



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

Meeting called to Order with the Pledge of Allegiance at 7:00 PM

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

INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

A. CONSENT CALENDAR:

Motion by Hoxsie, support by Knopf to approve the Consent Calendar as printed, including:

RECEIVE AND FILE:

1. Treasurer's Report through July 31, 2004
2. Clerk's Report through August 31, 2004
3. Draft unapproved minutes of the August 18, 2004 Waterfront Recreation Facility Task Force

ACTION:

4. Approval of minutes of the August 10, 17, 23, 2004, Board Meetings.
5. Approval of Accounts Payable in the amount of \$109,625.26 through August 27, 2004, including \$14,522.00 Annual Liability Insurance and \$47,086.80 County Operating and Maintenance expense

Motion carried unanimously.

B. LIMITED PUBLIC COMMENT:

Amon stated that there are several items on this evening's agenda. He will welcome public comment that has not been heard previously at the many public meetings that have been held regarding the proposed Village at Grand Traverse. He noted that a letter was received from MLUI dated 08/31/04 and a letter from Chris Bzdok asking that certain investigations be made. The former has been provided to each Board member, the latter has been referred to legal counsel. Next to the agendas near the door he placed copies of a legal opinion regarding the ongoing responsibilities of outgoing "lame duck" Boards.

Robert Wick, 226 Midtown Drive, Traverse City is serving as President of the TART Board of Directors. He thanked Acme for its partnership with TART over the years. He referred to a letter from Bob Otwell to Dave Amon dated August 20 asking for a contribution for matching funds for federal monies being used to pave the trail up Bunker Hill Road.

C. CORRESPONDENCE: None

D. SUPERVISOR'S REPORT - David Amon: Amon distributed a copy of the letter to which Mr. Wick referred, saying that he plans to address the requested contribution at the October meeting. A public hearing regarding the proposed DDA will be held on Thursday, September 9. A discussion of the nature of DDAs and their impact on people both within and outside of the district will occur. Also coming up at the end of September will be a preliminary report from MDOT regarding their study of the M-72/US 31 intersection. Amon mentioned that earlier this year a re-survey of the rights-of-way was made to ascertain whether the roadway was fully within the right-of-way or not. MDOT has hired an engineering firm to come up with ideas for how to redesign the intersection to improve safety and traffic flow. He also announced that there will be a picnic for the entire community.

- E. ASSESSOR'S REPORT – Dawn Plude:** Plude is speaking this evening about the GT Resort's appeal of a proposed re-assessment of the value of three of their properties: the Tower and the two water well properties. Plude set an assessment in February prior to having received their annual information submission. This is customary; their year-end figures are rarely available that early in the season so the assessment is often adjusted during Board of Review. This year negotiations began in March during the Board of Review and have been ongoing. The Resort has appealed the reassessment to the Tax Tribunal. Plude, Christopherson and Garry Zachritz have been representing the township, working with Bill Calcutt and Jack Burns representing the Resort. Plude has provided a memo and a spreadsheet representing a near agreement between both sides; the figures currently proposed by the township and Resort differ by about \$2 million. While total agreement has not been reached, it is important to realize that it would cost upwards of \$100,000 to continue to dispute the assessment through the Tribunal. One estimate came in at over \$200,000. Plude is seeking direction from the Board as to whether to settle or proceed with a Tribunal proceeding. Some might view the compromise as inappropriate.

Walter asked what the bottom-line change is between Plude's original assessment (\$17.5 million) and the current proposed settlement (\$11.8 million). The assessment set at Board of Review was not supported by complete data. Walter asked how much tax revenue the township might lose by concluding a settlement. Hoxsie rephrased to ask how much revenue might be gained by spending several hundred thousand to fight; Plude stated that it would take 50-100 years to recoup the costs of the fight. Her memo stated that the annual increase in revenue to the township would be less than \$2,000 per year. She also noted that the other taxing authorities who would reap most of the benefit would be under no obligation to assist with the costs of pursuing the Tribunal case.

Amon read from the third paragraph of Plude's memo, noting that even with settlement there would be a \$5 million increase in the taxable value of the three properties this year. He also agreed that the county and school system rarely have been willing to share the financial burdens of litigation.

Motion by Knopf, support by Agruda to settle the assessment of the three Resort properties at a valuation of \$11,821,800.

Hoxsie thanked Plude and everyone else who worked on this issue for their efforts.

Motion carried by unanimous roll call vote.

- F. COUNTY COMMISSIONER'S REPORT – Larry Inman:** Inman stated that he has talked to Amon several times about trying to attend the DDA meeting on September 9, and regrets that he must be at a different meeting because he will chair the meeting. A County Board meeting is coming up on Wednesday, September 29 at 12:30 p.m.; he invited the Board to attend to inform the County about the DDAs goals and proposed operations. Amon stated that he would check with Steve Lasher, the township's consultant in this matter, to see if he would be able to attend. Inman stated that an open house was held to discuss the space deficit at the District Court. There has been discussion about connecting several nearby former churches owned by the County which was favorably received at the meeting, so plans are proceeding to make this happen. The Blue Ribbon Committee evaluating the jail overcrowding situation has extended their analysis period to the end of the year, as they are still reviewing quite a few alternatives. The County Board is beginning its 2005 budget process with evening sessions with department heads next Monday-Wednesday. They expect to lose \$1.3 million in revenue sharing but plan to collect County taxes in July rather than December next year to create an artificial pool of funds to assist in covering the lost cash flow. They will be fostering some discussions about ways that local governments are funded across the nation looking for other creative solutions.
- G. TOWNSHIP COUNSEL'S REPORT – Jim Christopherson:** Christopherson asked for Board direction about PDR ordinances. An ordinance has been adopted for farmland preservation, but an additional ordinance for open space preservation is being proposed. Amon has suggested referring this new ordinance to the Open Space Preservation Committee previously created by the Board. Knopf asked for clarification about the issue. Walter noted

that several months ago the Board established a land preservation fund in its budget but voted not to contribute \$800 in public funds to this account. Amon stated that the effort stalled earlier while the Board investigated whether or not the township could operate such a fund, an issue subsequently resolved. Walter feels that the fund should remain inactive at this time and that the incoming Board should be left the choice of how, if or when to proceed based on how they perceive public interest. Hoxsie asked the current status of the project; Christopherson stated that he has prepared a draft and Corpe has provided some initial feedback. Hoxsie feels that it should go to the Preservation Fund Committee for review since they would ultimately work with the ordinance, coming back to the Board with their recommendations. Walter asked who authorized the draft to be prepared; Christopherson stated that he understood it to be a directive from a previous recent Board meeting. Knopf concurred with Hoxsie. The Board reached consensus for Christopherson to work with the committee.

Christopherson is also seeking input regarding Mr. Bzdok's letter seeking an investigation into some statements made by Mr. Hayward at the June 7, 2004 Planning Commission meeting. Christopherson noted that he has specifically drafted into the proposed Village at Grand Traverse special use permit language a statement that the applicant may not rely on any representations made by individuals associated with the township if they are not incorporated in the SUP. He has not yet embarked on an investigation, as he has not received clear direction to do so. Walter does not believe that such a statement would prevent a lawsuit. He noted that nothing is legal or binding unless it comes from the Board as a whole, so he is unconcerned about performing an investigation. Christopherson stated that he has not reviewed the allegations made, but there is precedent to indicate that representations made by an individual Board member might pose a liability to the township. Walter stated that he is still unconcerned by the issue. Hoxsie asked if it makes a difference or not if an individual made an inappropriate promise in the past. Christopherson stated that if someone said something quite out of line and applicant relied on this assertion, the township may have liability. Knopf asked what would be involved in an investigation; Christopherson replied that he would interview Mr. Hayward and various other individuals, including Board members, to see who said what. It would be similar to conducting an inquiry for a lawsuit. Knopf did not believe the allegation is worth pursuing. Hoxsie would favor an investigation if there was a possibility that it would impact the eventual outcome of the application. Agruda agreed with Hoxsie on the whole. Amon stated a concern that Mr. Bzdok cited two specific statements from the meeting, but did not include any of the discussion preceding or following those statements that would provide context. He believes it creates a perception of guilt when no wrongdoing occurred, and that to create a true picture a complete transcription of every single meeting regarding the issue would be required. He would not favor expending township funds in this way. Hoxsie and Knopf agreed with this last statement. The Board reached consensus to not perform the requested investigation.

- H. **SHERIFF'S REPRESENTATIVE REPORT – Deputy Matt McKinley:** Deputy McKinley stated that there were 111 requests for service during August, 33 of which were criminal in nature. 59 tickets were written. He personally made 4 arrests. His car now has a trailer hitch so the radar speed trailer will be moving around more often.

- I. **METRO FIRE REPORT – Randy Agruda:** The steering committee continues to look for strategic sites for new battalion outstations. Acme's current location is not deemed very good; farther north on US 31 would be preferable. East Bay Township received a land donation from a farmer in an excellent place for a new station. Some budget meetings for the state Firefighters Training Council are occurring. They only have funding for one more year for this body, which sets standards and provides certifications for firefighters statewide. They are working to lobby for passage of two State Senate bills that would provide funding for the next 10-20 years. He will be speaking personally at the next hearing at Senator Jason Allen's request. They are losing firefighters at a rapid rate due to the demands of regular life and ongoing training and recertification. The township now has a full-time firefighter from 8-5 Monday-Friday which is making a significant positive difference in response times. To meet state guidelines, they are supposed to have two men inside and two outside of a burning structure, but sometimes they have to work with fewer men. Local strategic planning is seeking to provide for the next 20 years of firefighting needs. It would also be impossible for Acme to fund alone the type of equipment that we are able to benefit from through the Metro

Fire consortium. The current fire millages expire next year, and the township's safety will depend on how negotiations go next year. There is no actual requirement that a township provide a fire service, and if funding from Acme is not adequate, Metro Fire could drop the township from its service. Over the next year there will be discussion about possible formation of a Metro-wide Fire District, and perhaps new millages.

Walter commented that had we not had a firefighter stationed here for a run a few weeks ago, a woman would have died because the response time would have been too slow. The salary is well-worth the expense.

J. ENGINEER'S REPORT – Jim Minster, Gourdie Fraser Associates:

- 1. Discussion of remaining elements to complete sewer system upgrade:** Minster gave a PowerPoint presentation, an electronic copy of which is available through the township and paper copies for which were distributed to the Board. Prior to beginning the presentation, Minster noted that he now feels it would be justified to release some funds being withheld from the relief sewer contractors pending a payment from their insurance company for a sewage release that occurred during construction. After this payment, funds equal to the amount of the expected insurance settlement will still be on hold until the insurance payment comes.

Motion by Hoxsie, support by Walter to approve Progress Payment #10 to Porath Construction in the amount of \$4,940.06 from County bond funds. Motion carried by unanimous roll call vote.

Minster stated that Acme has 6 sewer service districts based on the locations of various lift stations. Some lift stations handle flows from both their districts and other district lift stations as the flow moves towards the regional treatment plant. LochenHeath is somewhat separate, as it is currently a self-contained system with an on-site drainfield owned by the township and operated by the DPW. It might someday be connected to the regional sanitary sewer system. Minster explained how flows from the Deepwater Point area compound through a series of lift stations to the #1 station at the bottom of Bunker Hill Road. One district serves only The Shores, and another just Arrowhead Estates. One serves Orchard Shores, but is remote enough that it is unlikely it will ever connect to the regional system. One serves the bulk of the Resort through a lift station near the Down Factory Outlet. There is a southern area that is residential but does not have piping at this time (Wellington Farms) and faces significant topographical challenges to line extensions.

An upgrade was just completed to relieve congestion in lines running from the #1 pump station to East Bay by running a new line to a different East Bay pump station. Acme contracts for the ability to run a certain amount of flow through East Bay to the regional treatment plant, and in return pays a certain portion of East Bay lift station maintenance and upgrade costs.

Figures for how much sewage flow might be generated by Acme and other townships according to zoning were compiled to calculate the need for treatment plant expansion, upgrades and new treatment plant construction.

Minster turned to a discussion of the township's current sewage debt commitments and when they will be paid off (between 2007 and 2023). The debt due to retire in 2023 is \$2.245 million bonded to cover the recent relief sewer line construction, plus a remaining portion of the project that needs to move ahead. Some of the debt is only carried by certain special assessment districts where those debts were incurred. Some of the payments are variable based on how much sewage flow leaves the township. Overall, County debt service responsibilities are shared by four townships (Acme, East Bay, Garfield, Elmwood) and the City of Traverse City.

In 2004 the township will owe approximately \$496,335 total for its share. One way to meet this expense is through the fee for new hookups to the system, currently \$4,200 for Acme Township. There are also monthly user fees. At the current time, the township is using 2,400 benefits, and new benefit sales have been flat for the past

several years. To meet this year's debt service payments, Acme needs to sell about 73 more benefits this year.

There is about \$1.1 million dollars on hand to spend on solving a current flow issue between M-72 and Bunker Hill Road. Plans call for upgrading an older pump station and redirecting some existing flows to make new capacity available in the upgraded pump in areas where it is needed. Currently, the line in question can serve another 400 homes but expected need is up to 1,500 homes. Upgrade plans also include installation of a T and some valves that would enable the redirection of additional flows in the future without major new reconstruction.

Knopf asked when the new phase of construction would begin. Minster stated if the Board gives its approval, construction could begin next spring. Knopf asked when East Bay might ask for Acme cost sharing in additional pump station upgrades. Minster stated that upgrades were just performed within the past two years and have an expected lifespan of 20 years, so he would anticipate 18 years. Predicting flows can be tricky; agricultural land could become subject to a conservation easement and never be developed and require service, or other areas could develop more densely than expected and need more service.

Amon asked for an explanation of how the bond structure works. Minster stated that all of the Bonds in which Acme participates have been sold through the County to obtain a better bond rating and interest rate. The most recent two were in the 4% neighborhood.

Knopf asked what the next step would be. Minster stated that if the Board agrees, his firm will submit a detailed proposal. If accepted, the project can be bid and a contractor selected over the winter so as to be ready to work in the spring. Minster has a proposal prepared which can be considered and discussed at the October meeting. The Board asked that he proceed in this fashion.

- K. DPW Annual Update – Chris Buday:** Mr. Buday is the DPW director. He found Minster's presentation quite thorough, and he agrees that the system must be maintained on an ongoing basis. His department is responsible for that maintenance, and for billing for the services provided to individual properties. He has provided the proposed budget for 2005, which is similar to the current year budget. The proposed septage treatment plant is now under construction. Upgrades to the existing water treatment facility have been more successful than anticipated, with nitrates and phosphorous in discharged water being nearly undetectable. Projected revenues and expenditures are set forth in the budget materials he provided (included and incorporated by reference.) Amon asked Hoxsie for the current Sewer Fund balance, which was \$667,903 as of July 31, 2004. This does not include the separate Deepwater Point Fund. Mr. Buday stated that revenues are in line with the amounts budgeted. Amon stated that the sale of new benefits, for whatever type of purpose, are crucial. Acme is responsible for debt payments regardless of whether or not adequate revenues are generated. Other alternatives include increased user fees or a need to subsidize the payments from the General Fund. Mr. Buday concurred.
- L. ROAD COMMISSION REPORT – Chuck Walter:** Nothing of note to report. A contract for TART extension is moving forward rapidly.
- M. BUILDINGS AND GROUNDS REPORT – Tom Henkel:** Henkel is on his chief annual vacation.
- N. OFFICE & PLANNING COORDINATOR'S REPORT – Sharon Corpe:** Corpe reported that she has begun purchasing the office equipment authorized in the budget, and has received the two new laptop computers and three new printers. The projector remains to be purchased, and she is right on target with the allotted budget. Also, today for the first time she loaded an enhanced version of the meeting agenda containing links to all of the materials contained in the packets given to the Board. It will be her goal to post all of the meeting packets as links to the agendas, broken into portions for each agenda item so that people may pick and choose the sections they wish to review.

O. ZONING ADMINISTRATOR'S REPORT – John Hull: Hull was unable to come to the office today, and asked Corpe to mention that at the upcoming ZBA meeting on September 16 one of the items for consideration is Chris Bzdok's request for an interpretation of Section 8.22 of the zoning ordinance. Walter asked if the interpretation request sets a precedent. Christopherson stated that he asked both sides of the debate to provide their arguments for presentation to the ZBA.

P. PUBLIC HEARINGS: None

Q. NEW BUSINESS:

1. **Consider final action regarding SUP Application #2004-11P by The Village at Grand Traverse for Special Use Permit approval for a Mixed Use Planned Development on 182 acres of land commonly referred to as "The Rollert Property" located on the south side of M-72, to the east of the Williamsburg Conference Center (formerly the GKC theater) and to the west of Lautner Road, currently zoned R-3, Urban Residential:** Amon noted that quorum of the Planning Commission membership is present in the room this evening. He further stated that the Board will receive an abbreviated version of the presentation that has been made to the Planning Commission by Russ Clark, the township's planning consultant in this matter and Mr. Steve Hayward representing the applicants. His recommendations and those of the Planning Commission in forwarding the matter to the Board will be enumerated, and the Board will proceed with its deliberations.

Mr. Hayward began with his abbreviated PowerPoint presentation. Clark followed with a presentation of his recommendations to the Planning Commission. He noted that the Commission added its own recommendations, which are reflected in the proposed SUP prepared by Christopherson. He finished with a picture of the conceptual site plan as currently recommended for approval and a verbal listing of some of the Commission recommendations which include, in part, redesign of the western residential area along New Urbanist lines and water quality monitoring.

Walter asked Clark if, in his opinion, the applicants have met all of the requirements of the Zoning Ordinance for the application. Clark stated that it does meet all requirements in his opinion. Knopf asked if the parking recommendations represent a reduction from the parking requirements set forth in the Ordinance, and Clark responded that they do. She questioned the condition that at site plan approval the Commission would have the ability to request that parking ratios be further reduced, as they are already below the township's customary minimums. Clark stated that there would be discussion at site plan review, and that one idea would be that some areas slated for pavement might at least initially be covered in reinforced turfing until the turf becomes worn-out, indicating that additional pavement is necessary.

Clark stated that at least 12 items in the Master Plan have been identified that speak directly to and have been represented within this application. He read aloud the bullet-pointed list of these items he provided in writing. Amon asked Corpe for the status of the mandated 5-year Master Plan review. Corpe replied that the entire text has been reviewed, and that at this month's meeting the Commission will review the changes they have made to date. The overall process is approximately half completed.

Amon asked Clark if there are other issues not yet mentioned this evening that he feels the Board should consider. He stated that his intent was to ask a question along the lines of Walter's previous question. Clark responded that there are still remaining concerns about the project overall, but that according to the ordinance it is appropriate to consider them during the detailed site plan review phase(s) of the application.

Amon asked the Board if they had any questions for Mr. Hayward or for Clark. Hoxsie stated that at the Planning Commission level there was some concern about project phasing as proposed, although no firm recommendation was made. He

wonders if the Board should consider this issue. Walter believes that for a project of the proposed magnitude, the applicants need to be free to build as and when the market dictates. He is confident that they wouldn't build a surfeit of retail space when they don't have contracts in hand to fill it. He would not support creating conditions for certain percentages of different types of development within each phase, feeling that the Board is not in a position to make this sort of judgment.

Amon asked what would happen when site plan application is made for the first phase of construction. Clark stated that the list of special conditions would have to be met. Walter added that this would only be true to the extent that the Board accepts the list of the Commissions approval. He objects to several of the requirements. For instance, there is a requirement that a road access be provided to the Gokey property to the south. Mr. Gokey has adamantly opposed the project, so he believes it would be inappropriate to require the applicant to set aside land for a road connection that may not even be desired by the other landowner. Hoxsie noted that in the future that land may be owned by someone else who would be more amenable to the connection, and that it may be desired to prevent overloading surrounding public roads. Knopf stated that the requirement is for easements only and not for road development; Walter stated that the road development would be required at some point and he views it as a takings. Christopherson argued that it is not necessarily a taking. Knopf has no problem with provision of an easement as long as the cost responsibilities are shared. Mr. Hayward stated that as long as it is an easement that is required and it is possible for the applicants to work out joint maintenance agreements with neighboring properties the applicant might be amenable. Also, they don't currently show an access road across the south border of the property because they have committed to a no-construction buffer in this area. It seems to them to make absolute sense to provide the connection to Acme Village if DEQ will permit the connection over the wetlands, but the applicant is less confident that provisions for connections to the south make sense at this time. Mr. Hayward suggested that an alternative connection route to Mt. Hope Road would be through the property owned by The Williamsburg and other businesses along M-72 to the west of the subject property to an area closer to Hope Village if the intermediate property owners agreed. DEQ might be more amenable. Any such road would be narrow and winding in nature, clearly constructed as a low-speed local connection rather than a widely-known M-72 bypass. Amon asked Christopherson and Clark if the proposed SUP wording is flexible enough to allow for such an option. Clark stated that the requirement is only for a connection to Acme Village subject to DEQ approval, with no particular configuration required.

Knopf stated that she has two documents before her, one a "Finding of Facts" which is novel to the Board, and she asked if there would be discussion about this document. Amon stated that this would not be absolutely necessary; the document was intended as an executive summary similar to that provided for the recent Acme Village MUD amendment application. Amon and Clark stated that it attempts to condense an originally 23-page document in to a page and a half. Knopf asked if the Finding of Fact was meant to substitute for the SUP document. Clark replied that it is not, that the findings are just the highlights of the proceedings and recommendations of the Planning Commission.

Knopf also noted an additional resolution on the table. Christopherson stated that this document was provided by the applicants and that after discussion, he and Clark do not recommend that the Board consider its adoption. They feel that it is drafted from the applicant's perspective and contains some items that are not in the township's best interest. Knopf stated that she doesn't support Christopherson's proposed SUP draft. He responded that the latter is drafted from the township's point of view and the other from the applicant's perspective. He can certainly work on further drafts. Hoxsie asked Knopf about her objections to the proposed SUP document. She stated that the first paragraph gives her concern and is unprecedented in any other SUP we have adopted. Christopherson agreed that it is new language, and stated that he inserted the language to protect the township from the allegations the applicant has made that individuals associated with the township have made promises not represented in the document. It is there to protect the township in case of a lawsuit

that might be brought by the applicant to seek to enforce such alleged promises and to eliminate any possible misunderstanding. If the Board wishes to remove this language it is their prerogative, but in his opinion it opens the township up to attack from the applicants. The SUP Christopherson has provided is his proposed draft of the actual SUP language in entirety, created after consultation with Clark and Corpe to assure that all conditions recommended by the Planning Commission were incorporated.

Amon believes there are two key issues: what conditions will be placed on the SUP approval and what will be required at a site plan approval phase, and whether or not they are appropriate to the situation. He is concerned that the ultimate document reflect the recommendations of the Planning Commission, and asked what other issues might exist at the Board level with those recommendations. Secondly, he believes that the drafting of the document needs to be addressed. The SUP will be the legally-binding document and must incorporate all necessary aspects of the deliberations and the applicant's representations throughout the process. Hoxsie asked if Amon is recommending that the planning reports be cross-referenced to the SUP to ensure accuracy; Amon does believe this would be a good second step, but first the question of whether or not the Board will adopt some or all of the Commission's recommendations must be resolved. Many issues have been raised from many different directions throughout the process, and he wants to be sure they are all addressed. Walter, Knopf and Agruda all stated that Clark has assured the Board that they have and that Amon is being needlessly redundant. Agruda stated that this type of project has a long history behind it, including previous possible developers who couldn't deliver a palatable plan. It's impossible to satisfy everyone. He believes the Planning Commission has worked hard and that it's time to move forward. Amon noted that it's important to do a good job during the first phase of the process to ensure a good foundation for step 2. Agruda stated, and Clark agreed, that the key detailed investigation happens at step 2, that this is the way the ordinance was drafted. The concept seems to have been to give a proposed developer a reasonable assurance of eventual success through a preliminary approval prior to spending a large amount of money on the technically detailed studies and reports.

Mr. Kenneth Petterson, legal counsel for the applicants, noted that the Board materials for this evening include a proposed resolution from his clients. He stated an understanding that it is never customary for the Board to approve the specific SUP language at the meeting, but to leave both parties to work out the details in the spirit of the approval after the meeting. Christopherson stated that the SUP has been drafted, and that he does not believe it a good idea to allow the applicant to draft the agreement. He might be willing to entertain some comment. Mr. Petterson stated that they are seeking input into the process of preparing the final SUP document pursuant to an approval this evening. Christopherson stated that the statement that SUP document approval at the meeting is uncommon is incorrect, noting that just last month the Board approved the LochenHeath SUP language at the meeting. However, he recognizes that it is within the Board's discretion to adopt a different procedure in a given case. Amon believes that the additional level of interest and concern in this matter warrants adoption of the specific SUP language as a two-step process. Knopf understands this evening to be about approving the conceptual plan, and asked if this is theoretical only and if they are adopting only Clark's report but none of the other documents. Mr. Hayward stated that the applicant is conscious of the decision made in the lawsuit over the previous plan approval and believes that the case hinged in part on whether or not a sufficient finding of fact was made. They didn't see a formal finding of fact from Clark until late last week, so in the meantime they prepared a suggested finding of their own. Mr. Hayward stated that they attempted to draft their proposed resolution/finding of fact document in a neutral, fact-based way that blends all the facets of the process together. They are suggesting the novel two-step approach to avoid the situation that occurred at the last application approval where the Board and applicants reviewed the SUP line by line at a meeting.

Knopf asked if it would be acceptable to take the resolution suggested by the applicants along with Clark's report as basis for plan approval. Hoxsie stated that this

would not entirely incorporate the recommendations the Planning Commission added to those in Clark's report and would therefore be insufficient. Mr. Hayward stated that the law firm engaged to prepare the applicant's proposed documents have a large municipal client base and can be relied upon to be of great assistance to an appropriate process for the township. Christopherson stated that he has prepared a proposed SUP. He understands the applicants don't like it. He did his best, with help from Clark and Corpe to incorporate every recommendation made by Clark and the Commission. There can be further discussion about it if the Board feels this is warranted. Knopf asked if he is trying to say that his proposed SUP will cover the entire process of approving a conceptual plan. Amon stated that he is personally comfortable with the recommendations as passed down by the Commission. However, he is attempting to see if there are any holes in the process that might be exploited. He would be comfortable moving ahead with the recommendations and plans as presented. He believes additional work should be on an SUP document draft for further Board consideration. Hoxsie sought clarification as to whether there would be a motion to decide whether or not to approve the application with the stated conditions and directing Christopherson to further refine the SUP document itself. The Board would then vote on the refined document language. Agruda stated his understanding that Christopherson is seeking to represent and protect the township well, and also that he believes that cooperation in drafting the final legal document between both parties is warranted in this situation. Knopf asked how long such a process might take; Christopherson stated that the SUP is basically complete. The applicants are welcome to comment upon it; "the ball's in their court." He can prepare a resolution within a few days. Mr. Petterson stated that the applicant finds Christopherson's proposed SUP language unacceptable, but they are willing to work the township on a new draft. They can provide their comments by the end of business Wednesday. They have also recognized that there's novel language in the document, and they are not eager to be the "test case" for its use. Christopherson, replying to Agruda, stated that it should be possible to collaborate between parties, but he does not expect that there will be full agreement between the parties and the Board will ultimately have to make some choices between the sides.

Motion by Walter, support by Knopf, to extend the meeting to as late as 11:00 p.m. Motion carried by unanimous roll call vote.

Walter stated that he doesn't understand why communications between both parties should be difficult. The basic plan and conditions for it have been recommended by the Planning Commission. Mr. Petterson stated that the applicant can be available by next Tuesday to meet with the Board to discuss the precise permit language, and will have comments about the draft to Christopherson by early Thursday. Mr. Petterson stated that he believes that findings of fact should be adopted as part of any motion this evening to approve the plan, whether in the form of the applicant's suggested document or Clark's report. Christopherson stated that he doesn't believe it would be uncommon to make a motion stating that any decision incorporates the findings of fact in the planner's report.

Motion by Knopf, support by Walter, to approve the conceptual plan for the Village at Grand Traverse, incorporating Russ Clark's report and Findings of Fact, and adopting the recommendations of the Planning Commission, subject to Board review and approval of final Resolution and Special Use Permit document language.

A gentleman in the audience asked when the public would be able to comment. Amon responded that the public hearings were held, in numerous sessions, at the Planning Commission meetings.

Hoxsie stressed that the document drafting must contain the recommendations made by the Planning Commission.

Motion carried by unanimous roll call vote.

Knopf asked if a member of the Board should work with the legal representatives from each side in drafting the documents. Hoxsie feels that this job of negotiation is properly left to Township Counsel, and it is the Board's job to ultimately approve the language. It is specifically Christopherson's duty to not negotiate away the recommendations made by staff and the Commission.

Amon recommended setting a special meeting of the Board to consider the draft. Christopherson does not believe that a complete draft can be ready by the end of the week. Hoxsie stated that he believes that the process should not be rushed. Walter and Knopf felt comfortable with a Tuesday meeting if draft documents can be received by some point in time over the weekend.

Motion by Knopf, support by Hoxsie, to hold a special meeting on Tuesday, September 14 to discuss the draft language for the resolution and SUP for The Village at Grand Traverse. Motion carried by unanimous roll call vote.

R. OLD BUSINESS:

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

Mr. John Shimmel, 6809 Deepwater Point Road, expressed disappointment in the Board. He felt that the Board acted in opposition to advice from its legal counsel in regards to the document language and put him unnecessarily into a position of negotiating. He is also disappointed that there was no public comment portion of the deliberation. Amon stated that the Board allowed for public comment at the beginning and ends of the evening, and that the official public hearing portions of the process were held over several previous Planning Commission meetings. Mr. Shimmel didn't believe it to be effective for the public to comment to occur before they could observe the event on which to comment. He also believes that it is inappropriate to vote on an approval before having the final formal language for it. Amon and Knopf stated that they don't believe they have done so, that they voted to approve a plan and findings and to have the documents prepared.

Chris Bzdok, legal counsel for Concerned Citizens of Acme Township, asked if all of the drafts of the proposed resolutions will be available to the public prior to next Tuesday's meeting. Corpe responded that those already in existence are available right now on the website and at the public offices. New drafts will be made available as they are created. Mr. Bzdok also encouraged the Board to reconsider his letter about an investigation of whether or not premature assurances were given. His issue is one of governmental transparency. The applicant was asked why they would invest \$7 million before knowing if they could receive an approval. The applicant responded that they were given assurances that the process could be completed within a certain timeframe. It is important to know what they were told and by whom. Amon asked if the rest of the tape of the referenced meeting was transcribed; Bzdok replied that it has not but that the tapes are available to anyone who wishes them.

Ron Reinhold, 4446 Westridge, noted that the Boat Launch Committee is holding a public meeting on Thursday, September 23 to share the work they have done over the past year and to receive their direction for the work to come.

Diana Morgan, 4770 Arthur Court, stated that out of respect for the constituency, the outgoing Board should have tabled this issue, leaving it for the incoming Board to consider. She thanked the Planning Commission and Board for all of their hard work. The Board noted that a letter explaining why the Board proceeded in the form of a legal opinion from the MTA.

Eugene Lalone, 9014 Bates Road, attended the August 16 meeting, and has the minutes from that meeting. He underlined in red ink all of the questions the Commission asked that night. The questions were never resolved at a public meeting. Were there secret meetings to do so? Hoxsie responded that the conditions placed on the approval recommendation are the method by which the questions were resolved. Mr. Lalone was unsatisfied by this answer.

Paul Rundhaug, 3733 Bunker Hill Road, stated that he can partially answer Mr. Lalone's question. At the meeting prior to August 16 the Commission said it would hold an additional study session. At the study session they made a decision. Many people didn't attend that

meeting, thinking that no decision would be made. Perhaps the action was legally correct, but he doesn't find it morally so.

Pat Scharf, 4252 Five Mile Road, noted that the Board has not answered the question of how the application was "ramrodded through." Will Mr. Bzdok receive an answer, or is the Board just dropping the matter. She wants to know who did it. She also hopes that in November the public will remember how Mr. Smith "ramrodded the application through the Planning Commission."

Mr. Lalone stated his opinion that it is obvious the Board doesn't care about the people of the township. Some of the audience clapped, and some took exception to this statement. Amon called for order, noting that there is clearly going to be ongoing disagreement on this point. Amon stated that Mr. Bzdok asked that the Board reconsider an investigation, and that Amon believes that without context, the statements Mr. Bzdok would like investigated are meaningless. Mr. Bzdok offered to bring the tapes to the next meeting if it would assist in an investigation.

Meeting adjourned at 10:27 p.m.