what timeframe could be expected; Walter believes that 5 ½ to 6 months would be a realistic expectation. Work can begin immediately if desired.

Amon stated that DDA formation is a public process that involves public hearings and input. A citizens committee would be formed; a step which may be required depending on how much residential property is contained within a proposed DDA district, and the process is actually run by a committee appointed by the Board rather than the Board itself. Amon stated that the DDA would have a separate Board from the township's Board. This idea goes back quite a few years; Sherrin Hood provided information several years ago. Knopf would like to see Walter continue to actively pursue the DDA effort; revenue sharing for all units of government currently expire in 2007. Walter stated that Governor Granholm is talking about withdrawing funds from schools if a proposed new cigarette tax goes through.

Motion by Knopf, support by Hoxsie to have the Supervisor sign the agreement from Steven H. Lasher dated May 28, 2004.

Hoxsie asked if the funds would be taken from the 2004-05 budget cycle. The Board agreed.

Motion carried by unanimous roll call vote.

Knopf and Amon stated for the public's benefit that of the total annual property taxes paid, a very small portion comes to the township. The rest goes to other taxing authorities such as the schools, libraries, BATA and NMC. The goal of a DDA is to capture some of those funds that would normally go to the other taxation units for a period of time for the benefit of local citizens and the Acme community within the DDA district or in ways that have an impact on properties within the district. A DDA district has yet to be determined with professional help, and there will be plenty of opportunity for public involvement. There is no new tax involved; it is a redistribution of existing taxes.

- NB2. Request from Planning Commission for determination whether SUP Application #2004-11P by The Village at Grand Traverse for Special Use Permit approval for a Mixed Use Planned Development may be processed pursuant to Section 8.22, Mixed Use Development, of the Acme Township Zoning Ordinance: (2nd after GIS)** Amon stated that the Board is in receipt of a packet of information from Christopherson. It contains his evaluation of the situation, minutes from Planning Commission meetings in 1990 when the Mixed Use Development Ordinance was adopted, Appendix B from the current development proposal, an analysis by Chris Bzdok, CCAT counsel, a letter to Christopherson from Gerald Fisher, Village at Grand Traverse counsel, a draft of a possible motion sending the application directly back to the Planning Commission and a draft of a possible motion sending the question to the ZBA.

Christopherson provided a revised possible motion sending the issue back to the Planning Commission. He stated that either possible motion is legally permissible and may be used at the Board's discretion.

Mr. Tom Schultz, and Mr. Ken Petterson, counsels for the applicant, introduced themselves. Mr. Schultz and his clients have a somewhat different view of the issue from that expressed by Christopherson. He stated that his firm normally represents municipalities rather than developers as a demonstration that his point of view may be particularly relevant. He was not at the Planning Commission meeting on May 24 where this issue was referred to the Board, as he didn't realize there was an ongoing concern. He gave a brief history of how the current application came to be presented: Judge Power overturned the township's Town Center Ordinance under which a previous application had been brought. The key question seems to be whether the MUD ordinance is only applicable to some of the properties in particular zoning districts, but not all of them. He reminded the Board that the concept that the Town Center Ordinance was relative to some, but not all, similar properties is the reason for the judge's ruling and drew a parallel between the two situations. They also take the position that the ZBA has no standing to make a determination. PUDs and SUPs are different from other land uses under state law, and he maintained that they are not appealable to the ZBA as are those other uses unless an ordinance so specifies, and that our ordinance does not. He argued that sending this issue to the ZBA would make an "end run" around the Township Rural Zoning Act and the township ordinance by usurping the decision-making power of the Board. He feels that even if we chose to ask the ZBA for a ruling, it should be viewed as advisory only and would place them in an awkward position. It would also place the Board in an awkward position because they would no longer control the decision to be made. He feels that the board is required to find that the applicant is eligible to carry forth the application. Any decision made by the ZBA would likely proceed immediately to Circuit Court. He urged the Board to refer the matter directly back to the Planning Commission for review and recommendation to the Board for their final decision.

Mr. Bzdok raised his hand to be recognized; Amon stated that he did not feel it would be appropriate to accept his comment at this time.

Walter read the relevant portion of the Planning Commission minutes of 1990. They state that the MUD ordinance was adopted with Acme Village in mind, but was designed to be flexible and apply to other areas if the included restrictions were met. Adoption was recommended to the Board and subsequently approved by them. Walter believes the MUD application should be referred directly back to the Planning Commission hearing process.

Motion by Walter. support by Knopf that Application #2004-11P be referred back to the Acme Township Planning Commission with instructions to continue to process the Application and to make a recommendation to the Acme Township Board of Trustees on the Application.

Knopf thanked Christopherson for his report, and stated that she also favors sending it directly back to the Planning Commission...Hoxsie interrupted with a point of order, at which point Knopf seconded the motion. Knopf continued to say that she is a member of the ZBA and thoroughly considered the information available on the topic. She finds the application completely appropriate and that it should continue at the Planning Commission level.

Agruda also thanked Christopherson for his memo. As he studied the materials, he felt appreciation that the applicant, in Appendix B, went to the effort of having an English professor parse the ordinance language. He would have been uncomfortable making a determination on his own.

Hoxsie asked Christopherson for his opinion on how the Board should proceed. Does he feel this should be a Board decision or would normally be made by the ZBA. Christopherson feels it could go either way. He disagrees with Mr. Schultz's interpretation of the situation, but either course of action would be legally appropriate. Agruda asked if it is true that the ordinance does not provide for appeal to the ZBA. Christopherson stated that the Township Rural Zoning Act does not truly speak to this. He believes that the township is not being asked to rule on an MUD or SUP but on an ordinance interpretation, which is entirely appropriate for the ZBA to do.

Amon stated that he has over 20 years of experience on the Planning Commission. He does not recall another instance when the Board has taken this type of position. Interpretations have gone to the ZBA. He read from page 16 of the ordinance regarding the establishment and duties of the ZBA, and the rules by which it is governed. He also read from page 18. The sections read clearly reference a duty and responsibility to interpret the ordinance and review decisions of the ordinance enforcement officer as needed. In his opinion, once the Town Center Ordinance was invalidated, the most logical next step was to consider an application under the MUD rules. He does question the appropriate process, feeling that our ordinance clearly states that ordinance interpretations are to be made by the ZBA. He recalls only one time when the Board overruled the Planning Commission. He supports commercial development in the proposed area to prevent sprawl, and feels that the applicants have worked with township officials. An appeal process will take over a year regarding the judge's decision, so he feels the applicants have every right to pursue alternatives in the meantime. He would personally feel more comfortable after reading the ordinance and all of the materials provided with sending the issue back to the ZBA. He hopes and believes they will come to the same conclusions he has reached.

Knopf believes that an interpretation is not what is being requested, but that the Planning Commission has requested a decision from the Board. She feels that the evidence has clearly established that the application is allowable and that the applicants have met the necessary requirements. She has been on the ZBA for six years, and stated that most of the issues coming before that body are dimensional questions or questions from the Zoning Administrator. She does not recall ever having been asked for this type of interpretation.

Amon called on Mr. Bzdok. He stated that Section 8.22.1 speaks about a particular piece of property. Does it apply township-wide? The same person who wrote it now works for Garfield Township. Saying that it applies township-wide is to encourage Garfield-type development. He was not at the Planning Commission meeting last week, but read the minutes and believes that an interpretation is precisely what is called for. He was prepared to read the same sections of the township ordinance that Amon read. He also came prepared to read a section of state law stating that the ZBA rules on all questions of interpretation. The outcome has enormous implications for the future of the township. The ZBA's job is to make interpretations.

Mr. Schultz directed attention to Section 5.2, and said that Mr. Bzdok incompletely quoted Section 20 of the state statute, stating again that sending the matter to the ZBA would be an "end run." He read the portion stating that appeals of SUPs or PUDs may only go to the ZBA if the ordinance so states, and asserted again that our ordinance does not include this provision. If the township attorney has said that the Board is allowed to make a determination, and if the applicant has relied on the ordinance and the state statute, if the language is clear and sending the matter to the ZBA will result only in what he feels is unnecessary delay, the Board should act. He believes that allowing the application to proceed is the only way to meet the master plan goals set forth, as the proper zoning to do so is not otherwise in place.

Mr. Petterson cited the introductory comments in the MUD ordinance regarding "encouraging flexibility." He stated that Section 8.22.1 may be poor grammar, but it is otherwise clear in meaning. The issue is that a group wishes to stop the development, and they were somewhat successful in a lawsuit pursuant to a ruling he believes is erroneous. Do we want our MUD ordinance struck down? Is it logical to say that the poor grammar creates a confusion that should delay the application? He believes the application should continue through Planning Commission view in a business-as-normal fashion, producing a recommendation for final Board action. The ordinance is tried and time-tested, and the course of action should be clear. The only confusion is that this is a high-profile situation.

Knopf is persuaded by the judge's ruling that an ordinance cannot apply to only one parcel of land. Relying on his judgment, allowing only one parcel of land to use the

MUD ordinance would be an undesirable course of action. She believes that the meaning of Section 8.22.1 is that no negative effects should accrue to properties in the defined geographical area. Dr. Johnson had grand plans for his development that ultimately failed. She will concur with Judge Power, state that the application should go forward, and has no problem making a decision based on the evidence before her.

Amon asked if PUD and MUD are the same; Christopherson replied that for purposes of the Rural Township Zoning Act they are.

Mr. Bzdok, as the opponent in the lawsuit that generated the ruling, feels that the two situations are "apples and oranges." The judge based his ruling on a lack of defined district, which exists in this case. Mudslinging is occurring. If the applicants wish to develop a mall, they should at least have the courage to stand up and say so. No appeal exists, the issue is an interpretation, which is the ZBA's responsibility.

Walter took issue with Mr. Bzdok's statements, saying he has degraded the Board in the community and attempted to "feather his cap." Walter believes he is trying to manipulate the Board in his own personal best interest. He called for the question to be voted.

Motion carried by a vote of 3 in favor (Knopf, Walter, Agruda) and 2 opposed (Amon, Hoxsie).

Walter was excused at 8:37 p.m.

D. CORRESPONDENCE

1. **E-mail dated 04/20/04 from John Navin:** Corpe read the letter for the public's benefit.

E. SUPERVISOR'S REPORT – David Amon: The DPW is under potential litigation regarding the location of the proposed septage treatment plan and is working their way through the issue. He distributed an e-mail from Mike Kroes regarding TCTV2. He sits on the Cherry Capital Cable Council board, and noted that this public access station is funded through cable TV service surcharges. The e-mail suggests using TCTV2 as a way to communicate information about Acme Township to the public. Joe Bartko, East Bay Township Supervisor currently makes a regular habit of recording programs about issues in his jurisdiction. Amon would be interested in having Mr. Kroes make a presentation to the Board about how this opportunity can be better utilized. He would also like approval from the Board to begin making televised presentations regarding certain key issues. Knopf feels it's a good vehicle for communication, but noted that Acme Township is currently the only local municipality not contributing to their annual budget. We could announce upcoming program schedules on our website. Agruda stated that some firefighters are currently taking the program production training so that they can create shows regarding fire education. The Board concurred that we should try out the opportunity.

Amon read a letter from Sandy Beckwith, Whitewater Township Supervisor, dated May 24, 2004 into the record. The letter states that her township is not interested in exploring cooperative efforts regarding water and sewer capacity at the GT Band's Whitewater Township facilities, and is not currently interested in joining the DPW. He will keep the Board updated on further developments in the water and sewer arena.

F. COUNTY COMMISSIONER'S REPORT – Larry Inman: The County is considering the creation of a farmland preservation ordinance. Inman recognized that Acme Township, through Sherrin Hood, was instrumental in the local movement. Antrim County is being asked to consider a similar ordinance. Funding is a question at this time; some state funding may be available. He is seeking Acme's input about farmland preservation, as there were many questions raised during preliminary County Commission consideration. He understands the ordinance as a means to providing preservation mechanisms for participating townships. Hoxsie stated that the Board adopted a resolution supporting the farmland preservation concept. The township has continued its involvement in the original five-township farmland preservation group. Amon noted that there is also a PDR/TDR subcommittee of the Planning

Commission that is active. He feels that the townships support a uniform ordinance between Grand Traverse and Antrim Counties, and that there is no desire to end up like Leelanau County, which has been unable to pass a county-wide millage. The current proposal would allow for each township to consider whether or not to adopt a millage on a more local level. He believes there is interest in the farming community. The five townships have requested a second grant from Rotary Charities to fund public education initiatives regarding farmland preservation benefits.

Le Su Vo, S. Lautner Road, asked why the Board is not permitting more public comment during the agenda items. Amon stated that unless an issue is subject to public hearing, comment is reserved for the public comments periods provided for in the agenda at the beginning and end of each Board meeting. Christopherson confirmed this statement.

G. TOWNSHIP COUNSEL'S REPORT – Jim Christopherson:

1. **Proposed Final Order – CCAT Lawsuit:** Christopherson provided a newer draft than the one included in the information packets. If there are questions about the Order, they can be addressed in closed session. The Board decided to go into closed session at the conclusion of the regular agenda. A week from Friday there will be a settlement conference unless this Order is entered earlier. One or two township representatives should attend, he suggested Amon and Knopf. Any decisions made at the conference would still have to be ratified by the full Board. If the order is entered, the Circuit Court-level case is over and an appeal can begin if desired.
2. **K-Mart Settlement Agreement:** The agreement has been signed by Amon, the settlement amount being for more than the minimum the Board authorized several months ago.

If anyone has comments about the items Christopherson placed on the Consent Calendar, they need to call him this week before he responds. On Monday, May 24 we received a favorable ruling in the Johnson lawsuit, but there are other elements yet to be decided, so settlement conference and trial dates should remain on people's calendars. The judge ruled that there was substantial and competent evidence for the decision not to allow a 205,000 sq. ft. retail space as proposed within Acme Village. Other issues outstanding revolve around equal treatment, takings and due process.

H. SHERIFF'S REPRESENTATIVE REPORT – Deputy Matt McKinley: There were 83 total calls, 14 traffic accidents, some larcenies and frauds, and some suspended license arrests. He has been tracking what he does all day. He handled 21 of the complaints and assisted on another 7, and addressed most of the accidents. He spend 48 enforcement hours during 3 weeks and made 82 traffic stops. He wrote 21 tickets and issued 66 warnings. He has an office phone with number 938-2583 for non-emergency complaints, which has an answering machine. Agruda asked about a recent arrest regarding a man walking down the road carrying a radio; this arrest occurred in East Bay Township. They did find half a pound of marijuana in a car and another 6 pounds at a residence. Amon stated that Deputy McKinley comes into the office nearly every day and seems to be enjoying his assignment so far.

I. METRO FIRE REPORT – Randy Agruda: On June 7, 7:00 p.m. they will hold a graduation ceremony for Firefighter I and II students. None are from Acme Township this time. The ceremony will be at the East Bay Township Hall, and he hopes we will show our support for those people who devote much of their personal time to the cause. Acme is always looking for more volunteer firefighters. Metro Fire is still trying to establish a unified funding district; current millages expire in 2005 and how to continue to provide quality service is an issue. East Bay and Garfield currently have assessment districts, but Acme does not. Were we to form one, a citizens' group to investigate the need and provide public support would be an ideal approach. Metro Fire is trying to reduce emergency response times to a maximum of 4 minutes. It can take some time for the crews to get to the fire station from wherever they may be, grab equipment and get it to an emergency scene. Amon suggested that DDA funding might also help in this arena. He is certain that Metro Fire is already thinking about infrastructure and water for fire suppression in relation to the MUD application currently in process. Sometimes they can tap hydrants near Turtle Creek. The annual spaghetti dinner at the Masonic Lodge was a success, raising about \$1,200 for the Department (they split the proceeds with the lodge). Agruda offered thanks to everyone who attended.

- J. ENGINEER'S REPORT – Jim Minster, Gourdie Fraser Associates:** Not present due to illness. He sent an e-mail message to Amon saying that the first phase of the relief sewer is pretty much complete. He has discussed placement of trees for screening of a private park on Scenic Hills Drive to replace some removed during construction. Approximately \$43,000 is being held until total completion. Regarding a second sewer project, project evaluation is complete and Minster plans to meet with Amon to discuss the proposal in the near future. The second project would re-route some flows along US 31. The current and proposed projects are being funded through user and system hook-up fees. About 7,000 benefits could potentially be used within the existing sewer district; about 2,500 are currently in use. The break-even point to pay off the system construction and operating costs, treatment plant upgrades and purchase of new property for a new treatment plant will be reached when 1,000 more benefits are sold. So, the current question is how to best utilize the new sections of forcemain that have been installed. Existing gravity lines have been freed by the new lines; their capacity could be used to serve existing or new areas in more efficient ways.
- 1. Approve Progress Payment #8 to Porath Contractors in the amount of \$38,059.20 for work performed on relief sewer project:**

Motion by Hoxsie, support by Agruda to approve Progress Payment #8 from county sewer bond funds. Motion carried by unanimous roll call vote (Walter previously excused.)
- K. ROAD COMMISSION REPORT – Chuck Walter:** Walter previously excused.
- L. BUILDINGS AND GROUNDS REPORT – Tom Henkel:** None; on vacation this week
- M. OFFICE & PLANNING COORDINATOR'S REPORT – Sharon Corpe:** Corpe had little to report. Feeding off of Agruda's report, she mentioned a desire to coordinate a meeting for owners of property within Railway Industrial Park regarding creation of a central water storage system. Agruda suggested that Corpe coordinate with Chief Parker. Amon suggested including the Tribe to see if they have interest in providing water to the development. Also, she recently attended a meeting hosted by NWMCOG regarding a set of data available to the public regarding quality of life indicators. The most interesting to her was the education indicator.
- N. ZONING ADMINISTRATOR'S REPORT – John Hull:** None
- O. PUBLIC HEARINGS:** None
- P. NEW BUSINESS**
- 1. Grand Traverse Resort & Spa**
 - a) Consider final action regarding SUP Amendment Application #2004-3P made by Grand Traverse Resort and Spa for Special Use Permit/ Site Plan Amendment to allow for the development of a new boat dock and operation of a water sports equipment rental business on said dock on the waterfront at The Shores Condominiums, on property located off Shores Beach Road:** Agruda noted that Russ Clark gave a PowerPoint presentation and mentioned some mowing and sand installation that would take place. He asked if permits for such have already been received, as it took a long time for a similar township permit for Bayside Park to come through. He also asked if there would be lights at the end of the 750' dock; as a boater he'd be upset if he ran into it. John Corriveau, Director of Recreation for the Resort stated that the dock will be the same length as currently, and no lighting is planned. Nobody is supposed to pass within 200' of the dock. Knopf concurred with Agruda's concern. Mr. Corriveau noted that the dock has only been installed to 600', as water levels are up. They could light the dock with some sort of beacon if needed. Agruda feels it's important for boaters unfamiliar with the waters. Hoxsie said he understood the concern, but that he doesn't feel it will be a major issue. Knopf stated that the pontoon boats already in the water do stick out.

Bill Boltres, Scenic Hills Drive, asked why the township is considering something he views as socially unacceptable. He asserts that the state is trying to establish more controls over jet skis. Why would the Tribe want to get involved in this in a residential area? Herb Smith, Planning Commission Chariman, stated that the township's jurisdiction stops at the high water mark. The DEQ and Army Corps of Engineers takes over from there. The Planning Commission had similar concerns, but had to recognize its limitations. Agruda asked if there would be a gas pump on the dock; Hoxsie reported that a portable gas tank will be taken out along the dock manually.

Hoxsie had several comments about the proposed SUP document. It refers to some of the supporting documentation, which he feels important be attached to the permit. Some things in that information are not covered in the permit directly in another fashion. On page 2, item 3, there's a typographic error – a phrase is repeated twice. He would also suggest adding the phrase with "for use by Resort guests." This concession is in the Resort's application materials and is very important, and is mentioned in their May 3 response to questions. Agruda asked if condominium owners can moor in the slips; Mr. Corriveau stated that they cannot, but can moor their boats in the water. Technically a DEQ permit is required. Bill Rastetter, Tribal Counsel feels that Hoxsie's point was covered earlier in the SUP with the statement that all representations made at meetings are binding, but Hoxsie feels that the specific statement is important for officials reconsidering the permit in 25 years when the current bottomlands lease period expires.

Motion by Knopf, support by Hoxsie to approve Application #2004-3P as amended. Motion carried by a vote of 3 in favor (Amon, Hoxsie, Knopf), 1 opposed (Agruda) and 1 absent (Walter.)

- b) **Consider adoption of resolution in support of application for 3.7 acre Grand Traverse Bay Bottomlands Lease from DEQ/Army Corps of Engineers:** Mr. Corriveau stated that the bottomlands lease to be obtained from the DEQ will allow the Resort to lease the bottomlands from the state for use by their dock. For the application to proceed, local municipality approval is required. As part of the final permit conditions, the Resort and the Township have mutually agreed to very minimal beach grooming. The SUP just approved includes these limitations. The bottomlands lease and beach grooming permit have been held up pending the SUP approval.

Motion by Hoxsie, support by Knopf to approve Resolution #R2004-07. Motion carried by a vote of 3 in favor (Amon, Hoxsie, Knopf), 1 opposed (Agruda) and 1 absent (Walter.)

3. **Discuss special budget meeting schedule:** Thursday, June 17 at 7:00 p.m. was selected for the first meeting. Monday, June 21 at 7:00 p.m. was chosen for the second meeting. Tuesday, June 29 at 7:00 p.m. was chosen for the third, and hopefully adoption, meeting.
4. **Consider contract for annual audit with Tobin & Co.:** Good job, know us, lots of years.

Motion by Hoxsie, support by Knopf to accept contract as presented. Motion carried by unanimous roll call vote (Walter absent.)

Q. OLD BUSINESS

1. **Re-Evaluation of Ordinance #88-5, Schedule of Review Fees:** Corpe briefly reviewed the materials and methodology used to come up with actual costs for SUP reviews during 2002-03. Amon noted that one idea was to collect a retainer up front, but that Walter was opposed. Hoxsie likes Garfield's language regarding additional fees. He also felt that the chart is eye-opening, and really points to a need for an in-house planner. With one item alone we could have paid the annual salary for such an individual. Knopf concurred, stating that a subcommittee should be formed to look

into hiring a planner. Hoxsie suggested waiting until after the budget meetings. Knopf feels that it's important to figure the position into salaries for the year, but agreed that the search could begin in July.

Motion by Knopf, support by Agruda to continue the meeting until agenda is completed. Motion carried by unanimous roll call vote (Walter absent).

2. **Continued discussion regarding annual renewal premium for township liability insurance:** Knopf has not received needed information from Burnham & Flowers.
3. **Receive and File draft unapproved minutes of the May 24, 2004 Planning Commission meeting and Approval of Minutes from the May 4, 2004 regular Board meeting:** Amon asked that the minutes be pulled from the Consent Calendar. From the Board minutes he read from page 2, near the bottom in the paragraph beginning "Amon stated....", and from the draft Planning Commission minutes from May 24, page 8 stating "Steve Hayward, planner for the applicant...." He stated that the intent of his statement in the May 4 minutes was not to take a formal board action of forwarding an application from the Board to the Commission, but to announce that the application had been received and was being considered. Knopf believed that the application was received by Amon and that he had it at the meeting. Corpe stated that the application was handed to herself and Herb Smith and given directly to Russ Clark the next day. Amon would like the word "forwarded" removed. Knopf felt it was an accurate reflection of the circumstance. Hoxsie suggested alternative language, "...has been received and forwarded by staff to a consulting planner...."

Motion by Hoxsie, support by Agruda to approve the May 4, 2004 Board meeting minutes as amended. Motion carried unanimously.

R. PUBLIC COMMENT/OTHER BUSINESS THAT MAY COME BEFORE THE BOARD:

Rachelle Babcock, Bartlett Road, asked about picking a subcommittee to come up with a planner. She asked if this was for a consultant; the Board replied that they would be seeking a replacement for Sherrin Hood. She asked if this meant that the township was without a planner during the town center considerations; the Board replied that they used Russ Clark as a planning Consultant. He is also being used as a consultant for the MUD project. Gourdie Fraser is also used for planning consulting services. The consultants would finish out their assigned projects.

Herb Smith, Planning Commission Chair stated that some time ago, the Planning Commission submitted a list of qualifications for an in-house planner that he hopes will be used in the new process. What has happened during the past year has been an expensive learning process. When he attended the Citizen Planner course, one recommendation was that nobody should meet with a developer except at a regular meeting. A lot of the fees that have been incurred are because the study committee was meeting with the developer to negotiate an acceptable plan. The consulting planner and sometimes Christopherson were at these meetings. We need to firm up our procedures for meeting with developers. There may be occasions when an in-house planner may not have the resources to do an adequate job, but most of the time the in-house person should be sufficient. In the future we should have submissions that are ready for swift consideration rather than multiple meetings. Agruda concurred.

Amon asked if the process for a public hearing regarding fee schedule amendment should commence. Corpe said this would be premature, because the public hearing must be duly published prior to the meeting, and as part of the publication the text of the proposed amendment must be included. She will have a draft fee schedule ready for Board review at one of the upcoming budget meetings. Agruda encouraged inclusion of Garfield Township's fee schedule language stating that if actual costs for services exceed the stated minimums by 120%, actual costs will be paid by the applicant. Amon asked to what extent plan review costs should be placed on a developer's shoulders. Corpe stated that her research, including a statement on how to approach this question prepared by MSU Extension, indicates that this is largely a discretionary matter. The Board must decide to what extent general public funds should support the process and to what extent a developer should pay for his own request. Knopf asked whether or not passing fees through to a developer on the order of the costs

expended by the township to date for consulting services regarding the Town Center development (over \$45,000) would be legal. Christopherson would want to research this. Hoxsie said that if a project of extraordinary scope is presented and we don't have the in-house expertise to handle it, we have no choice but to hire the help we need to address the application. He favors the clause saying that once we get past a certain point an applicant they has to assume the actual costs Christopherson says the definition of "costs" becomes very important.

Motion by Knopf, support by Hoxsie to enter Closed Session to discuss Final Order/Settlement Meeting regarding CCAT Lawsuit. Motion carried by unanimous roll call vote (Walter absent.)

Public meeting recessed at 10: 23 p.m.

Public meeting reconvened at 10:43 p.m.

Motion by Knopf, support by Hoxsie to approve order disposing of remainder of CCAT lawsuit in light of relief granted, allowing for any changes that don't substantively change the intent of the order. Motion carried by unanimous roll call vote (Walter absent.)

Meeting adjourned at 10:45 p.m.