



ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
Tuesday, December 7, 2010 6:45 P.M.

MEETING CALLED TO ORDER AT 6:45 P.M.

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

Clerk Dunville chaired the meeting in Supervisor Kladder's absence.

CLOSED SESSION to discuss [Bigg, Crowhurst et. al. v. Acme Township et. al.](#) (Roadway connecting Wild Juniper Tr. in the Northpointe Subdivision and Five Mile Road):

Motion by Hardin, support by Wikle to go into closed session to consult with our attorney regarding trial and settlement strategy in connection with the lawsuit concerning the road in Northpointe which is Case No. 10-28316 because an open meeting would have a detrimental financial effect on the litigating or settlement position of the Township. Motion carried by unanimous roll call vote.

Motion by Scott, support by Takayama to come back into open session at 7:10 p.m. Motion carried by unanimous roll call vote.

Motion by Scott, support by Dunville to have the township attorney carry out the actions discussed in closed session as further described.

Jocks reported that the property owners in Northpointe Subdivision have filed a lawsuit containing two actions. One is seeking a plat amendment to Northpointe, and this is why the township is named; because the township had to approve the plat originally and the law requires all units of government where the plat exists to be included and notified. There is no liability to the township associated with this issue. He is not concerned about impacts to the township but it must answer the lawsuit and he has asked to work with township staff in this regard.

Motion carried by unanimous roll call vote.

- A. STUDY SESSION: None**
- B. LIMITED PUBLIC COMMENT: None**
- C. APPROVAL OF AGENDA:**
Motion by Hardin, support by Scott to approve the agenda as presented. Motion carried unanimously.
- D. INQUIRY AS TO CONFLICTS OF INTEREST: None noted.**
- E. CONSENT CALENDAR: Motion by Wikle, support by Zarafonitis to approve the Consent Calendar as amended to remove discussion of the 2011 Board meeting schedule to New Business, including:**

RECEIVE AND FILE:

- 1. [Treasurer's Report](#) as of 10/29/10**

2. [Clerk's Report](#) as of 11/30/10
3. **Draft Unapproved Meeting Minutes:**
 - a. **Planning Commission** [11/29/10](#)
 - b. **GT County Road Commission** [10/27/10](#) and [11/10/10](#)
 - c. **Shoreline Advisory Notes** [11/17/10](#)
 - d. **Parks & Recreation Advisory Notes** [11/18/10](#)
4. [Parks and Maintenance Report](#) – Tom Henkel
5. [Planning, Zoning & Administrative Update](#) – S. Vreeland
6. **Metro Emergency Services** [Newsletter 11/15/10](#)
7. [Surface Water Quality Reports](#) – Acme and Yuba Creeks
8. [Status Update – VGT-Phase I SUP Application #2009-01P](#)
9. [2009 Solid Waste Capacity Analysis and Targeted & Banned Materials List](#)

ACTION – Consider approval:

10. **Township Board meeting minutes of** [11/09/10](#)
11. [Accounts Payable](#) of \$84,973.14 through 11/30/10 (recommend approval: Dunville)
- ~~12. [2011 Board of Trustees Regular Meeting Schedule](#)~~
13. [Board of Review Biennial Appointments](#)
14. [Appointments to Metro Emergency Services Authority Board](#)
15. [Resolution #R-2010-32](#) MDOT Performance Guarantee for Governmental Agencies for Annual ROW Work Permit
16. **Approval of Winter WonderFest** [Fireworks Permit](#) for the GT Resort & Spa

Motion carried by unanimous roll call vote.

F. REPORTS:

1. [Sheriff's report](#) – **Mike Matteucci:** Deputy Matteucci summarized the statistics for November.
2. [County Commissioner's Report:](#) – **Larry Inman:** County Commissioners are completing forms to provide feedback for County Administrator Aloia's annual evaluation. The completed forms will be available to the general public. Three new Commissioners will take office in January. Two are completely new to the Commission and one is returning after a two-year absences. The new Commissioners have been sent to training and early in their tenure will meet with the heads of all county departments to better understand their functions. The annual organizational meeting also occurs early in the calendar year, at which time officers are selected and committee appointments are made. New budgeting procedures will be used to assess the extent to which funds expended are benefitting the citizens. The November septage treatment plant bond payments are being made through a cooperative effort between the County and the guaranteeing townships. The County continues to promote the ability to elect Road Commissioners by district at the state level. Early efforts were stalled but will be renewed in 2011.

G. SPECIAL PRESENTATIONS/DISCUSSIONS:

1. [Business Development Incentive Tools](#) – **Tino Breithaupt and Phil Franzo TC Area Chamber of Commerce:** The township can create a policy for economic incentives for business retention, expansion and attraction. The Chamber has assisted several local units of government in crafting such policies, and seeks to keep the playing field level in terms of the level of incentives within a region so that there is not undue competition between townships. Once a policy is in place it might be used or it might not.

The basic theory behind tax incentives is that if a business is already paying taxes in the community, none of those dollars would be lost. There would be an abatement of local millage rates on the new development only of up to 50%. If they were already paying \$1, and the expansion would result in an additional \$1 if fully taxed, the local unit of government

would receive \$1.50 for the period of the abatement. The length of time is at the local government's discretion up to 12 years maximum for real and/or personal property. The time periods could be different for real property and personal property. The abatement can only apply to "net new" development to the state of Michigan. So, the abatement could not be used for relocation from one Michigan community to another, but could be used for investment coming from (or not being lost to) another state.

The Chamber has a proposed scoring sheet that helps units of government evaluate whether and how well they might qualify for abatement in a given community. Mr. Breithaupt provided some examples of abatement considerations in the region. Questions evaluated include impact on infrastructure (effect on roads and water and sewer systems) and compliance with a community's Master Plan and Zoning Ordinance. The process involves evaluating how well a particular business fits with the goals of the community.

Abatement consideration processes begin with a letter from a company asking for a township to create an industrial development district which includes their property. The name does not imply that the business has to be industrial in nature; it could be anything allowed by the township's rules. The configuration of the district is entirely up to the community. The City evaluates requests on a case-by-case basis, creating districts by parcel of land or a portion of a parcel. The Village of Kalkaska has placed all of its commercial space in its industrial district.

Zarafonitis asked how the unit of government avoids claims of unfair treatment if it grants an abatement to one company but not another. Mr. Breithaupt responded that if there was no competition for an expansion project, this might be one reason not to approve a request. Level of job creation might be another factor for consideration. Some types of incentive programs have maximum allowable time limits, but some others do not. A township might not approve a request as presented, but might offer a modified deal. For example, they might not grant a 20-year abatement, but might offer a 10-year abatement.

Mr. Breithaupt encouraged a point of view that the incentives aren't taking away taxes, but creating additional taxes at a reduced rate. Job creation that the applicable statutes permit to be incentivized are higher-paying jobs in manufacturing, defense or technologically-advanced businesses. Retail business is not generally eligible for such programs.

Zarafonitis noted that some of the laws refer to being applicable to economically-distressed communities, and wondered how such a designation would apply in Acme Township. Many such distressed communities are downstate. If a business is in certain locations identified as a distressed community it qualifies for an additional program permitting a 100% abatement of personal property taxes for a potentially unlimited period of time. This does not make such a grant automatic; the local community still considers the application and makes the final decision to grant or not grant. A community not on the distressed community list can't make the request under PA 328 specifically for the 100% abatement of personal property taxes. Certain types of businesses are also authorized by the State to be considered for this program in any community if they also qualify for a certain state employment tax abatement program.

On behalf of Kladder, Vreeland asked if it would be possible for township requirements to include conditions such as preservation of a certain amount of farmland. Mr. Breithaupt state that this is possible. Wikle also noted that it could be possible to have conditions on size of land, meeting "green" standards. A township policy is highly customizable to our specific needs.

Scott asked if a company could make a request of the township if it doesn't have a policy yet. A company could, but the request couldn't be considered unless or until the township put a policy together to evaluate the request. Mr. Breithaupt noted that "clawback" provisions are

considered an important part of any such policy or agreement. They tend to recommend that agreements include a requirement that at 2 years after awarding the incentive a review is done to see if the company has met the obligations and commitments it made at the outset. If not, the clawback provision allows the abated amounts to be recouped by the community. The City is now doing reviews every 2 years during an abatement agreement period.

Hardin noted mention in the paperwork the question of abatements for businesses that want to come into a community in direct competition with another company for business and for abatements. Mr. Breithaupt said there are procedures in state law such that the existing business has to be part of the discussions and has to sign off on an abatement program for a new business. Hardin expressed concern that an existing business could use this as a way to discourage the addition of competing businesses to the community, essentially promoting a monopoly. Mr. Breithaupt didn't have an immediate answer but will research the question with the state and respond.

Hardin referred to a page in the packet titled "The Benefits of Tax Abatement." Under the section regarding benefits to community residents, one bullet point is "high paying jobs." Hardin wondered if there is a hard standard/definition for this term. Mr. Breithaupt stated that there are breakdowns for jobs by categories. One of the state programs available requires wages that are no less than 150% of the federal minimum wage.

Hardin also noted a listed resident benefit of "not having to pay the full cost of services they receive." If a company is receiving an abatement of taxes then there may be associated additional services for which they are not fully covering the cost at the outset. This is where a case-by-case evaluation of benefits and impacts is a necessary part of the process.

Hardin asked if it is possible to obtain some sort of financial guarantee or bond for recouping abated revenue if a business does not meet its obligations and becomes bankrupt or otherwise is unable to pay the abated amounts. Wikle noted that the community would have received some funds from the development of the new business that it would not otherwise have received. Otherwise this issue would have to be examined further to see what might be done.

The Board indicated consensus that it is interested in considering the development of a business incentive policy. There was discussion about having the Supervisor, Treasurer, Manager and legal counsel work with the Chamber and other applicable resources to develop a draft plan for further discussion.

H. CORRESPONDENCE:

1. [11/20/10 Letter from Bryan H. Smith](#): received and filed.

I. PUBLIC HEARINGS: None

J. NEW BUSINESS:

1. **Resolution adopting [GASB 54 Fund Balance allocation policy](#)**: Wikle reported that the auditors informed the township of new accounting rules effective in the current fiscal year, described more fully in the packet materials. The township is required to designate the purposes of fund balances for various reasons and the people who are authorized to deviate from designations in the township's best interests on an emergency basis as needed.

After discussion it was determined that a decision by any two of the Supervisor, Treasurer and Clerk should be required to assign fund balances to a specific purpose or to deviate from the expenditure policy if in the township's best interest on an emergency basis. It was also determined that the township should maintain a minimum General Fund balance equal to 50% of annual operating expenditures.

Wikle noted that in November 2008 the township adopted a resolution containing potential allocations for the General Fund balance. She recommends that the resolution be updated immediately and at least annually hereafter. While reviewing the adopted policy, Takayama expressed that he believes the \$250,000 allocation for township hall facility improvements should be reduced or eliminated, and that there should be consideration given to an allocation towards the matching funds for Phase II of the Shoreline Preservation Project and an allocation towards future deconstruction and park redevelopment costs. The allocation for zoning takings lawsuit self-insurance can be eliminated, as potentially could funds that were set aside for the Cherry Capital Cable Council, which has disbanded.

Motion by Scott, support by Takayama to have the Treasurer, Supervisor and staff review Resolution R-2008-34, Potential Allocations for Township General Fund Balance and develop a proposed update as discussed, and further to adopt Resolution R-2010-33 authorizing any two of the Supervisor, Treasurer and Clerk to assign fund balances to a specific purpose or to deviate from expenditure policies if in the best interest of the township, and requiring that the General Fund balance be maintained at a minimum balance of 50% of General Fund annual operating expenditures. Motion carried by unanimous roll call vote.

2. **Resolution to Authorize Refunding of Grand Traverse County - Traverse City Wastewater Treatment Plant Upgrade (2002 Project):** The County and the townships that participated in bonding for treatment capacity upgrades to the City wastewater treatment plant have an opportunity to refinance the bonds at a much more favorable rate. By doing so, the anticipated savings to Acme Township alone would be approximately \$173,200.80.

Motion by Zarafonitis, support by Takayama to adopt Resolution R2010-34 as presented. Motion carried by unanimous roll call vote.

3. **Resolution terminating township-County Solid Waste Intergovernmental Agreement:** The County Solid Waste Intergovernmental Agreement is due to automatically review for a new five-year term on December 31, 2010 unless the participating units of government opt out. The County has recommended termination of the agreement, largely in the face of initiatives by various member communities to independently seek solid waste hauling agreements for their jurisdictions. Kladder has done some research on the question and has determined that many of the legislative reasons why the agreement was formed in the first place no longer apply, and recommends termination.

Motion by Zarafonitis, support by Scott to adopt Resolution R-2010-35 as presented. Motion carried by unanimous roll call vote.

4. **Tribal 2% Grant Application Requests:** The township has been asked to sponsor requests from two non-governmental community organizations to the semi-annual Tribal 2% Grant cycle closing on December 31.

The first request comes from the Traverse City Convention and Visitors Bureau in the amount of \$75,000. The township has sponsored applications for the TCCVB in each of the last two grant cycles. Zarafonitis recalled that the township has expressed concern about promoting this application in the past, feeling that it might be more appropriate for the County to sponsor the application. The County forwards all applications they receive to the Tribe along with a County comparative ranking. Tribe has its own criteria as well, so the County ranking may or may not be meaningful. Wikle believes the township needs to see clearer representation of Acme as a distinct place, and that events held here should be touted as held in Acme and not Traverse City. Scott felt we were very clear last time around and asked why the TCCVB has not asked the County to sponsor its application this time. Inman stated that in the past there was tension between the County and the TCCVB over a County-

proposed hotel/motel room tax of \$1-2/night. State law is now such that the local population is not of sufficient size to permit a local room tax to be adopted and the County was going to seek amendment of the law but the TCCVB was strongly opposed and productive communication between the two organizations ceased. Inman believes the County would be open to sponsoring their application the future and indicated willingness to discuss with Brad VanDommelen from the TCCVB.

The County has completed processing of the applications it received for this grant cycle already. If the township does not sponsor the TCCVB application this time again, the Bureau will not have a chance to be considered in the current cycle by another government.

Motion by Wikle, support by Zarafonitis to support TCCVB application to the December 31, 2010 Tribal 2% Grant cycle with statement to them that we will not support an additional application from them.

Scott suggested it might be better if the township left open an opportunity to sponsor future applications for the TCCVB if the direct benefit to Acme Township is more clearly demonstrated.

Support withdrawn by Zarafonitis.

Motion amended by Wikle, support by Scott to support the TCCVB application to the December 31, 2010 Tribal 2% grant cycle with feedback to the TCCVB that the township encourages them to apply through the County in the future, and for any future applications through the township a direct benefit to the township must be more clearly demonstrated. Motion carried by a vote of 4 in favor (Dunville, Hardin, Scott, Wikle), 2 opposed (Takayama, Zarafonitis) and 1 absent (Kladder).

Donna Sayler was present to support the application from the Yuba Historic Society for Tribal 2% Grant funds to use towards renovation of the Yuba Schoolhouse. The building is 150 years old, and many members of our community today attended school there. Zarafonitis was concerned by the potential use of a downstate contractor rather than a local contractor. Roy Challender, 3885 Bunker Hill Road stated that if the costs are significantly lower this way, this is as important a factor as keeping the jobs local. The proposed contractor is providing a lot of free information.

Mrs. Sayler thanked the Supervisor and Manager for their assistance with the application. Some details of the application will be fine-tuned prior to final submission. At this time the concept is to request \$40,000 from the Tribe to cover the costs of architectural plans and permits, septic system and well improvements and heating/environmental control systems. The current total project cost estimate is \$257,720.

Motion by Dunville, support by Takayama to support the Yuba Historic Society application to the December 31, 2010 Tribal Grant cycle. Motion carried by unanimous roll call vote.

The township will also submit its own application for funding. There was discussion about taking a new approach to the application process this year by asking for funding for general township use in terms of the amount of property tax revenues lost to the township by the placement of two Tribal parcels of land into trust status with the Federal Government. The County and township have been having periodic discussions for several years now about entering into intergovernmental agreements similar to those in place for several other local units of government based on this approach. Takayama suggested discussing the concept chat with a tribal council member first, as the township does not want to inadvertently cause conflict with the tribe through such a proposal. If designation of a specific project is required,

the Board suggested requesting the funding to support shoreline project deconstruction and site redevelopment.

5. **Budget YTD Status:** Deferred to January
6. **Sewer Fund Status:** Deferred to January
7. **Letter regarding post-acquisition partnership opportunities with GT Regional Land Conservancy:** Megan Olds, Associate Director of the GT Regional Land Conservancy recently indicated that the Conservancy Board is exploring the question of whether it should begin offering more post-acquisition support to communities they partner with to accomplish land preservation projects. It would assist her Board in their evaluations if they knew which of their township partners were interested in such services, and specifically what types of assistance might be welcome. If Acme is interested in such opportunities, which could include assistance with planning and fundraising for post-acquisition deconstruction or site re-improvement, Vreeland could draft a letter to that effect.

The Board indicated interest in exploring the possibilities. Takayama feels it is important in any conversations that the township should not imply that we are so interested in the assistance that they should base additional staffing on our interest. He is concerned about costs and any assistance being within the scope of current institutional capacity. We would be interested in knowing how the funding issue would be approached.

8. **2011 Board of Trustees Regular Meeting Schedule:** Scott proposed moving the July meeting date back to the customary first Tuesday as we haven't made past attempts to avoid Cherry Festival week and few people seem concerned about conflicts. He will be taking classes one week per month and would miss a meeting on July 12 but could attend one on July 5. Consensus was reached to move the July meeting back to July 5.

Motion by Scott, support by Dunville to approve the proposed 2011 Board of Trustees Regular Meeting Schedule as amended to move the July meeting to July 5, and further stating that if there is no election scheduled for August 2 the August meeting will be moved to that date. Motion carried unanimously.

K. OLD BUSINESS:

1. **Solid Waste Contract Bid Update:** Kladder provided a status update memo and proposed timeline for consideration of whether or not the township should develop an ordinance and township-wide contract for single-provider curbside garbage and recycling services for residential properties up to 4 units. The township is working in coordination with leadership from Peninsula and East Bay Townships in evaluating the four bids that were received on November 18 through the City/township cooperative bidding process. He may suggest that we use common legal counsel to develop needed ordinances, if any.
2. **Knollwood House:** On behalf of the new Acme Historical Society (AHS), Amy Kerr Hardin provided an e-mail asking permission for the AHS to hold an open house at the Knollwood property for Valentines Day. The purpose of the open house would be as a fundraiser for historical society operations and goals in general, with a particular eye towards funding the "mothballing" costs for investigation and decision about the future of the facility from now through early November 2011. The Board expressed concern about such an event being perceived as township-sponsored and an indication that final decision about the preservation of the property had been made when it has not yet been made. They also noted that the deconstruction of the buildings other than the Knollwood house should be underway by February and the site will likely be closed to the public at that time for safety reasons. – Deconstructions schedule – potential conflict. The question was also asked as to what would

happen if someone donated a large sum of money to Knollwood preservation and the township ultimately chose not to preserve the building? Mrs. Saylor said that if a restricted-purpose donation were received, the historical society could work with the donor to redirect or return the money. Wikle observed that if an event were held during the winter extra plowing and heating costs would be incurred and safety could be a larger concern than at other times of the year. The Board generally indicated that an event in February would not be approved, but that a request for a date later in the spring such as April or May might be entertained. With the other buildings removed the site would be more attractive, plus the public would be able to get a better feel for how much space the building would or would not take up in the otherwise opened space. This might answer a lot of public question, and "snowbird" residents would also be returning to the area.

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

Vreeland advised the Board that a township resident has approached her regarding the potential for a medical marijuana establishment in the township. The resident has been advised that currently the township has no regulation one way or the other, and that if he opens a retail business on a property that already has appropriate permits in place for retail operations that absent any other regulation regarding the specific product involved the land use would be permissible under the zoning ordinance as it currently exists. Jocks reported that some Michigan units of government have attempted to prevent medical marijuana establishments in their jurisdictions by passing ordinances that don't allow businesses that don't comply with federal law. These regulations are being challenged in court, and he would not recommend pursuing such standards. Some municipalities allow "collectives," some do not. The township can't control the transfer of marijuana product between licensed people, it can only control some of the conditions under which it occurs.

The key concern raised by the Board is whether or not state law regulates the spacing between a medical marijuana establishment and churches and schools. Hardin wondered about status of Bertha Vos in this regard.

Motion by Zarafonitis, support by Dunville that the Board recommend that the Planning Commission consider a moratorium on medical marijuana establishments to allow time to develop reasonable ordinances. Motion carried by a vote of 5 in favor (Dunville, Hardin, Takayama, Scott, Zarafonitis) and 1 opposed (Wikle.)

Vreeland noted for purposes of general understanding that the process of adopting a moratorium as a zoning ordinance amendment (as indicated by 13th Circuit Court case law directly involving the township) will require at least 3 months. It is possible that a retail business associated with medical marijuana use could open in the township prior to any moratorium taking effect and could continue to operate as a grandfathered land use.

Meeting adjourned at 10:05 p.m.