

**Whitewater Township Board**  
**Minutes of Regular Meeting held April 25, 2017**

**Call to Order**

Popp called the meeting to order at 7:00 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: Scott Carter, Tim Arbenowske, Tim Shaffer, Dave Hauser, and 2 others

**Set/Adjust Meeting Agenda**

There were no adjustments. Benak has a handout for the Miami Beach topic.

**Declaration of Conflict of Interest**

Popp stated he may have a conflict depending on what we do on private roads. Depending where that discussion goes, he will remove himself from the discussion.

**Public Comment**

None

**Correspondence**

1. Letter 04/12/2017 Spectrum re: Charter Communications Merger and Acquisition
2. Letter 04/18/2017 Fife Lake Township re: Notice of Intent to Withdraw from Grand Traverse Rural Fire Department
3. E-mail 04/18/2017 Springfield Township re: Notice of Intent to Withdraw from Grand Traverse Rural Fire Department

Regarding the issue of Rural Fire, Goss noted that Lajko (Paradise Township supervisor) has raised the issue of expelling Fife Lake and Springfield townships, and inquired on what basis that procedure would be undertaken.

Popp stated that it appears that there was a plan that they attempted to put together to allow the two townships to leave before December 31.

When asked who “they” is, Popp responded at least Lajko and he believes Chief Weber, but acknowledged that was conjecture on his part.

In response to the inquiry as to what basis would be used for expulsion, Popp replied that irreconcilable differences was discussed.

Benak inquired if they are looking to leave early.

Popp stated he does not think so. The motion to draft a resolution to invoke the clause was made strictly by surprise by Lajko. It passed. Popp stated Fife Lake and himself voted against it; Paradise, Union, and Springfield voted for it.

### **Public Hearing**

None

### **Reports/Presentations**

None

### **Unfinished Business**

#### **Emergency Services Building Renovation/Addition Project**

Goss reported that the sealed drawings were received late on Friday, along with the COMcheck report for Plan Review and a letter from Pressell. All documents were provided to the board. Plan sets were ordered for Construction Code and will be delivered there tomorrow, as well as copies for the township. The project is ready to be put out for bid.

The following details were discussed:

- The invitation to bid legal notice will be published in the Traverse City Record-Eagle and the Elk Rapids News.
- A mandatory walk-through/inspection of the premises by potential bidders will take place on Tuesday, May 9, at 9:00 a.m.
- Sealed bids will be due by 5:00 p.m. on June 1 to the clerk's office.
- A special meeting of the township board to open the bids and award the contract will be set for Tuesday, June 6, at 7:00 p.m. This information will be added to the invitation to bid.
- An 8-yard dumpster will be placed at the fire/ambulance facility for items to be disposed of. The dumpster will occupy the parking space where the brush truck currently sits.
- A 10 x 12 storage unit will be leased for storage of furniture, etc. that needs to be temporarily removed from the building.
- The wireless/phone connection will be moved to the apparatus room.

Popp raised the issue of the survey for the MDOT property. Mitchell & Associates has quoted around \$900 for a survey and the legal description.

Benak and Lawson indicated that they still want to purchase the additional property.

Popp will arrange for the survey to take place, as well as an updated legal description.

#### **Update on Junk Complaint**

Popp reported that, according to Weinzapfel, there is no change to his report dated April 11th.

No action was taken.

#### **Ordinance 28 - Miami Beach Sewer Project**

A meeting needs to be scheduled with the residents and the DPW.

Benak provided information concerning the special assessment district. She has spoken with John Axe, the bond attorney who set up the black book (Miami Beach Sewer Special Assessment District Transcript of Proceedings). Part of the information has to do with what is in the accounts, where the money came from, what gets spent out of those accounts, and the refund issue.

Benak stated her calculations show that the leftover money does meet the 5% refund rule (it is actually 15%), so the \$47,212 must be refunded.

Benak confirmed that the township does own the facility, the obligations, the repairs and maintenance, the billing and the collections. The board chose to have Grand Traverse County DPW do the collections, the repairs and maintenance, and the billings. The bond is completely paid; it belongs to Whitewater Township. Axe advised Benak that it cannot be turned over to DPW or Grand Traverse County. The contract gives the township the right to build it and run it. Axe is going to send us a written clarification; he is not going to bill us for it.

Benak stated her concern is that no special fund was ever set up for replacement of the system. It is 20 years old; we need to plan for it. The money in the sewer and receiving fund, currently at \$74,976.84, is the account used for maintenance and repairs. DPW bills the township \$7,000 per year for maintenance and repairs.

Discussion followed regarding how replacement of the system would be paid for, the contract with Grand Traverse County for operation and maintenance of the system, and the source of funds for eventual replacement of the system.

Popp will find out if John Divozzo (from County DPW) is available to attend the 6/13 meeting. If so, this issue will be brought back on 6/13.

Benak suggested that we may want to schedule a special meeting date after 6/13 to accommodate the Miami Beach property owners.

### **Nick Thornton Parcel Sale**

Mr. Thornton has a parcel of land which he would like to sell. He claims it is too small to build on. Since it is adjacent to township property, he is approaching the township to see if we have interest in it.

Goss noted there are other similarly situated parcels and cautioned that we may be setting a precedent if it were to be purchased.

Lawson stated he does not see a need for it.

Popp proposed that we sell our parcel to him.

Discussion followed regarding the option of selling the township parcel to Thornton.

Hubbell stated he tends to agree with Lawson.

Benak said if we need to expand our commercial district and someday maybe put a downtown in, the block of land between Old M-72 and new M-72 is the best place to put it. It keeps you connected to new M-72. Most of the commercial stuff is already there, and there are minimal houses in that area. Benak is not so sure about saying no right away.

Discussion followed.

Popp stated he is inclined to take a serious look at it. It is not a lot of money for 600 feet of M-72 road frontage.

Benak reported that the taxable value of the Thornton parcel is \$4,500. The land value is listed at \$9,000. It is 1.44 acres with 522.5 feet of road frontage.

Mr. Thornton is not present tonight.

This agenda item will be brought back next month.

Benak requested that this issue be discussed in closed session since it involves purchase of property.

### **Ordinance 32 – Private Road Ordinance**

There was discussion of the exception/appeal provision in Ordinance 32.

Mr. Carter is present.

The history of Mr. Carter's prior dealings with the township related to this private road were discussed, i.e.:

- Carter's 05/04/2012 letter to the Whitewater Township planner/zoning administrator applying for a variance from provisions of the private road ordinance. (Benak stated she remembers the Carters coming in and meeting with Leslie Meyers.)
- Carter does not believe he ever went in front of the Planning Commission back then.
- Carter's meeting with Popp (interim zoning administrator) on 03/15/2013.
- Popp's letter to Carter on 05/17/2013.

It was agreed that Mr. Carter's written request could stand as the application. There was no objection to Goss's suggestion that no fee be collected.

Popp noted that for the actual building of the road, there still has to be an application fee, unless the board decides to waive it.

Consensus was reached that, if Carter is released from Ordinance 32, he would be putting in a driveway, not a road.

Popp noted that Ordinance 40, the fire protection ordinance, would also have to be excepted.

Lawson noted that Carter voiced to the Planning Commission that he is willing to improve the road to a standard to allow emergency vehicle access.

Discussion followed regarding minimum road width for emergency vehicles, logging truck use on the road in question, road maintenance agreements, and the circumstances of Mr. Carter's situation (\$82,000 quote to bring the road up to the standards of Ordinance 32, neighbors unwilling to respond to request to share in cost).

Benak stated it is an undue hardship and Carter should get relief from the ordinance.

Discussion followed, including the process to repeal an ordinance.

**Motion by Benak to repeal Ordinance 32, second by Lawson.**

Popp stated this is where he has to back out. Repeal of an ordinance is not on the agenda.

Goss stated repeal cannot be accomplished with a motion; another ordinance would have to be adopted to repeal Ordinance 32.

**Benak requested that her motion be rescinded.**

Discussion followed.

**Motion by Benak, second by Lawson, to start the process of repealing Ordinance 32.** There was no further discussion. **Roll call vote: Benak, yes; Goss, yes; Hubbell, yes; Lawson, yes; Popp, no. Motion carried.**

Popp raised the issue of Ordinance 40, stating it is much more restrictive than Ordinance 32, and asked if it should also be addressed in this process.

Benak stated we should do one at a time.

Lawson suggested that Ordinance 40 should be put on the radar for the Planning Commission.

**New Business**

**Scott Carter – Request for Exception to Private Road Ordinance**

Scott Carter, 9200 Pine Hill Court, Saline, Michigan 48176, referring to the agenda item concerning acquisition of railroad property, stated the new CEO of CSX is very interested in high return on investment and has a history of unloading assets.

Carter provided the following information:

- He is proposing to build a 10-foot wide road from where the map says Heiges Trail ends currently, which is the northern border of Parcel B, and proceeding across Parcel B to the south border of Parcel B, which is contiguous with his merged parcel C and D. It is about 438 feet.
- It is currently a very rough two-track. He proposes to build it to the same standards as he used for the entrance last year off Bunker Hill Road, when approximately 60 feet of road was improved at Carter's expense.

- All of the property owners on Heiges Trail have either not responded to Carter's proposal to improve the road or have expressed that they are not in a position to contribute.
- Carter stated the improvements he proposes to make will be right on the easement, which is 66 feet wide.

Carter was advised that any questions he has about emergency vehicle access should be directed to Chief Weber of Rural Fire.

Captain Arbenowske reported that there was a brush fire back there about 10 years ago and they got back there fine until probably where Carter now owns. If it is a maintained road and it is capable of holding the weight of a truck, it is an improvement. Arbenowske is not familiar with any turnaround at the end.

Carter stated the plan for the driveway is to put a loop in around the tree at the T in Carter (on the aerial map) sufficient to get fairly decent-sized units around it, so there will be a turnaround in the driveway. They are going to build the driveway to the same standards as the other improvements. They have altered the course of the driveway, have taken some trees out, and will be making some more improvements in that area for vertical clearance.

Goss reminded Carter that even though he is going to spend money on the improvements, he cannot prevent anyone else from traversing the property.

Popp stated his only concern is that Carter verify and stay on the ingress and egress easement.

Carter stated the improvements will be within the easement. If they have to follow the center, they will follow the center.

Goss stated that is probably what he should do.

Board discussion followed.

**Motion by Goss, second by Lawson, to grant Scott Carter an exception to the requirements of Ordinance 32, the Private Road Ordinance, based on hardship and the fact that the improvements may result in improved access by emergency services to the Carter property and adjoining properties.** There was no further discussion. **Roll call vote: Goss, yes; Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes. Motion carried.**

Mr. Carter thanked the board for their attention to this matter.

#### **American Waste Recycling Bins – Andrew Jeurink Complaint**

Andrew Jeurink is present and lives at 8601 Church Street.

To bring the board up to speed, Popp stated he does not believe there is an issue with property boundaries. Andrew is still looking at confirming some verbiage on his warranty deed, but Popp thinks that conflict has been removed. It is now more or less a cleanup issue.

Jeurink stated the trash is encroaching on his property and he would like it taken care of.

Goss noted that there is also an area of broken glass in the parking lot and we need to get someone to clean up the parking lot and around the recycle bins.

Raking and fencing of the area was discussed. Cyclone fence was discussed in a U shape to contain debris in the recycle bin area, following the property line on the south and west sides, but allowing for side-to-side movement of the recycle bins when north side placement is considered.

Jeurink stated he does not object to the fence being on the property line.

Goss will have Apple Fence provide a quote.

There was brief discussion of a survey. Popp stated the survey and posts exist.

Goss does not believe the cost will warrant obtaining more than one quote.

### **Charter Franchise Agreement**

The 10-year franchise agreement with Charter is due to expire on July 16, 2017. The issue at hand is whether Whitewater Township should join a group of townships that is forming in Traverse City to negotiate the new agreement. They have hired an attorney. We would be responsible for a portion of the attorney's bill.

Discussion followed. Consensus was reached that Whitewater Township should opt out of the Cherry Capital Cable Consortium.

Goss suggested contact be made with the Varnum Riddering firm, who was previously used to negotiate the franchise agreement, to see if they can handle the current negotiation, unless Fahey's office can handle it.

Brief discussion followed.

Goss suggested Fahey's office be consulted now as to whether they can handle review of this contract once it is presented or would refer us elsewhere.

Popp stated he will do that.

### **Wayne Monson – Use of Whitewater Township Property**

This matter involves the issue of whether to grant permission to Popp Excavating to traverse a non-motorized trail at Whitewater Township Park with heavy equipment in order to install a drain field on a deeded easement owned by Wayne Monson.

Supervisor Popp stated, just to be clear, there is no relation between himself and the Popp Excavating company.

Wayne Monson, 9338 Elk Lake Trail, introduced himself to the board and stated he is building a new home on Elk Lake Trail and has a deeded easement across the street. The four houses next to him have the same easement. The easement goes across the street, down three houses, and

then up a big huge hill. They bore into the ground with a machine and install a 2” pipe going up the hill. His septic easement is in a sandpit on the other side of the hill.

Monson stated he had no idea Popp Excavating was going to use park property. When the company that bored into the hill used the park property, he was called by the clerk. Popp Excavating has provided the insurance.

Goss confirmed that a certificate of liability insurance has been provided.

Monson said the only way he can get his septic system is to go through the park property. The remainder of the work will take a day and a half.

Discussion followed.

If permission is granted, Monson will advise the clerk of the dates on which the work will take place.

Lawson suggested that cones or tape be put up to close the trail temporarily while the work is completed.

**Motion by Goss, second by Lawson, to allow R.W. Popp Excavating, Inc. to cross Whitewater Township Park property for 1-1/2 days to complete installation of Wayne Monson’s drain field, and that R.W. Popp Excavating, Inc. assumes all liability for any damage to persons or property during the course of this work.** There was no further discussion. **On voice vote, all those present voted in favor, none opposed. Motion carried.**

#### **Removal of Trees at Hi Pray Park**

In order to reduce pine sap damage and pine needle cleanup and make the new playground equipment more visible to the public, the Parks & Recreation Advisory Committee has recommended that some of the large pine trees be removed near the playground area. Not all of the trees would be removed; some would be left to shade the pavilion area.

Discussion followed.

**Motion by Lawson, second by Hubbell, to have the clerk obtain an estimate from BDR Tree Services and Tree Top Mike for marked trees and debris to be removed at Hi Pray Park, and that board approval is hereby given for any estimate under \$5,000.** There was no further discussion. **Roll call vote: Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes; Goss, yes. Motion carried.**

#### **Tabled Items**

##### **Review Administrative Policy Section 5 (tabled 10/14/2014)**

This agenda item will remain tabled.

##### **Review Ordinance 22 Pension Plan (tabled 10/25/2016)**

This agenda item will remain tabled.

**Review Whitewater Township Planning & Zoning Fees (tabled 02/28/2017)**

This agenda item will remain tabled.

**Board Comments/Discussion**

Hubbell asked what we are doing about a zoning administrator.

Goss noted that, pursuant to discussion at the 04/11/2017 meeting, the job was posted on the MTA website and in the Record-Eagle. Four resumes have been received so far. The deadline is 5/4 and it is on the 5/9 agenda to decide who to interview. Weinzapfel will be here until 5/26.

Lawson asked Popp to provide copies of any requests to join the Planning Commission. He would like to get a copy of Mike Jacobson's.

Popp stated Jacobson is going to drop it off this week. Glenn Savage has not turned anything in. An application was sent to another individual, but Popp has not heard back.

Lawson requested that Popp make copies of the applications for the board.

Popp stated they will go through the clerk.

Regarding the Baggs Road paving project, Goss inquired when we will get the construction contract to trigger the 50% payment.

Popp stated he believes Clearwater acted on it at their meeting a week ago and he thinks it is back to Grand Traverse for their action. It has to go back to Kalkaska after that.

Lawson noted Tim Shaffer has had a request in for alternate for the ZBA and asked when that is going to happen.

Brief discussion ensued as to the length of time involved in making this appointment.

Popp noted it will be on the next agenda.

**Announcements**

Next regular meeting is 05/09/2017 at 7:00 p.m.

**Public Comment**

Tim Shaffer, 5309 Moore Road, stated he read tonight's paper in regard to Fife Lake and Springfield leaving and the way it was stated, and he is curious what is going on, what is happening.

Popp stated two more townships have provided notice that they want to leave. It is over human resources issues.

Brief remarks followed.

**Adjournment**

Motion by Lawson, second by Hubbell, to adjourn. Meeting adjourned at 9:52 p.m.

Respectfully submitted,

Cheryl A. Goss  
Whitewater Township Clerk