



ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
Tuesday, April 6, 2010 7:00 P.M.

MEETING CALLED TO ORDER AT 6:31 P.M.

Members present: D. Dunville, R. Hardin, W. Kladder, P. Scott, E. Takayama, L. Wikle, F. Zarafonitis
Members excused: None
Staff present: S. Vreeland, Township Manager and Recording Secretary
J. Jocks, Legal Counsel

A. STUDY SESSION: None

B. LIMITED PUBLIC COMMENT:

Glen Lile of Holiday Road is the East Bay Township Supervisor and was present to announce his candidacy for the 104th House of Representatives Seat.

Rob Franzo is a consultant to the Traverse Bay EDC in its broadband internet project. A federal stimulus grant was submitted on March 29, 2010 for a total of about \$65 million in loans and grants for the 10-county Northwest Michigan Council of Governments service area.

C. APPROVAL OF AGENDA: Motion by Dunville, support by Wikle to approve the agenda as amended to add discussion about participation in the Michigan Townships Association intervention in a proposed Consumers Energy rate increase. Motion carried unanimously.

D. INQUIRY AS TO CONFLICTS OF INTEREST: None noted

E. CONSENT CALENDAR:

Motion by Scott, support by Zarafonitis to approve the Consent Calendar as presented, including:

RECEIVE AND FILE:

1. **Treasurer's Report** as of 02-28-10
2. **Clerk's Report** as of 04-01-10
3. Draft Unapproved Meeting Minutes:
 - a. **03-29-10** Planning Commission
 - b. **01-27-10** and **01-29-10** GT County Road Commission
 - c. **01-19-10** and **02-23-10** Metro Emergency Services
 - d. **03-05-10** Heritage Advisory
 - e. **02-24-10** and **03-17-10** Shoreline Advisory Notes
 - f. **02-25-10** and **03-25-10** Parks & Recreation Advisory
 - g. **03-02-10**, **03-11-10**, **03-18-10** and **03-25-10** Farmland Advisory
4. **Parks and Maintenance** – Tom Henkel
5. **Metro Emergency Services Newsletter**
6. **Status Update – VGT-Phase I SUP Application #2009-01P**

ACTION – Consider approval:

5. **Township Board meeting minutes**
 - a. **Regular meeting 03-02-10**
 - b. **Special meeting 03-08-10**
 - c. **Closed session 03-08-10**
 - d. **Special meeting 03-16-10**
 - e. **Special meeting 03-25-10**

6. Accounts Payable of \$ 140,985.56 through 03/29/10 (recommend approval: Dunville)
7. Proposed 2010 Elk Rapids Schools Summer Tax Collection Agreement
8. Proposed TBA-ISD Summer Tax Collection Agreement
9. GT Area Veterans Coalition Request for July 4th fireworks funding
10. Resolution R-2010-07 repealing 12/01/1997 Personal Wireless Services Ordinance
11. Local Governing Body Resolution for Charitable Gaming Licenses – Fr. Fred Foundation

Motion carried by unanimous roll call vote.

F. SPECIAL PRESENTATIONS: None

G. REPORTS:

1. Sheriff's Deputy – Mike Matteucci: received and filed
2. County Commissioner's Report: – Larry Inman: None

H. CORRESPONDENCE:

1. 12/21/09 Resolution from Northwestern Michigan College Board of Trustees to collect 50% of NMC 2010 taxes on 2010 Summer tax bills in accordance with existing agreements
2. 03/18/10 Elk Rapids News article "ER-BAM shares progress in broadband grant application"
3. 03/12/10 Letter from Trendwell Energy Corporation regarding YCNA Oil & Gas Lease

I. PUBLIC HEARINGS:

1. Consider Michigan Consolidated Gas Company Gas Franchise Ordinance #2010-01:
The proposed renewal of the township's public utility franchise with MichCon is fairly standard-issue franchise language that has been reviewed by township legal counsel. Township staff and MichCon representatives mutually agreed to a minor change to some of MichCon's proposed boilerplate language that discusses responsibility in the case of accidental damage to property. Steve Rawlings of DTE Energy was present, and stated that this is a proposed 30-year franchise that may be terminated by the township at any time with or without cause, at will. It is unlikely that DTE would want to terminate the franchise early and remove its distribution system from rights of way in the township. One portion of the proposed agreement references the revocation of any conflicting ordinances or portions of ordinances. This is most frequently seen where there are other right-of-way ordinances in place, which is not currently the case in Acme Township. Hardin asked what would happen in the case where one utility sharing the right-of-way damages the property of another utility facility in the same location; this is not within the scope of the franchise agreement which addresses what would happen if MichCon representatives damage township property or township representatives damage MichCon property.

Public Hearing opened at 7:26 p.m.

Jay Zollinger, 4232 Williamston Court, asked if the liability clause covers lost service time and ability, or only physical damage. The precise language of the document states that the township would cover the cost to repair or replace damaged property, so lost service would not be reimbursed in Jocks' opinion.

Public Hearing closed at 7:30 p.m.

Motion by Wikle, support by Dunville to adopt Ordinance 2010-01, as a revocable franchise agreement with MichCon. Motion carried by unanimous roll call vote.

J. OLD BUSINESS:

1. Orchard Shores Sanitary System rate increase resolution:

Motion by Zarafonitis, support by Takayama to Re-adopt Resolution R-2010-01 as corrected. Motion carried by unanimous roll call vote.

2. **2009-10 Budget Update:** In general, township revenues and expenses continue to track closely with budgeted levels. We are entering our season for budgeting for the 2010-11 fiscal year beginning July 1.

K. NEW BUSINESS:

1. **Resolution Authorizing Issuance of Capital Improvement Bonds Series 2010:** The township has completed purchase of one of the three Shoreline Preservation Project Phase I properties covered by the Michigan Natural Resources Trust Fund (MNRTF) Phase I grant. The Trust Fund does not send money for their share of the purchase price before or at closing; they expect the township to pay the full purchase price at closing and then we must file for reimbursement of the 75% the grant covers. The township is unable to cover and carry the full purchase price while we await reimbursement, so we need to secure some interim or “bridge” funding.

Public Act 34 of 2001 describes the legally permissible ways in which the township may borrow money for capital improvements projects such as this. To close on the first property purchase the township used the option of issuing a grant anticipation note at a 2% interest rate for 6 months which was purchased by JP Morgan Chase Bank. A grant anticipation note can only be issued once per grant, and for a maximum of 50% of the grant amount. To complete the Phase land purchases we must therefore use an alternative financing method.

To complete Phase I the township intends to issue capital improvement bonds in the amount of up to \$2 million, which is approximately the Trust Fund’s 75% share of the remaining purchase prices. The bonds will be issued for a short period and will be repaid with the Trust Fund’s reimbursement to the township. Tonight’s resolution is a required step in the process of bond issuance, and permits the township to publish notice in the paper of its intent to issue the bonds. After expiration of the 45 day right of referendum period, if no challenge to the bond issuance has been made, the township will circulate an RFP seeking a buyer for the bonds and establishing their interest rate. Likely bond purchase candidates include local banks and, potentially, the GT Regional Land Conservancy. They have a \$2 million investment maturing, and opportunities to roll the investment over come with an extremely low interest rate. If they were to purchase our bond issue they could potentially earn more interest on their investment than other opportunities would afford, and they would be able to use that interest to further their benefit to the community. Individuals could purchase the bond issue as well.

The area of legal practice that covers municipal bonding is highly specialized, and not a specialty held by the township’s general counsel. There are no known Traverse City lawyers practicing in this specialty. We have been working with John Axe of Axe & Ecklund, the County’s bond counsel. Mr. Axe was available by conference call to answer any questions the Board might have.

Motion by Zarafonitis, support by Wikle to adopt Resolution R-2010-08 as presented. Motion carried by unanimous roll call vote.

2. **Proposed Video Service Local Franchise Agreement** – **Boardman River Communications LLC:** Gary John, Jr. has been an Acme-area resident for over 30 years and has over 30 years of nationwide experience with telecommunications and cable installation systems. In 2008 his company purchased a small cable company and took it from 20 channels to 70 in less than one year. They started with 52 subscribers and now have over 600 with potential to serve 1,800. They have installed 26 new miles of fiber optic cable. His company is collaborating with Merit Network and Charter Communications to install additional

infrastructure in our region as part of both statewide and local broadband initiatives. They have designed their proposed broadband Internet network so as not to provide too much overlap with existing high-speed service. They are building what is known as the “middle mile” for Merit and the “last mile” for local end users.

Mr. John mentioned being aware that Acme Township is interested in providing wireless broadband access, at least in certain public areas of the township. When we are ready BRC Communications would like to talk to the township about what they may be able to provide. It might prove cost-effective for the township to build a modest number of its own wireless services towers as opposed to renting co-location space from another company. It would be possible for the township to develop a network serviced by a service provider to access wireless internet in our parks. The service might be free to users, but they might have to view an advertisement periodically. Each time they viewed an advertisement the township would receive revenue. Rob Franzo of Wireless 20/20, a consultant for the Traverse Bay Economic Development Corporation (EDC), is helping to develop business plans for entities such as Traverse City Light & Power.

As to the proposed franchise agreement and any potential franchise fees to be charged, Scott felt strongly about maintaining a level playing field between all video service providers entering or operating in our township. He felt that the same amount should be charged to all providers. Zarafonitis observed that if people switched away from Charter to the new service our revenues from the Charter franchise agreement would be reduced accordingly.

Takayama asked what the visual impact is of the expansion of the fiber optic grid? New lines would be located in the same rights-of-way as existing above-ground lines where practicable; in other places new cable would be buried. In various locations there would be equipment cabinets; approximately 129 new cabinets would be spread out over 598 square miles. For the most part new lines would be added to existing poles.

Jocks commented that Section XIII of the state-standard franchise agreement discusses confidentiality. Service providers with which we contract can mark specific information as a trade secret that is exempt from FOIA and must be kept confidential. The motion can reflect the need to insert the provider’s name on pages 1 and 7 where the state-provided PDF form would not permit it to be filled in. BRC also needs to provide the required Attachment A, a map of the proposed service area. The franchise fee amount blanks would also need to be filled in with 5%.

Motion by Scott, support by Dunville to approve the proposed Uniform Video Service Local Franchise Agreement with Boardman River Communications as amended to call for a 5% franchise fee when the application is completed with the required service area attachment. Motion carried by unanimous roll call vote.

3. **Parks & Recreation Advisory recommendation regarding Parks Ordinance amendments:** Recently the Parks & Recreation Advisory received a presentation from Ellen Kohler, Policy Specialist for The Watershed Center, regarding the advantages of adopting an ordinance prohibiting the feeding of waterfowl on public beaches. The ultimate goal of such ordinances is to decrease potential levels of *E coli* in the water that can be associated with duck excrement. The Advisory recommends to the Board that we amend our Parks Ordinance to include language similar to several specific sections in the Traverse City ordinances about this. If the Board is in consensus with this recommendation, staff and legal counsel will prepare the amendment for consideration at the May meeting.
4. **Proposed Employee Handbook updates:** The Personnel Committee has worked with local employment law attorney Rachel Roe and is proposing a number of amendments to strengthen our employee handbook.

Scott expressed concern that the proposed absentee reporting procedure should make clear that one is not considered late or absent if one's normal work schedule has been varied due to office needs. Hardin asked what the township's responsibility under federal law would be to employees who were on military leave and are injured in the line of duty to the point where their recovery creates a further extension in their absence from work.

The staff has been given an opportunity to review the revised handbook draft. Henkel was concerned about the dress code requirement for collared shirts, and was told that this requirement is intended for office-based employees and not parks workers like himself. For him a decent t-shirt will be acceptable. He also expressed concern about the expansion of our policy regarding jury duty to all forms of civic service performed while otherwise "on the clock" for the township.

Motion by Takayama, support by Dunville to adopt the Acme Township Employee Handbook as amended through March 30, 2010. Motion carried unanimously.

5. **Staffing needs and process:** It may be helpful to have some temporary part time planning and zoning help for a short period of time while we conduct a search for a permanent new staff member. One proposal is to hire a temporary Deputy Zoning Administrator who could effectively support and be supervised by Vreeland. This person would serve until the position is filled with a permanent employee or until the end of the fiscal year, whichever comes first.

Motion by Dunville, support by Scott to allow the Township Manager be authorized to hire a temporary Deputy Zoning Administrator.

Takayama raised the question of whether the Zoning Administrator should ultimately remain a full-time job or become a part-time position. This is a question that has been much discussed. The tasks of zoning administration and planning are really two different things, but we have been trying to serve them both through one position.

Motion carried by unanimous roll call vote.

Kladder has been talking to many people in the local government and planning community about how to define and meet Acme's specific current needs. Many have advised that we should strongly consider separating the two functions, as it is difficult for one person to serve both. We need to better define precisely what we need. Are there people who would be part-time planners, or does everyone in this field work full time? Should we contract with a consulting firm? We need to clarify what would serve us best before we seek applicants for the position. Kladder encouraged additional feedback from everyone.

Acme Township is in need of a part-time seasonal worker for Bayside Park.

Motion by Scott, support by the Township Manager be authorized to begin the process to hire a Bayside Park maintenance person and bring a hiring recommendation to the Board for approval. Motion carried by unanimous roll call vote.

6. **Shoreside Inn site demolition update:** The township is in the process of arranging for the deconstruction of the improvements on the recently-purchased Shoreside Inn property. As outlined in his memo, Kladder has been assembling a team of people with a variety of expertise to direct and assist in the process of clearing the site for public use while recycling as many of the materials as possible. There may be saleable commodities on the site. Michigan Natural Resources Trust Fund grant requirements are for the township to have the site cleared and open to the public in 145 days from purchase.

Motion by Zarafonitis, support by Takayama to authorize the Supervisor to expend up to \$15,000 for Shoreside Inn demolition costs. Motion carried by unanimous roll

call vote.

7. **Local Government Coalition Intervention – Consumers Energy Rate Increase:** The township received an e-mail from the Michigan Townships Association seeking participation in an intervention in a proposed Consumers Energy rate increase. MTA is asking for a contribution of \$37 per \$10,000 expended by a township with Consumers Energy during 2009. Acme Township spent just over \$10,000 with them for energy. Vreeland has done some very rudimentary research about the issue. She has not formed precise projections as to how much the rate increase would cost the township, due to limited time between when the request was received and when a response is required. The calculation would require some time because there are separate rates applicable to the township for service at the township hall and each different type (light source type and strength) of streetlight we pay for on the Consumers system. She has found the MTA's filing of their intent to intervene, as well as intervention filings by various larger corporations operating in the state and Attorney General Mike Cox. The latter filed on the basis that it is his duty to protect the best interests of all citizens of the state and it is not clear to him that the proposed rate structures are fair and legal in all details.

Motion by Dunville, support by Scott to spend \$37.64 from the Board litigation expense line item to join the MTA Local Government Coalition Intervention in the Consumers Energy Rate Increase. Motion carried by unanimous roll call vote.

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

Kladder stated that the main township sewer lines along US 31 are being cleaned and televised to inspect them. The crew is encountering heavy levels of gravel in certain portions of the system.

Kladder, Henkel and citizen Rachelle Babcock attended a recent meeting about Phragmites. The township applied for grant funding last year that was approved by the state legislature too late to be used last year but has been set aside for grant applicants to use this year. Last year the township considered adopting an ordinance regarding Phragmites inspection and treatment. For several reasons we did not adopt one last year, but Peninsula Township did. Their ordinance is different from most other Phragmites ordinances in the state as it presumes that landowners are opting to participate unless they object, whereas most of the ordinances require landowners to opt in. Having an ordinance such as Peninsula Township's could save the township a lot of the time that was required to contact and receive treatment permission from every affected landowner.

Hardin suggests that the township consider purchasing an AED (automated defibrillator) to hang in the township hall. Station 8 has two of them but if they are not staffed or are on an emergency run it would take them at least 5-10 minutes to get the equipment here in case it was needed at a meeting. It might be good to have a unit on hand and have people trained to use them. If the township looks into buying one he will recuse himself from the decision, as his company sells them. They can cost \$1,500 to \$2,500 depending on model. He would hope that the township would shop around and he is unconcerned about who the provider would be as long as the township hall has one.

Scott concurred that it would be good to have one, and he is trained in their use.

David Kipley said that a few years ago he purchased such a unit for Acme Township through a foundation with which he is associated. He intended it to be dedicated to the township, but he is uncertain where it might have ended up, but he thought it was to be in our CPO's car truck.

Wikle has seen gypsy moth tentworms out and about. She also reported that someone is riding a motorcycle across the vacant areas of LochenHeath from Dock Road and tearing up the property. Wikle also stated that the township needs to investigate the Deepwater Point shore pathways as people are beginning to inappropriately place boats, trailers and other personal items in those areas.

Motion by Takayama, support by Dunville to adjourn at 9:38 p.m.