



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

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

Members present: B. Boltres, D. Dunville, W. Kladder, B. Kurtz, P. Scott, E. Takayama, F. Zarafonitis

Members excused: None

INQUIRY AS TO CONFLICTS OF INTEREST: None

A. CONSENT CALENDAR

Motion by Kladder, support by Zarafonitis to approve the Consent Calendar as printed, including

RECEIVE AND FILE:

1. Treasurer's Report dated 12/06/2004
2. Clerk's Report dated 12/01/2004
3. Draft unapproved minutes of the November 29, 2004 Planning Commission meeting
4. Letter from TCAPS re: Summer Tax Collection
5. Article from April 2002 *Michigan Township News*, "Townships may limit 'citizen time' at public meetings"

ACTION:

6. Approval of the minutes of the November 9, and November 22 Special Board Meeting and Closed Session minutes
7. Accounts Payable in the amount of \$61,566.30 through November 29, 2004, including \$27,791.09 for Luther Valley Water Operations & Maintenance

Motion carried unanimously.

B. LIMITED PUBLIC COMMENT: None

C. DISCUSSION OF ANNUAL AUDIT - Dave Basler, Tobin & Co.: Mr. Basler began by explaining that an audit is simply having an accountant come in, look at the financial records and verify whether or not they are a fair representation of what has occurred during the audit period. The basic financial statements for Acme Township are contained on pages 14-31. There is some required supplemental data, including the brand new Management Discussion and Analysis required for the first time this year. This document is not audited, but it is checked to ensure that it matches up with the rest of the audit report.

During an audit, transactions are examined, as well as records such as minutes. New standards in place this year require fraud interviewing and testing as well. Fraud can be a material misstatement (such as substantial misappropriation of funds or misstatement of fund balances that is intentional). For Acme Township, "material" is equal to about \$5,000. No such fraud was found during this year's audit.

This is the first year the township has had to comply with GASB 34, a new accounting rule that seeks to put for-profit and non-profit entities on a comparable accounting basis. All assets and liabilities must appear on a statement of net assets (somewhat over \$11 million), which is a statement of our position as the township enters the future. Fund financial statements on an accrual basis are also provided, showing how funds received were spent

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or allocated to savings in the past. Activities are divided into governmental (supported primarily by tax revenue) and business (supported by user fees.)

A substantial footnote section is included that spells out many details about things like debts and long-term assets. Joint ventures (such as participation in the DPW) are also covered. The new accounting format for supplemental information shows the original budget, final amended budget and actual expenditures; previously original budget figures were not included.

A draft copy of the audit for 2003-04 was provided in the Board packets. The final copy was provided at the meeting this evening. There are few changes between the two versions.

Takayama asked what "fringe benefits" includes. Mr. Basler responded that payments for taxes and employer contributions to employee health insurance premiums are included. Kurtz noted that this year the audit is being delivered somewhat later than usual. Mr. Basler stated that this is due in part to the new GASB requirements, but also in part due to later than usual contact to initiate the process on the township's behalf.

The audit report must be approved by the Board. Kurtz made the observation that this audit does not pertain to a period of time during which the current Board members were sitting. Kurtz spoke with Dave Amon, former Supervisor, today about the possibility of having the old board sign off on the audit. Mr. Basler responded that there is a letter that needs to be signed by the Supervisor, Treasurer, and Clerk.

Zarafonitis asked for more clarification about what are "governmental" activities. Mr. Basler responded that in Acme's case, only provision of sewer service is considered a business activity. All of the other activities undertaken by the township are generally supported by taxation. Most of the activity within a general fund and special funds is governmental in nature, although some general fund items (such as building code departments that are supported by user fees) can be business in nature.

Kladder stated that he spent about four hours reviewing the audit and seeking answers to some questions in various places. He still feels like the audit is a foreign thing and would like more time to study and become comfortable with it before approving it. Mr. Basler indicated that the audit must be presented to the state no later than December 31.

Takayama asked about \$118,000 expended for Planning and Zoning and what they represented. Mr. Basler believes they pertain to planning services. Kurtz noted that there was an approximate \$114,000 reduction in the General Fund balance during the 2003-04 fiscal year. Mr. Basler noted that Michigan law does not require townships to adopt balanced budgets, although the state and counties must. The General Fund balance may never be negative, but it is permissible to have a budget where expenditures exceed current-year revenues. Kurtz stated that in the year under review, Planning and Zoning costs exceeded the original budget by about \$162,000. Actual expenditures were higher than the amended budgeted amount, which is not legal. This has been noted for the State's review, although it is unlikely that they will do anything more than asking how the situation will be corrected and perhaps withholding some revenue sharing funds. Kurtz feels this is another reason why the former members of the Board should be asked to sign off on the budget rather than the current Board members.

Acme Township operates on a cost center budget rather than a line item budget. Once you adopt a budget for each cost center and appropriate funds for the expenses, you are permitted to transfer money between line items within cost centers, but you are not supposed to exceed the budgeted expense amount for each cost center without a resolution

amending the budget. Mr. Basler has recommended to Dunville that she keep the Board well up-to-date on situations where expenditures are close to budgeted limits.

Kladder asked if there is an amount that is recommended for reserve funds. Mr. Basler stated that there is no hard rule; he prefers to see 6 months to 1 year's worth of reserves in the General Fund.

Kurtz noted that the draft audit report is already posted to the website, and indicated that the final copy would be posted as soon as possible.

Motion by Boltres, support by Kladder that the township accept the audit report for 2003-04 as presented.

Kladder did express concern that he only had a weekend to review the audit. Kurtz assured him that next year things would run more smoothly.

Motion carried by unanimous roll call vote.

Kurtz stated that he has asked Mr. Basler to ensure that the books are in good order for the period from July 1, 2004 through November 20, 2004 when the new Board members took office. This work is nearly complete.

- D. PRESENTATION OF 2005 DPW BUDGET – Chris Buday:** Mr. Buday mentioned that the DPW budget does not contain line items that are unique to one member township or another. The budget applies to the entire system, so if one township wants a change to the budget it can make a recommendation, but all townships would be required to consider and approve any changes to the proposed budget. Dennis Aloia, County Administrator, is seeking member township approval of the DPW budget presented.

There is a \$12,000 increase year over year in the DPW budget line item for employee expenses to account for a new field technician and a part-time staff person. There was a reduction in insurance expenses, as there was a one-time expense to fund an account to cover system overflows in last year's budget. There are also savings proposed in electrical costs that have been created in part by installation of smart pumping systems that only push flows through sewer lines when necessary. There are two water pumps in the Hope Village water system that have been needing overhaul for several years. This particular \$45,000 expense would be unique to Acme Township, and there is a difficulty because there is only one user of the system to whom the cost can be allocated.

About 2,400 sewer benefits and 54 water benefits are currently utilized in Acme Township. About 80 sewer benefits were sold during 2004.

Kurtz is serving on the BPW. Phase I of a sewer system expansion was performed last year at a cost of \$1.1 million, with the second phase proposed to be performed in the coming year at a similar cost. So far, the only expense approved has been a \$172,000 contract with Gourdie Fraser. The Tribe is running water pipes within the township boundaries and may be running sewer lines as well. About \$240,000 of BPW expenses must be covered in 2005 by Acme according to this budget, which translates into a need to sell 100 sewer benefits or tap more deeply into the sewer fund.

Zarafonitis asked about negotiations with the Tribe regarding water and sewer issues. Mr. Buday indicated he attended one such very preliminary meeting including Dave Amon, Lee Wilson and himself. The standards to which the Tribal lines are being constructed do not match the standards in place for the DPW. Jim Minster, Gourdie Fraser stated that for a municipality to offer utility service within another municipality (such as the Tribe offering

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service to non-tribal land within the township) would require an intergovernmental agreement. The Tribal installations are meeting EPA standards and not DPW standards which does not raise any issues until and unless the Tribe asks the DPW to take over management of the infrastructure.

Kurtz stated that he informed Mr. Buday earlier that the Board might not choose to adopt the DPW budget this evening, seeking to study it further first. Mr. Buday stated that the County wants to work with the township regarding revenues and expenditures, and will be operating under the presented budget, which is an amended version. The member townships of the DPW work well together and the system is expanding, particularly in Blair Township.

Takayama asked about a \$224,000 charge on the final page of the budget. Mr. Buday indicated that this is largely a sewer system disposal fee – it's the amount that the DPW pays to the City of Traverse City for use of the treatment plant to treat Acme sewage flows. New flow meters have been installed that will more accurately gauge actual flows and BOD rather than an inferred method of calculation used now.

Kurtz asked Minster to provide a brief overview of the new septage treatment plant. Minster stated that a plant walk-through is being planned for interested parties. Material from pumped septic tanks which is currently spread on open fields will instead be deposited at the new plant, which is under construction. All member townships have already approved ordinances requiring that pumped septage must be hauled to the facility and stating that septage may not be applied to lands within the township. First material acceptance will be in February, with full operation expected in May.

Mr. Buday updated the Board regarding the Hoch Road site for a second wastewater treatment plant. Originally, it was expected that the plant would be needed in 10-12 years. Increased capacity needs in Blair Township have accelerated the schedule to the point where no dollars have been committed, but planning is beginning. Engineering could begin in 2008 and a plant could become operational in 2012. The property was purchased several years ago. Zarafonitis asked how the new baseball field in Blair Township will be served; Mr. Buday stated that right now no sewer service is available to them and this remains a question.

Kurtz directed attention to the proposed resolution provided by the DPW, indicating that it can be considered now or deferred for further consideration at the January meeting. Kladder asked if Kurtz will have input as to future DPW budgets; this is the case. He asked who Acme's previous representative was who participated in creating the proposed budget; Dave Amon was the individual.

Motion by Kladder, support by Boltres to adopt Resolution #R-2004-18 approving the 2005 DPW Budget as presented. Motion carried by unanimous roll call vote.

E. CORRESPONDENCE: None

F. REPORTS:

1. **County Commissioner's Report – Larry Inman:** The need for space for the District Court has been an ongoing concern and expansion has become a priority. An approved set of plans is in place to connect the former Bethany Baptist Church and Old Stone Church and remodel them. Later this month the County will formally adopt the plans and enter a bidding process to get work underway. Regarding jail overcrowding concerns, the County has sought public input. The short-term remediation plan involves moving joint City Police and County Sheriff operations to the Woodmere Street facility, replacing the space on Boardman Avenue with 40-50 beds. In the meantime, the County is contracting with other facilities to house our

inmates as needed. A longer-term solution should be proposed within 90 days. Funding that was to have gone towards the Hartman-Hammond Bridge project has been unexpectedly re-allocated to a regional transportation study. A coalition of public agencies will manage the funds and enter into a public input process of some nature yet to be determined. There should be a plan in progress to handle the funds within the next 10 days. The budgeting process is nearly complete. Inman welcomed the new Board members and stated that he looks forward to working with all.

2. **Interim Township Counsel's Report – Christopher Bzdok:** Bzdok has entered a third-party complaint against The Village at Grand Traverse as authorized at the last meeting. A number of litigation items are currently in progress, some of which will be near conclusion and will be handled to conclusion by Jim Christopherson and some of which are longer term in nature and should be allocated to a long-term township counsel.
3. **Discuss possible action regarding two applications for Leave to Appeal filed by The Village at Grand Traverse, LLC regarding Judge Power's ruling as to the first CCAT v. Acme Township lawsuit – Jim Christopherson:** Christopherson is still handling issues related to appeals of decisions made regarding the first CCAT v. Acme Township lawsuit. To date, two Leave to Appeal actions have been filed by The Village at Grand Traverse because the Michigan Court of Appeals has twice dismissed Claims of Appeals regarding the decision made by Judge Power. The Leave to Appeal matters are both pending at the State Supreme Court level. Christopherson believes it would be appropriate for the township to make a filing relative to the situation at this time requesting that the Supreme Court deny The Village's requests for Leave to Appeal. One application is fairly simple and he estimates it would cost less than \$1,000 to file a response. The second application is more complex; he estimates it would cost not to exceed \$2,500. This does not cover any costs that might be incurred based on the Supreme Court's actions regarding either application. A hearing is scheduled for December 21 regarding the second application; a hearing regarding the first application has already been held. Board direction to file or not file was requested.

Kurtz asked what would happen if the township does not file. Christopherson replied that he views it as beneficial for the township to weigh in with its opinion. He presumes that CCAT is already taking a position as the original litigating party.

Motion by Boltres, support by to authorize Christopherson to file with the Supreme Court in opposition to The Village at Grand Traverse.

Takayama asked if he should abstain from the vote, since he was a CCAT board member at the time CCAT brought suit against the township in this matter. Bzdok indicated that Takayama should abstain if he feels most comfortable, but it is not strictly required according to the township's Conflict of Interest policy. Kurtz stated that the former Board used to handle such matters in closed session; the current Board is considering the matter in open session.

Motion carried by a vote of 6 in favor (Boltres, Dunville, Kladder, Kurtz, Scott, Zarafonitis) 0 opposed and 1 abstention (Takayama.)

4. **Sheriff's Representative Report – Deputy Matt McKinley:** During November there were 94 total calls for service, including 16 car accidents that resulted in 3 injuries. There were several DUIs. 39 citations were issued in Acme Township in November. Deputy McKinley tries not to issue too many tickets during the holiday situation and

risk imposing financial hardships. He made several arrests this month, including one that may resolve several local breaking and entering situations.

Jay Zollinger, 4232 Williamston Court asked if something could be done to reduce speeding and/or the speed limit on Bunker Hill Road. It can be an unsafe situation for people entering Bunker Hill from Bartlett Road when cars come fast up over the blind hill to the east. Corpe responded that speed studies can be performed, but the resulting speed limit is largely at the discretion of the State Police, and is pretty much set by studying the speeds at which the road is being traveled and setting the new speed limit as the speed at which 85% of the people tend to drive. Individuals interested in having a speed study performed can work with the township hall to begin the process.

5. **Road Commission Report – Jim Maitland:** Mr. Maitland was unable to attend this evening.
6. **Assessor’s Report – Dawn Plude & Amy Jennema, AD Assessing:** Deferred to January.

G. PUBLIC HEARINGS: None

H. NEW BUSINESS

1. **Consider budget amendment resolution – D. Dunville:** Dunville and Sharma Zollinger have been working with the auditor and with the accounts payable system. They have discovered that the retirement fund cost center is overdrawn by nearly \$6,000. She is still working to find out why, but since the overdraft status is illegal, on recommendation of the auditor she has prepared a budget amendment resolution that would transfer funds from the General Fund Balance Forward to the Retirement/Pension cost center. Dunville read the proposed budget resolution into the record.

Motion by Dunville, support by Kladder to adopt Budget Amendment Resolution #R-2004-19 as presented. Motion carried by unanimous roll call vote.

2. **Adopt meeting schedule for 2005:** The meeting schedule needs to be adopted for the coming year. Several years ago the meetings used to be on Monday nights, but due to conflicts with former Supervisor Mark Ritter’s schedule and new township meeting commitments Inman had when the County Commission districts were reapportioned the meetings were moved to Tuesdays.

Motion by Zarafonitis, support by Scott to adopt the proposed Tuesday meeting schedule for 2005. Motion carried unanimously.

3. **Planning Commission Appointments:**

And

4. **ZBA Appointments:** Kurtz read into the record a memo presented by him to the Board listing his nominees for four vacant Planning Commission positions and two vacant ZBA positions. Kurtz was pleased by the number of individuals who expressed interest in serving the public, particularly as to the Planning Commissions where meetings can be many and long. He hopes that in the future the number and intensity of meetings can be reduced. He felt all of the candidates were good, and he made his selections largely based on length of time living in the township and

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amount of involvement (attending meetings as a member of the public). He feels the interest in the positions shows that people want to be involved in the process. He interviewed everyone last Friday and Saturday. Kurtz read the names of his appointees: Clare David, Ron Hardin, Diana Morgan and John Pulcifer (Planning Commission) and Dick Smith and David Kiple as an alternate (Zoning Board of Appeals).

Kladder expressed appreciation for the manner in which the application and interview process was handled.

Motion by Kladder, support by Dunville to accept the nominations to fill vacant seats on the Planning Commission and Zoning Board of Appeals as presented. Motion carried unanimously.

Appointees present in the audience stood up and introduced themselves briefly to the public.

Kurtz also recognized Pat Salathiel, present in the audience, for her 8 years of service to the Planning Commission and indicated that her continued involvement on some level will be welcomed. Kurtz also recognized Denny Hoxsie, outgoing Treasurer and Planning Commissioner who remained on the Commission during the transition period before the new Commissioners could be appointed and has been helpful to Bill and Dorothy Boltres as they assume their new duties. Kurtz asked what should be done to indicate clearly that Hoxsie's interim service to the Commission is at an end. Bzdok felt that indicating for the record that the seat occupied by the representative of the agricultural community was temporarily held by Hoxsie and has been permanently filled by Pulcifer would be sufficient.

- 5. Discuss formation of township advisory committees:** Kurtz read his memo to the Board regarding proposed formation of citizen advisory committees into the record. The proposed committees and chairpeople are:
- a. Economic Development – Hal VanSumeren
 - b. Budgetary – Bill Foster
 - c. Infrastructure (Transportation, sewers, water, etc.) – Mark Lewis
 - d. Farmland and Open Space Preservation – Chair to be appointed at a later date. A farmland preservation millage was adopted by the township in November, with Acme being the only one of the five townships making the request where it was successful. Kladder has been a key leader in the farmland preservation initiative.

Kurtz expressed a hope that some of the individuals who applied for the Commission and ZBA seats will wish to apply for positions with the advisory committees. Each chair will choose their committee members.

Motion by Takayama, support by Scott to form the advisory committees and appoint the Chairpersons as recommended by Kurtz.

Bzdok observed that the four advisory committees composed of citizens will be making recommendations to the Board and Planning Commission regarding policy issues. He recommended that all meetings be conducted as open meetings with recorded minutes according to the Open Meetings Act. He also recommends that the Board prepare resolutions that indicate what types of people and experience are sought for each committee and with what goals each will be charged. This would provide a clear sense of direction and expectations to each committee. Bzdok

recommends one resolution per committee, since each committee will have different objectives.

Motion carried by a vote of 6 in favor (Dunville, Kladder, Kurtz, Scott, Takayama, Zarafonitis) and 1 opposed (Boltres.)

Kladder offered to create the resolution regarding the Farmland and Open Space Preservation committee; his offer was accepted.

- 6. Discuss fee schedule – Interim Township Counsel’s Report Chris Bzdok:** Bzdok noted that earlier this year an amended fee schedule was adopted that includes currently realistic figures as to current costs for processing planning and zoning applications. This fee schedule also included a statement that if actual costs exceeded 120% of the fees imposed, those fees would be payable by the applicant.

Earlier this year, development of a coal fired plant was proposed in Manistee. The proposed developer was provided with a large bill by the municipality to cover the costs of processing the application, and refused to pay (*Record Eagle* article provided.) It is reasonable to adopt a policy that applicants should bear the costs of their application, and Bzdok recommends that it may make sense to institute an escrow policy and collect the fees in advance rather than after the fact. This method has been employed – and successfully tested in the courts – in other Michigan municipalities.

Additional administration time is required to track costs including staff time and consultant costs. Bzdok proposes that the township adopt a policy whereby fees are placed in escrow, and when the escrow balance falls below 20% of the initial fee amount, it must be replenished with the additional full fee amount before processing of the application, including hearings, would continue. Escrowed funds over and above actual costs would be refunded at the end of the process. He has also provided a proposed escrow policy which each applicant would be required to sign at the time of application. Finally, if the Board concurs with the proposal a resolution to adopt it has been provided.

Takayama asked if individual escrow accounts would have to be established for each application. Bzdok stated that accurate accounting, both for the funds and for the expenses assessed against the funds is important, but whether one physical account or several is used is of lesser importance. Takayama asked who kept the records on the escrow funds in other situations where the method has been used; Bzdok responded that other communities have utilized their Clerks, but it is a matter of individual community preference. Kladder asked if the new policy would apply to new applicants going forward, or if it would include applications currently presented. Bzdok noted that applications must be treated according to the rules in place at the time they are made, although in particular circumstances the Board may wish to make an individual determination. He noted that his proposed system contains a provision permitting the Planning Commission or Board to waive the escrow requirements.

Kurtz feels that the new fee schedule was a good first step in trying to manage increased planning and zoning costs, but that the proposed escrow policy would be an excellent second step. Kladder and Zarafonitis both felt that they would like to study the proposal further prior to making a decision. Zarafonitis was concerned about how larger project applicants would know how much they would have to pay towards processing costs. Bzdok responded that when the escrow account is

depleted, the new amount to be contributed is equal to the stated initial application fee.

Takayama asked for clarification on the current fee schedule status. Bzdok replied that the application amounts on the fee schedule and the concept that excess costs must be covered by the applicant is already in place. The only new portion is the idea that instead of collecting excess costs after the process is ended, the fees would be collected up front on an ongoing basis or application processing would cease.

Kladder feels that the idea is an excellent one, particularly because the township cannot afford to risk not being repaid and he agrees that applicants should bear process costs.

Motion by Kladder, support by Boltres to adopt Resolution #R-2004-20 establishing a fee Escrow Policy. Motion carried by unanimous roll call vote.

7. **Appoint representative to Cherry Capital Cable Council:** Kurtz explained that four local townships have an agreement with the local cable company. As one of four participating townships. Acme negotiates and receives a franchise fee. Typically, the member township Supervisors are the representatives.

Motion by Takayama, support by Scott to appoint Kurtz to the Cherry Capital Cable Council. Motion carried unanimously.

I. OLD BUSINESS

1. **Update regarding hiring planner to review The Village at Grand Traverse application:** Corpe indicated that drafting an RFQ is one of many projects she is currently working on. Other projects include preparation of two upcoming Planning Commission meeting packets within the next two weeks that jointly contain five or six development applications for consideration.
2. **Update regarding legal services/consideration of Olson, Bzdok & Howard retainer agreement:** At the last meeting, Bzdok was appointed as an interim township counsel for a 90-day period. He has provided a proposed, standard-form municipal service agreement. He had thought his proposed rate matched what the township was used to paying, but has been informed that some members of Bzdok's firm bill at higher rates than what the township has been paying. Kurtz was also concerned because the agreement did not state it was for an interim basis. The agreement has been revised to so state, even though it is an at-will agreement, and the rates to be charged are capped at an amount equal to what the township was previously paying other providers.

Motion by Takayama, support by Scott to accept the proposed retainer contract with Olson, Bzdok and Howard as presented. Motion carried by unanimous roll call vote.

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

Dan Rosa, 4707 Hampshire Drive, asked for an explanation of paragraph 2 on page 2 of the Bzdok retainer agreement, which refers to conflict of interest issues. Bzdok stated that his firm used to represent CCAT but no longer does. CCAT's positions are not adverse to any of the township's positions in current litigation. The paragraph is a disclosure of the previous relationship stating that there are no current ties with CCAT and Bzdok's firm will work only

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to represent the Township's interests going forward. CCAT has been provided with a similar disclosure statement.

Chuck Walter, 6584 Bates Road, asked that Bzdok make a statement that he will not communicate with CCAT's current attorney in any way.

Andy Andres Sr., 4946 M-72 East. asked about Kurtz's statement that one of his factors for appointing members to the Commission and ZBA was length of time as Acme citizens. He doesn't recognize all of the appointees, and he is a long-term resident.

Kladder stated that Santa's arrival last Friday night was a wonderful event and he expressed his appreciation to whoever the sponsor was. Corpe noted that the Acme Station 8 Volunteer Fire Department and the Masonic Lodge should receive the thanks.

Kurtz offered holiday wishes to everyone.

Meeting adjourned at 9:10 p.m.