

**Whitewater Township Board
Minutes of Regular Meeting held July 8, 2014**

Call to Order/Pledge of Allegiance

Supervisor Popp called the meeting to order at 7:03 p.m. at the Whitewater Township Hall, 5777 Vinton Road, Williamsburg, Michigan, followed by the Pledge of Allegiance.

Roll Call of Board Members

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

Board Members Absent: None

Others Present: Zoning Administrator Habedank and 4 others

Set/Adjust Meeting Agenda

Benak asked whether a closed session must be on the agenda.

Goss stated there is a closed session on the agenda.

Popp would like to pull Rural Fire and other minutes and ZA report out of the Consent Calendar to discuss.

Declaration of Conflict of Interest

None

Public Comment

Tim Shaffer, 5309 Moore Road, suggested that the Fire Department and Ambulance Coordinator reports, as listed under Reports/Presentations/Announcements and Consent Calendar, be consolidated into one report so they only have to come up once.

Kim Halstead, 7923 Cook Road, is concerned with the shooting range. He stated it is in a good place to have one, but do they tell you how much traffic it is going to generate in the township or how much it will be used. He stated the Township Board will have to put up with the complaints about traffic. He called the DNR to complain that they did not call the Township Board regarding this issue and they promised that they would call Supervisor Popp to let him know what went on at the DNR meeting.

Popp stated he has offered to Dave (Lemmien) the use of the township hall for the DNR's second meeting. This offer has not been accepted, but Dave indicated there would be at least one more meeting.

Hubbell stated he is conscientious about what Halstead said, but he is all about having something like this for our community and feels we need things like this for our youth, if it is done right.

Brief discussion followed regarding the proposed location on Diagonal Road, negative community input, concerns about how it will be run and increased traffic, and lack of communication with the Township Board.

Public Hearing

None

Reports/Presentations/Announcements/Comments

Grand Traverse County Sheriff Department Report – No one is present from the Sheriff Department.

County Board of Commissioners Report – Commissioner Inman is not present.

Fire Captain Report – Captain Arbenowske is out of town with other work.

Ambulance Coordinator Report – Ambulance Coordinator Martin is alongside the road waiting for AAA.

Planning Commission Report

Lawson reported that last week they worked on a lot of corrections to the Draft Master Plan proposed by the Township Board and got a little over halfway through it. A special meeting has been called to work through the second half. Thus, tonight's agenda item under Unfinished Business has evaporated.

Consent Calendar

Popp stated he has a couple comments about the Zoning Administrator's report and would like Dennis to hear what the Board has to say. Popp found the report informative but saddening in that the nuisance complaints may end up in court action. Popp feels the township's policies have allowed it to happen. Popp quoted from the report, under Natural Drainage Rights.

Brief discussion followed. Habedank stated the reason he sent the memo to the Township Board and the Planning Commission is because if we are going to take control of the situation where the drainage is manmade, it has to be incorporated into the Zoning Ordinance.

Goss suggested Habedank investigate how the ZO could be amended to deal with this situation and bring it to the Board.

Popp stated it should be taken to the PC first.

Hubbell stated it needs to be looked at.

Benak stated she would like to see the Planning Commission and Habedank work to develop an addition to the Zoning Ordinance.

Habedank noted that the MDEQ in Cadillac was very helpful, but they stated there is nothing they can do. The same story came from Grand Traverse County, the Drain Commissioner, and the Health Department; it's subsurface or drain water; there is nothing they can do. The Health Department did do an inspection to make sure it was subsurface water and not coming from someplace else.

Popp referred to the Rural Fire minutes of 03/19/2014 and a statement of Chief Weber on Page 4 that “EMS offsets the cost of fire departments.” Popp stated this is what started the rewrite of the Intergovernmental Agreement to include ambulance service. Popp noted that EMS is not a profitable item.

Referring to the Rural Fire 05/21/2014 minutes, on Page 1, Popp directed the Board’s attention to the following statement, “Discussion about Tankers and financing. The new Tankers will have pumping and CAF systems.” Popp noted that Chief Weber is upsizing the tankers and they will have the CAF foam system. The new tankers will be huge. Popp inquired how they will support our roads.

Brief discussion followed. Goss and Hubbell expressed a desire to get more details.

Popp then directed the Board’s attention to the minutes of the 06/12/2014 town hall meeting, Page 2300, where Chief Weber indicated there is a risk analysis to determine township needs. Popp inquired if previous board members had ever seen the risk analysis.

Neither Benak nor Hubbell could recall seeing a risk analysis.

Referring to Page 2301, Arnell Boyd’s inquiry whether the EMS people employed at the casino would be able to respond in the township, Popp stated he has not gotten an answer on that yet.

Referencing Page 2302, Popp quoted from his own remarks, “Popp stated that Rural is in charge of fire; the township has no control over that.” Popp said he may have misstated or overstated, and that is why it is on the agenda for tonight.

Benak stated the Board has ultimate control because we can leave Rural Fire if we need to.

Quoting from Page 2303, “Popp states that we are required to have 2 people 24/7,” Popp stated he may have said this, but the actual requirement is that if we have an ambulance service, the ambulance service has to be available 24/7 and the only time we actually need 2 people is to transport. Popp wants to make sure the Board understands that we are required to have 2 people to transport.

Goss stated she believes that is what Popp said, but she has not listened to the audio as Lisa Bowerman prepared those minutes. Goss offered that something could be added to the minutes if Popp requests it.

Popp stated he does not need a change; he just wants to make sure the Board understands what the actual requirements are.

Brief discussion followed.

On Page 2304, Popp quoted as follows, “Popp stated that a 1 mill special assessment generates \$50,000 to \$60,000. We generate \$20,000 to \$30,000 from the insurance.”

Popp clarified that 1 mill generates around \$183,000, not \$50,000 to \$60,000. If he said \$50,000 to \$60,000, that is incorrect.

Brief discussion followed. Goss will have Bowerman check the audio.

Popp then referred to Bills for Approval, check number 38394, Nye Uniform, a coat for Micaiah Foust. At the beginning of July, Foust said he was leaving.

Brief discussion followed.

Referring to check number 38399, Popp inquired if that was to turn on the irrigation at Hi Pray Park.

Goss replied it was for turning on the irrigation, replacement of a couple valves in the backflow preventer, as well as repair of a hole in a water line in zone 8. Goss stated she was informed today by the testing person that the backflow preventer must be tested for water quality.

Brief discussion followed.

Motion by Lawson, seconded by Benak, to approve Consent Calendar items as presented.

Receive and File

1. Supervisor's Report for June 2014
2. Clerk's Report for June 2014
3. Zoning Administrator's Report for June 2014
4. Station #3 Fire Captain's June 2014 Activity Report
5. Ambulance Coordinator's June 2014 Activity Report
6. Approved 04/09/2014 Historical Society Minutes

Correspondence

1. Grand Traverse County Sheriff Department Statistics for June 2014 (unavailable at packet time)
2. Grand Traverse Rural Fire Department Minutes of 03/19/2014
3. Grand Traverse Rural Fire Department Minutes of 04/16/2014
4. Grand Traverse Rural Fire Department Minutes of 05/21/2014
5. DNR Notice of Open Houses re: Forest Plans
6. Letter from Chuck Decker re: Fire Station/Ambulance
7. Letter from Lodena Benak re: Fire Station/Ambulance
8. Letter from John King re: Emergency Services Facility

Minutes

1. Recommend approval of 06/10/2014 regular meeting minutes and 06/12/2014 and 06/24/2014 special meeting minutes

Bills for Approval

1. Approval of Alden State Bank vouchers #38297 through 38400
2. Approval of Alden State Bank Miami Beach voucher #1151

Budget Amendments (none)

Revenue & Expenditure Report (none)

Roll call vote: Popp, yes; Lawson, yes; Hubbell, yes; Goss, yes; Benak, yes. Motion carried.

Unfinished Business

Master Plan Review – Possible Approval for Distribution

This agenda item has been postponed to an unknown date.

New Business

Disposition of Attorney-Client Privileged Opinion re: Tribal Intergovernmental Agreement

Benak stated she would like to go into closed session to discuss this. **Motion by Benak, seconded by Hubbell, to go into closed session.**

Goss reviewed the reasons a township board is allowed to go into closed session and asked for the Board's understanding of which reason is met in this case.

Benak stated the lease agreement.

Popp stated the agenda item is to discuss whether or not we keep the attorney's opinion private or make it public. We are not discussing the opinion.

Benak stated she would like to go into closed session to be able to discuss the legal opinion that was sent to us, that we are talking about either making public or not. It is a lease agreement we got a legal opinion on.

Goss noted that “. . . a 2/3 roll call vote of board members elected or appointed and serving is required to call a closed session. The required roll call vote and purposes for the closed session must be entered into the minutes of the open portion of the meeting.”

Roll call vote: Hubbell, yes; Lawson, yes; Popp, yes; Goss, yes; Benak, yes.

Goss also noted that “an open session must precede and follow a closed portion of the meeting, and the closed session may be used for deliberations only. All decisions must still be reached in an open meeting.”

At 8:02 p.m., the Board entered closed session in an office in the township hall.

At 8:35 p.m., the Board reconvened in public session.

Popp reopened the public session at 8:35 p.m.

Popp reiterated that the agenda item is disposition of attorney-client privileged opinion; keep it private or release to public; more importantly, who shall conduct the township negotiation. Popp inquired if anyone had a motion on who shall conduct the township negotiation.

Motion by Benak that the township appointed attorney, Bill Fahey, conduct the negotiations.

Discussion followed concerning whether keeping the opinion private should be a separate motion.

Goss restated the motion as follows: **Motion by Benak that Bill Fahey conduct the negotiations of the Tribal Intergovernmental Agreement and Building Lease.**

Lawson seconded the motion.

Roll call vote: Goss, yes; Lawson, yes; Popp, yes; Hubbell, yes; Benak, yes.

Motion by Hubbell to keep the Tribal Intergovernmental Agreement private.

Discussion followed involving clarification of the motion.

Goss restated the motion as follows: **Motion to keep the attorney-client privileged opinion of Bill Fahey private.**

Popp seconded the motion.

Roll call vote: Benak, yes; Hubbell, yes; Popp, yes; Goss, yes; Lawson, yes.

Ambulance Hiring Protocol

Popp noted we have been working on several ambulance issues, including attracting qualified personnel to the service, but there are no job descriptions for EMT or MFR. He further noted that we were notified on 06/23/2014 of Micaiah Foust leaving on 06/02/2014. On the same day, Captain Arbenowske indicated he would be gone from about July 5 through July 27. That leaves three responders: Tom Emerson, Levi Gaskin, and Dawn Martin. There is a need to hire some people right away. Popp explained the documents he provided for this topic. Popp is asking for a waiver or relief from Administrative Policy Section 3.1(b) and 3.6, Personnel Policy #3, and the Whitewater Township Ambulance Service Policy #102 Pre-Employment Testing, in lieu of each candidate providing a State of Michigan license at or above the MFR level, a 6 months old or newer medical record similar to the requirements of HR Policy #102. Popp is asking for a yearlong waiver, but is happy with whatever the Board is willing to do.

Current pre-employment requirements and proposed changes were discussed.

Popp stated that the Clerk notified him today that we have no way to pay these people. Popp feels we have discussed what we were going to pay, i.e., \$40 for a 12-hour pager duty.

Goss clarified that resolutions are needed to adopt wage scales for duty crew and on-call wages.

Lengthy discussion followed, including proposed hourly wage figures of \$10 for MFR, \$11 for EMT Basic, \$12 for EMT Special, as well as \$40 for a 12-hour pager shift. Run wages would only be paid for the pager duty shifts.

Discussion returned to Popp's proposal for relief from current pre-employment requirements.

Motion by Hubbell, seconded by Lawson, to allow the Personnel Director, Personnel Administrator, and Whitewater Township Ambulance Coordinator authority to offer EMT and MFR employment opportunities to qualified individuals without having a Township Board approved job description and repeating current pre-employment health screenings for a 9-month period.

Goss stated the motion does not state what is going to be required. A second motion will be needed to say exactly what we are going to require. Goss stated she wants to know what she needs to have in the personnel file.

Lengthy discussion followed attempting to craft a motion that would accomplish a temporary suspension of the current hiring policies for ambulance employees and what would be required in the interim.

After lengthy discussion, Popp withdrew his request on New Business #2.

The Board then discussed the various issues with the hiring of ambulance personnel which will need to be addressed.

Motion by Popp, seconded by Hubbell, to table New Business Item #2. There was no further discussion. **On voice vote, all those present were in favor, none opposed. Motion carries.**

Review Rural Fire Intergovernmental Agreement

Popp stated the question is: When signed, did Whitewater Township transfer all authority (police powers) to operate a fire department and does that include authority to sign a building lease?

Benak stated she would like this question sent to the township attorney.

Popp referred the Board to Section IV of the Intergovernmental Agreement entitled Powers and Limitations. "The Rural Division shall have the following powers and be subject to the limitations listed below. Additional powers and limitations are also found elsewhere in this Agreement. The powers and limitations listed in this subsection are as follows: A. All powers which each Township could exercise regarding the operation of a fire department and other emergency services except the power to impose taxes or a special assessment. It is acknowledged that some of the powers specifically described elsewhere in this Agreement are already covered by this broad grant of authority. The listing of such specially described powers has been included to emphasize certain key concepts and to assist those who will implement those concepts."

Popp stated the next sentence is especially important: “The listing of such specific powers is not intended to limit the broad grant of authority or power which is intended to be given to the Rural Division”

Popp quoted further, “B. All powers granted in the future to entities which have been created under the Urban Cooperation Act or granted in the future to townships regarding the operation of fire and/or other emergency services. C. All powers granted by statute to a township fire board.”

Directing the Board’s attention next to Section V, Fire Board, Popp quoted as follows, “The Rural Division shall be governed by a Fire Board (the Board). The Board shall exercise ultimate authority regarding the powers of the Rural Division.”

Brief discussion followed.

Turning to Section VI, Delegation of Authority, Popp quoted as follows: “Except for the power to impose taxes or special assessments, each Township has delegated its authority regarding the operation of fire and emergency services to the Rural Division. This includes, but is not limited to, the appointment of all fire officers and firefighters . . . battalion chief.”

Finally, Popp quoted from Section IX, Fire Stations, “Battalion fire stations and fixtures which are currently owned by a Township shall remain the property of such Township. The Rural Division shall enter into a lease with the Township to assist the Township in recouping costs associated with the maintenance of the fire building and fixtures.”

Discussion followed concerning the fact that no lease exists and whether the township has delegated all of its authority, including the authority to sign a building lease.

Consensus was reached to ask the township attorney the following: What power and/or authority does the township retain under the Rural Fire Intergovernmental Agreement?

Popp will type it up and circulate it to everyone before it goes to Fahey.

Goss added a second question: And how will that affect a potential Tribal Intergovernmental Agreement?

Audience member Kim Halstead stated the attorney should be asked: If Rural has all that power, how much do they have to re-compensate our township for whatever needs to be done from now on. There is a lot of stuff that we paid for, that they should have paid for. From now on, they should be held to that standard.

Popp stated more questions could be brought back in a special meeting.

Goss stated there was a motion earlier that Fahey conduct the negotiations of the Tribal Intergovernmental Agreement and Building Lease, but these questions need to be answered first.

Popp stated we can send these two questions out.

Benak does not wish to delay for another meeting sending this information out to the attorney.

Goss asked for clarification of “this information.”

Benak stated she was talking about the Tribal Intergovernmental Agreement negotiations.

Popp stated that is a separate issue; already gone.

Should the Township Continue to Offer a “Plan B” for a Fire Station

Popp stated this agenda item concerns “permission to modify existing ‘Plan B’ to accommodate all fire and ambulance equipment in one building, including additional meeting space for emergency service personnel training.

Goss stated that she thinks we should continue to explore that.

Lawson agreed, in case everything falls through with the Tribe.

Benak does not agree, stating it needs to be put on the shelf; we can always get back to it. She also stated we heard loud and clear from the people in the town hall meeting. Plan B could still be sitting there and very easily picked up. She would rather see efforts put in more of a direction that we need it right now. She is not saying let it die on the vine; set it aside for now.

Hubbell agrees, stating for right now let’s see where this other thing is going to go. He stated the majority of the people who came to the meeting were for it. That is what the meeting was for, to get some input from the people. In his mind, we are going to go in this direction for now. If it falls through, then we will go back to this. It is not like we are not doing anything; we are moving forward.

Goss stated that, unfortunately, we had pretty low turnout at our meeting, and we have gotten some feedback since then. Goss stated she does not consider that a mandate. Goss stated she agrees with going ahead on looking into the Tribal thing, but she has questions about whether that will ever materialize into something suitable. She stated she does not want the township-owned option to go off the radar permanently. Also, the building proposed to be walked through is allegedly 8,000 square feet, as opposed to the current 3,200 square foot building. Goss is anxious to go through this building to see if it is a building that could serve as a fire station. She further commented that the proposed parcel for the current township-owned facility may not be suitable as it requires a lot of money for dirt work. Goss does not want to have the impression that this Board is ignoring the comments of those who are not in favor of going in with the Tribe. Goss noted that some of the people who spoke at the town hall meeting are connected with the fire department and have a vested interest in wanting a brand new building. They may be thinking that the Tribe’s proposal is the quickest way to get something.

Benak stated by no means could a new fire station ever be considered to be done quickly.

Lawson stated we should keep Plan B going. If things wither away with the Tribe, we need to be ready to keep moving ahead.

Hubbell stated it can be picked back up real fast; we should let Popp focus on other things.

Popp stated that Captain Arbenowske asked him to do a Plan B. He has now withdrawn that request because he now sees that the Tribe is moving. Popp's concern is that he does not want this Board's legacy to be a board that did not have a plan that was executable when Plan A does not materialize. Could we pick it up quickly? Yes, probably, but all of the citizen involvement, all information shared, future mailings, future town hall meetings will have to be redone.

Motion by Popp, seconded by Lawson, that we keep Plan B moving along, maybe even at a more accelerated rate to see who can keep up.

Lengthy discussion followed.

On voice vote, Popp, Goss, and Lawson voted yes. Benak and Hubbell voted no.

Discuss Ballot Language Replacing Current Fire Special Assessment District

Popp stated this agenda item will not be quick and believes it should be tabled.

Consensus was reached to table this agenda item.

Additional Budget Line Items in the Fire Capital Improvement Fund and Need for Budget Amendments

Popp stated payment was approved from the 2% grant money that went to the Fire Capital Improvement Fund for wages for MacLean and Habedank to get the town hall meeting mailer out and the cost of blueprints from Cardinal Drafting.

Goss added that there was also mileage for MacLean, as well as the Copy Shop bill, so line items are needed for wages and mileage. Also, amounts need to be budgeted for those line items. A professional services line item should also be created for the Cardinal Drafting bill. Goss stated she will bring back budget amendments when amounts are provided.

Popp stated \$500 should be budgeted for professional services, \$250 for wages. Medicare and Social Security line items can be created, if needed. Mileage should be budgeted at \$100.

Benak suggested some money be budgeted for contingency for possible future expenses, perhaps \$2,000.

Goss stated she will create these line items and bring back a formal budget amendment for approval.

Tabled Items

Rural Fire Request for Vehicle Titles (tabled 05/13/2014)

This agenda item will remain tabled.

Board Comments/Discussion

Popp stated he was contacted by Rural Fire Board Chairman Trudell. Chief Weber's Expedition requires \$3,000 worth of head work. They would like to use our Expedition and give us theirs. Captain Arbenowske will be gone until 07/27/2014. Popp has been notified that we did lose Moore Road; we need to be out 10/14/2014. Popp asked for the Board's thoughts on the Chief Weber issue.

Discussion followed.

Popp will relay to Rural Fire that the Board is confused about the offer and requests that it be put in writing.

Hubbell stated that he thinks we need to ask Fahey about the tabled item dealing with the request for title.

Announcements

Next Township Board meeting is 07/22/2014, if not before.

Public Comment

Jim Galligan, 9125 Ayers Road, stated the County tried to do the gun range when Mickey was the supervisor. By looking back, the Board may find things that may be of benefit. Also, he read that the well at the cemetery quit and they were thinking of installing a hand pump. He stated hand pumps that let the water go back down into the ground have been taken out of parks. That might be something to check on.

Goss noted that a lady stopped in to the township hall last week requesting an update on the water situation at Circle Hill Cemetery. The lady commented that a hand pump would be a problem for her because there are hoses out there that have been hooked up to the well and they have not had to haul water. She stated she would have a problem carrying water because of her back.

Popp stated that Galligan is correct that you have to have a certain kind of pump.

Popp described the course of events with attempting to remove the existing pump at Circle Hill. The estimate is for just under \$5,000 to replace the well, which was drilled in 1979.

Benak suggested we check with our insurance company. If the well company did screw up, they should have liability insurance.

Hubbell suggested that Popp contact Shepler Well Drilling in Manton for another estimate.

Tim Shaffer, 5309 Moore Road, stated the employment exam which the firemen use covers it all. Employers may have a copy of these for new people. Background check, driver's license check, and lifting check is part of the physical. Concerning the Expedition, Shaffer stated it gets used on a regular and consistent basis.

Adjournment

Motion by Hubbell, seconded by Lawson, to adjourn. Hubbell stated we need to consider second meetings of the month if we are going to have this much on the agenda.

Popp stated we already have second meetings.

Meeting adjourned at 10:20 p.m.

Respectfully submitted,

Cheryl A. Goss
Whitewater Township Clerk