

**Whitewater Township Board**  
**Minutes of Regular Meeting held April 22, 2014**

**Call to Order**

Supervisor Popp called the meeting to order at 7:04 p.m. at the Whitewater Township Hall, 5777 Vinton Road, Williamsburg, Michigan.

**Roll Call of Board Members**

Board Members Present: Benak, Goss, Hubbell, Lawson, Popp

Board Members Absent: None

Others Present: 17

**Set/Adjust Meeting Agenda**

Benak would like to add receipt of some building drawings to the agenda. Popp stated it will be added under Board Comments/Discussion.

**Declaration of Conflict of Interest**

None

**Public Comment**

Carol Crawford, Acme Township, introduced herself as a candidate for District 6 County Commissioner and gave details of her background, training, and experience.

Jason Gillman, East Bay Township, introduced himself as a candidate for County Commissioner in the Republican primary. Referring to tonight's agenda, Gillman stated the Intergovernmental Agreement should be approached with caution. Also, there is a big difference between property taxes, PILT payments, and 2% monies.

Tim Arbenowske, Fire Captain, announced a new member who is here in the audience, Nick Carpenter. He is with Elk Rapids. He is Firefighter I and II certified. He is already on board with Rural. Another gentleman is Drew Jeurink. When he is available, Arbenowske will introduce him.

**Correspondence**

None

**Public Hearing**

None

**Reports/Presentations**

None

**Unfinished Business**

None

## **New Business**

### **Tribal Intergovernmental Agreement – Comments, Discussion, Possible Amendments**

Popp began the discussion of the proposed Intergovernmental Agreement and Building Lease by inquiring how many had reviewed it.

Four to five members of the audience raised their hand.

Benak agreed to state her questions/concerns first and listed the following, referring to the Intergovernmental Agreement:

- Page 1, paragraph 2c, would like clarification on cost of radio tower, impervious surfaces, and what building maintenance they are referring to, i.e., replacing roofs, overhead doors, or general wear and tear. Also, what do they consider “furnishings” and is there a possibility of a grant for these items.
- Page 2, paragraph 3, shouldn’t it say Township Board as a whole, not just Supervisor.

Brief discussion occurred regarding the best format for discussion, each Board member stating all of their comments or discussing one comment at a time.

Popp stated he also has a comment on 2c. He believes major systems in a building are the landlord’s responsibility.

Discussion followed. Hubbell stated we should start a list of concerns.

Benak continued with her questions/concerns:

- Again referring to Page 2, paragraph 3, shouldn’t it say Township Board (instead of just Supervisor). It should be the same as paragraph 4 where it states “Tribal Council as a whole.”
- Page 2, paragraph 5, would like clarification on what this is for.
- Page 3, paragraph 8, the “30 days written notice” has to be longer. We need more than 30 days to move the fire department if something should happen. She suggested six months.

Goss listed her questions/concerns as follows:

- The heading of the Intergovernmental Agreement refers to us as a “Municipal Township.” She believes it should be changed to General Law Township.
- Page 1, paragraph 3, the public act citation (PA 35 of 1951) does not match the MCL number. MCL 124.112(d) does define public agency and is what they meant to refer to, and that is PA 258 of 2011.
- Page 1, paragraph 3, the citation of MCL 124.113(1) also does not match the public act citation in paragraph 2.
- Page 1, paragraph 4, makes it sound like the only place we are going to take our emergency services is onto tribal property. Suggest it be modified to include the entirety of Whitewater Township and possibly include Rural Fire’s service area.
- Page 1, numbered paragraph 2c, the same concern as previously stated. What all would we be responsible for?

- Page 2, numbered paragraph 3, the same concern as previously stated. Suggest it say “the Board as a whole and individually.”
- Page 2, numbered paragraph 7, a legal opinion from the attorney is needed.

Hubbell stated his concerns concerning the Intergovernmental Agreement have already been covered.

Lawson stated the same.

Popp listed his concerns as follows:

- On his first read of the Intergovernmental Agreement, he thought it stated the building would be payment in full for all services, but he cannot find that wording now.
- Referring to the cover letter from Chuck Stewart, top of Page 2, second paragraph, Popp would like to see a map depicting the visual area referenced there. Also, Rural Fire should be involved before entering into this agreement. Government Lots 62 and 66 are in Acme Township, which is Metro. Are we committing Rural to additional area?

Benak stated she questioned whether Rural Fire will need a mutual aid agreement with the Tribe.

Popp stated they also do not have one with Medical Control.

Captain Arbenowske commented that would probably fall under the mutual aid agreement that Rural does have with Metro. Also, the properties mentioned are neither Metro’s or Rural’s at a certain point.

Popp listed further concerns as follows:

- Page 2 of the cover letter, paragraph 3, referring to the language in the third and fourth sentences, Popp feels it is worth pursuing. He has a good idea of what a township-owned building will cost as a result of putting together a Plan B. They can be compared. Ninety days might be a little aggressive to get this signed.
- Addressing the Intergovernmental Agreement, Page 1, paragraph 3, Popp believes PA 35 is incorrect as well.
- Referencing the “Through Mutual Agreement” paragraph, Popp stated he had to read it three or four times before he understood. He believes it to be an accurate statement currently, but we can get advice on it.
- Page 1, numbered paragraph 1, Popp never found the “limitations” referred to. Also, Popp would like to have a map of the properties referred to. Referring to the sentence which says “at no other additional cost than normally subject to any other Township property owner,” Popp stated that is as close as he could come to payment in full. Are they actually willing to pay up to 1 mill? How are they establishing at no additional cost than any other taxpayer? How do we define “no additional cost”?

Benak stated there was a letter or a court decision concerning Suttons Bay charging the Tribe additional fees for emergency and fire runs which were not being charged to regular residents because they considered the Tribe a sovereign nation. The court said you cannot do that; they

are a part of your community; you have to provide services to them. Benak said that should be clarified.

Further concerns expressed by Popp include:

- Page 1, paragraph 2c, he concurs with what everyone else has said.
- Page 2, paragraphs e and f indicate we cannot sublease. Rural will have to have involvement.
- Page 2, numbered paragraph 3, Popp interpreted it that the paragraph refers to medical liability, etc., while we are responding to the reservation and the Tribe holding us harmless while we are acting on behalf of the Tribe.
- Page 2, numbered paragraph 5, Popp agrees with the comments made.
- Page 2, numbered paragraph 6, Popp noted that in one place it states the agreement will renew year to year, but this paragraph talks about 25 years.

Brief discussion occurred about the need for a resolution to adopt the agreement.

Lawson inquired whether numbered paragraph 9 on Page 3 would include our interaction with Rural. Would that be allowing Rural to come in?

Brief discussion followed.

Popp stated this concludes discussion on the Intergovernmental Agreement. He inquired of the Board if they would like to allow 10 minutes of public comment, to which there was no objection.

Jason Gillman stated that paragraph 7 might simply be a labor clause.

Kim Halstead asked whether there is a way to put into the Intergovernmental Agreement that the Tribe would help pay for the cost of the ambulance service during the daytime periods.

Popp stated that may be addressed later on under New Business item 2.

Tim Shaffer, 5309 Moore Road, stated the 30 days of getting out is nowhere near enough time. He believes when the township was looking at leaving Rural Fire, it was a minimum of six months and perhaps a year notice.

Turning to the proposed Building Lease, Hubbell and Lawson declined the chance to speak first.

Popp listed Building Lease concerns as follows:

- Referring to the 12,972 square feet listed on Page 1, numbered paragraph 1, it does not indicate what will be assigned, but additional documents might answer that question.
- Same paragraph, the parcel number should be verified.
- Numbered paragraph 2, the term of the lease appears to be 25 years.
- Numbered paragraph 3, base rent, will be looked at under New Business item 2b.
- Numbered paragraph 4, additional rents, we would expect to pay for those items.

- Page 2, third paragraph, Popp inquired if this language is going back to the parameters and scope of our services that were supposed to be defined somewhere in the lease, that he did not see? Does the language mean Whitewater Township gets the bill?
- Page 3, numbered paragraph 10 has already been discussed with regard to the radio tower. In Popp's opinion, we should define what systems we are actually repairing. Regarding the commercial kitchen language, Popp's question is: What kitchen? That has not been a part of the township's needs. Clarification is needed.
- Page 4, numbered paragraph 15, subletting, Rural does not release us from claims. That seems to be double jeopardy, in his opinion.
- Page 6, numbered paragraph 23, Popp would like to get a copy of the tribal law that they intend to enforce upon us.

During Popp's listing of concerns, there was brief discussion by the Board on some of the topics.

Goss listed Building Lease concerns as follows:

- Page 1, she also had a question about the 12,972 square feet, whether that is necessary. It is four times the size of the current building.
- Page 1, numbered paragraph 1, no storage of hazardous materials, Goss is not certain if personnel would see that as an issue or not.
- Page 1, numbered paragraph 4, additional expenses, she feels cost estimates should be provided for budgeting purposes.
- Page 2, paragraph 3, she has concerns about the second sentence; it needs to be further delineated what is being referred to.
- Page 2, numbered paragraph 6, Goss does not know what "Tribal code" means.
- Page 2, numbered paragraph 8, Goss quoted the paragraph. Benak stated this refers to junk left behind.
- Page 2, numbered paragraph 9 seems to cover everything, but in the case of the American Red Cross storm shelter, will there be room for township residents to use it?
- Page 3, paragraph 2, the second line should say licensees, not licenses. Also, we need to make sure the fire personnel agree with the hazardous materials language.
- Page 3, numbered paragraph 10, Goss believes structural repairs would be the responsibility of the landlord, unless we caused the damage. Referring to the last sentence of the paragraph, Goss questions the wording stating "the whole facility." We will not be leasing the whole building. This paragraph needs modification.
- Page 4, numbered paragraph 14, Goss stated we need to be aware that any remodeling or improvement by the tenant becomes the property of the landlord when the lease terminates.
- Page 4, numbered paragraph 16, Goss noted that "trade fixtures" means personal property of the tenant.
- Page 4, numbered paragraph 17, the language stating "all policies shall name both the tenant and landlord as insured parties" should be reviewed by our insurance agent.
- Page 5, numbered paragraph 20, the first sentence does not spell out what premises are being referred to. Just our part? It needs to be spelled out exactly what part of the building we would be obtaining insurance for.

- Page 5, numbered paragraph 22, it is very vague which premises are being referred to. Maybe the word “leased” could be inserted before “premises.” In every location where “premises” are referred to, some description is needed to identify the premises referred to.
- Page 6, numbered paragraph 23, the phrase “Tenant’s failure to pay and other charge” should probably be “Tenant’s failure to pay any other charge . . . .”
- Also on Page 6, numbered paragraph 23, waiver of trial by jury, the township attorney should review this paragraph.
- There are various typographical errors throughout the document.
- Page 7, numbered paragraph 33, application of “the laws of the Grand Traverse Band as governing any dispute arising out of this agreement,” Goss is not sure the township attorney will go for that language. Goss stated the tribal court may not be in Peshawbestown; it could be in Washington D.C. at the Bureau of Indian Affairs, depending on the issue.

Popp stated a dispute resolution clause should be included.

Referring to the size of the proposed building, Hubbell stated any building that is built should be built for the future.

Popp invited public comment on the lease.

Tom Emerson, 8785 Park Road, is not sure why there is a tower lease agreement included. The current fire communication system works off the tower on Watson Road, a tower in Mapleton, and a tower on River Road. We should not get involved in the Tribe putting up a tower unless they can substantiate it. If they want to put an EOC center there, that should be something EOC and Grand Traverse County or Central Dispatch should be involved in. Towers are expensive. The fire department does not need it.

Adam Shaffer, 5309 Moore Road, stated there is a truck that is supposed to be here but is not due to lack of space.

Popp stated his thought is that we go back to the Tribe with a list of recommendations, questions, things we need clarification on, but we will have to trust that the Clerk interprets the questions the way we wanted them asked.

Benak asked at what point we bring our legal counsel in.

Board discussion followed. Consensus was reached to generate the list of questions, send it to the attorney along with the documents, and carbon copy Chuck Stewart so he can take it back to his people.

### **Proposal for a Whitewater Township “Town Hall Meeting”**

Popp stated it is never too early to get the public involved and get feedback from them. Popp has listed three things that he is passionate about and would like to hear from the public on. Item A is a proposed fire station; explore a plan to foster public comment on Tribal and/or Township

buildings. Popp described in some detail the building that has been put together as Plan B, as recommended by Arbenowske. The price is at \$1 million. At an interest rate of 5% and a 30-year payoff, the monthly payment would be around \$7,000 for principal and interest.

Popp calculated that a 1 mill fire assessment on the casino and a 1 mill ambulance millage would generate about \$120,000 annually, which would pay for a township-owned building.

Benak stated that Popp's remarks assume the premise that the Tribe will volunteer to pay those mills.

Popp stated it is his goal to give the taxpayers a choice.

Board discussion followed.

Popp stated the next thing to address at a town hall meeting is to explain exactly where the ambulance service is currently at and the trials with it and how to move beyond those trials. Popp asked how many realize that our tax millage to support fire and ambulance is half of all other surrounding townships. We need to hear from the voters.

Lengthy Board discussion followed.

Popp stated the third item he suggested for the town hall meeting is roads, but in view of Benak's comment, he would be willing to drop that off.

Popp would like to set a date for a town hall meeting, using the second Board meeting of the month more as a work session to discuss topics A and B and how to present those to the public. He would like to move this forward enough to have a town hall meeting before July 4th.

Goss stated she contacted the County Clerk today and was advised that if the Board wanted to put a millage on the November ballot, the wording would have to be finalized and the Board's vote to place it on the ballot would need to take place by August 12th.

Discussion followed regarding the location and dates. Consensus was reached that Popp will contact Mill Creek Elementary to inquire about the availability of Thursday, June 12, or Monday, June 16 as possible dates for a town hall meeting, with a proposed time of 6:00 p.m. to 9:00 p.m.

### **Tabled Items**

None

### **Board Comments/Discussion**

Benak stated she made copies for Board members of a building drawing and building expense spreadsheets which were received today in an e-mail from Chuck Stewart.

Benak also stated that the Williamsburg Emergency Services Auxiliary is putting on a retirement luncheon for Tim Shaffer at the New Hope Community Center on May 17th at 1:00 p.m. An invitation is extended to all Board members. It will be announced in the newsletter.

Lawson stated the PC would like everyone to read the Master Plan. They are discussing possibly having a second meeting on May 14th. The reason for the meeting is to get questions and comments from Board members on the Master Plan.

Discussion followed.

There were no comments from Board members for Lawson to take back to the Planning Commission.

Popp stated we will attempt to get the Master Plan read by May 14th.

### **Announcements**

The next Township Board meeting is May 13, 2014.

### **Public Comment**

Vicky Emerson, 8785 Park Road, stated she has lived on the road for over 20 years. In the last couple years, whatever is being used to treat the road for dust is either being diluted or it is ineffective after about a week. It would be nice if the roads were graded before it was put down rather than after because it is a waste of township money. She has heard there are other products that last longer and it should be looked into. It is a waste of taxpayer dollar to treat the road the way it is currently being treated.

Popp stated the township is exploring the possibility of an alternative to the Road Commission, who have put the township on notice that the cost of brining this year will be twice that of last year.

Discussion followed.

### **Adjournment**

Motion by Lawson, seconded by Hubbell, to adjourn. Meeting adjourned at 9:36 p.m.

Respectfully submitted,

Cheryl A. Goss  
Whitewater Township Clerk