

Whitewater Township Board
Minutes of Regular Meeting held June 27, 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: Roberto Garza, Dave Hauser

Set/Adjust Meeting Agenda

Popp would like to add a request for payment of expenses.

Added as New Business #7.

Declaration of Conflict of Interest

None

Public Comment

None

Correspondence

Letter 06/14/2017 Department of Natural Resources re: Opportunity to Comment on Road Inventory Project

Goss will post the letter on the township website in case the public wants to comment.

Public Hearing

None

Reports/Presentations

None

Unfinished Business

Emergency Services Building Renovation/Addition Project

Goss provided a written update, dated 06/27/2017, concerning happenings since the contract award on June 12. An e-mail today from Kyle Richter details the updated cost of fire suppression, which is substantially lower per a quote from Advanced Fire Protection. There will be a \$26,174 credit on those costs. Richter also provided a price for the performance, labor and material bond, which was not part of their original quote. The new contract amount will be \$13,382.37 lower than Richter's original bid, bringing the price to \$383,563.63.

Goss noted that she emailed Mark Pressell and Dan Rudy on 6/13 and again today, with no response. Richter needs three original sets of the May 15th plans with raised seal and signature on each set, as well as the plan review application signed and sealed by Pressell. She will call Rudy tomorrow to follow up. Also, the Professional Engineer Agreement needs to be signed.

Goss requested that the board give permission to the supervisor and clerk to sign the Construction Agreement once it has been approved by the township's attorney.

Motion by Hubbell that the supervisor and clerk are authorized to sign the attorney-approved Construction Agreement; second by Lawson. There was no further discussion. **Roll call vote: Benak, yes; Goss, yes; Hubbell, yes; Lawson, yes; Popp, no. Motion carried.**

Update on Junk Complaint

A report is pending on three junk complaints.

Ordinance 28 - Miami Beach Sewer Project

The ordinance is off to DPW and we are awaiting the condition assessment of the system.

Ordinance 32 – Private Road Ordinance – to Planning Commission

Ordinance 32 has been sent to the Planning Commission.

There was consensus that the Junk Complaint, Ordinance 28, and Ordinance 32 agenda items will be taken off the normal agenda temporarily and reinstated when there are updates.

Charter Franchise Agreement

The new Uniform Video Service Local Franchise Agreement from Charter has been received. Township attorney Chris Patterson is reviewing the document. Popp stated he and Patterson responded that it is a complete agreement within the 15 business days.

Goss noted that her office has not been provided with a copy of the letter that Popp refers to, which, according to the return receipt, was mailed on June 20 to Charter Communications legal department.

It was discussed that the township currently receives 5% of each customer bill as a franchise fee. The township can choose to collect anywhere from 0% to 5%. Charter collects the fee and pays it to the township. The agreement extends 10 years into the future.

Discussion followed as to the amount to collect.

There was consensus to stay at 5% for video services. Since the township does not have PEG channels, no PEG fees are collected.

Motion to authorize the Clerk to sign the Uniform Video Service Local Franchise Agreement and Attachment 1 to the Uniform Video Service Local Franchise Agreement; second by Benak. There was no further discussion. **Roll call vote: Goss, yes; Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes. Motion carried.**

Medical Marijuana – Proposed Survey

A proposed survey on this topic has been created by Benak and Popp. The final version will be mailed with the July tax bills. The survey includes an explanation of the Medical Marijuana Facilities Licensing Act, links to additional information, followed by seven questions and a comment section.

After discussion, it was agreed that the survey and the three hyperlinked documents shown on the survey will be available on the township website.

Deadline for return of surveys was discussed.

The survey will be printed on different colors of paper corresponding to whether it was mailed with a tax bill, mailed to people who are voters but who do not get a tax bill, or picked up at the township hall. Surveys printed from the website will be white. There will be stickers on the tax envelopes indicating there is a survey enclosed.

Motion by Popp to make the return date 08/31/2017; second by Lawson. There was no further discussion. **On voice vote, all those present voted in favor, none opposed. Motion carried.**

There was consensus that the proposed survey form is approved.

New Business

Proposed Zoning Ordinance Amendment No. 69

Kim Mangus, Planning Commission Chairperson, is present and was invited to the podium.

The proposed deletion of section 15.11, Distance of System From Any Body of Water, in Article 15, Sanitation Requirements, was discussed. County ordinance requires a drain bed to be 75 feet from the well but only 50 feet from the lake. Section 15.11 requires the septic tank and the field to be 100 feet from the lake. Popp recommends that section 15.11 be retained.

The proposed deletion of sound regulations in Article 26 was discussed. In doing so, the goal of the planning commission is to eliminate any inconsistencies between Article 26 and the township's noise ordinance. Although the sheriff is charged with enforcing the noise ordinance, the township has no agreement with the sheriff to do so. The county repealed their noise ordinance in November 2016. The sheriff department no longer responds to noise complaints.

Mangus stated the situation with the sound ordinance was straightforward in that there were two conflicting ordinances which had different authorities and different standards. The PC looked at which one is the better ordinance. By far, the general ordinance is very practical and enforceable, depending on your police contract. The one in the zoning ordinance requires a decibel meter which is read at the time of the incident by an individual standing on the lot line.

Popp stated his interpretation of Article 26 is that it protects the landowner from a business coming in; it guarantees quiet enjoyment of your property. It has nothing to do with the

occasional party, which is under the general ordinance. This would apply to a manufacturing business who might move into a zoning district abutting residential which has a press going every 10 seconds.

Benak related an incident with a neighborhood lawn care business operating late at night and creating noise.

Mangus said noise disturbances are more likely to occur, not in the commercial district, but with home occupations. She suggested that the township add an addendum to the general ordinance that would cover business issues. Enforceability is also an issue (lack of staff, lack of sound meter and staff trained in its operation). An addendum to the general ordinance would be immediately binding at the time of the amendment.

Popp stated he would like to see 15.11 reinstated and a draft come back to the board on Article 26.

The board discussed the pros and cons of Article 26.

Goss inquired of Mangus what the Planning Commission's thinking was in recommending removal of section 15.11.

Mangus replied that Grand Traverse County is typically the only one who deals with that. They are the ones who do the approval. The zoning administrator is not involved in sanitation inspections.

Popp noted the distance from the water to the disposal facility is labeled on the site plan. We are not going to the site to do a sanitation inspection; we are doing the site plan inspection, just as we would for any setback.

Other details of the county ordinance were discussed, as well as various circumstances affecting placement of septic systems on waterfront properties.

The issue of protection of water quality was discussed.

Dave Hauser, 9240 Skegemog Point Road, stated he has lived in the township for about 16 years and been on the Elk-Skegemog Lake Association Board for about 17 years. They are concerned about water quality in the Chain of Lakes. He cited several other municipalities with frontage on the Chain of Lakes who have the 100-foot setback requirement and one (Kalkaska) with a 50-foot requirement. He stated that if the requirement were relaxed to 50 feet, odds are over time that we could see an increase in pollutants, and it is unlikely to be changed back to 100 feet in the future. He urged the board to retain the 100-foot requirement in Whitewater Township, stating we need to keep the standard high to keep our water quality high.

Goss requested that Mangus explain the recommended changes to Article 36, Mobile/Manufactured Home Park District.

Mangus stated that it is the policy of the State of Michigan that you cannot discriminate against any legal form of housing. A trailer is a legal form of housing; it needs to be accommodated in some manner. We had allowances made for a trailer park in one location, which was not available and not in any condition to be utilized as a trailer park. We had little provisions to make sure that trailers could not be utilized in our township. The planning commission tried to go back through the ordinance and look at what makes it legal, what would not make it legal, and set up standards for use as opposed to barriers to use. She stated this was based very heavily off East Bay Township's ordinance. The planning commission removed a good number of additional standards that East Bay Township holds. It is already regulated through the county. You have to get a permit to set a trailer. They have standards for anchoring, proper construction, etc. Older trailers have to have engineer certification that they can handle the snow loads in Grand Traverse County. The recommended changes are setting basic guidelines regarding codes, electrical, etc., and trying to bring our ordinance into compliance with the law.

Goss noted that she has attended all of the public hearings on zoning amendments at the planning commission. As the minutes reflect, there were no written or oral comments in favor of or in opposition to any of the changes in Amendment No. 69.

With respect to section 15.11, Goss agreed that this language should be retained in the ordinance.

Lawson said he did not disagree with the 100 feet. The sound ordinance is a duplication and he does not feel we can enforce it, and it should not be there. Regarding the mobile home parks, the statutes are pretty clear on what we can and cannot allow, and the planning commission dialed it in to follow the statutes.

Popp stated a line was drawn through BOCA but kept HUD.

Mangus stated this would apply to anything that has a vehicular registration or be less than BOCA. Construction Code has advised that the term BOCA has been replaced with MRC, Michigan Residential Code. Anything that meets the Michigan Residential Code will be viewed as a home, as a residential structure. Things that have a vehicular title or would be temporary housing via FEMA or HUD would be treated under the mobile home ordinance, Article 36.

Mangus further advised that with respect to any concern that they have taken out trailer parks, any trailer park falls under the state mobile home trailer park act, so it is still allowed. Whitewater Township treats it as a mobile home site condo.

It was agreed that the retention of section 15.11 does not need to go back through public hearing at the PC level.

Motion by Goss to adopt Zoning Ordinance Amendment No. 69, except that section 15.11 should be retained in Article 15, Sanitation Requirements; second by Hubbell. There was no further discussion. **Roll call vote: Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes; Goss, yes. Motion carried.**

Appointment of Roberto Garza to Zoning Board of Appeals Alternate

Roberto Garza, 8705 Angell Road, is present.

There was brief discussion.

Motion by Lawson to confirm the recommendation of the supervisor appointing Roberto Garza to a 3-year alternate position on the Whitewater Township Zoning Board of Appeals, term ending 12/31/2019; second by Hubbell. There was no further discussion. **On voice vote, all those present voted in favor, none opposed. Motion carried.**

Garza will stop in tomorrow to take the oath of office.

Recycle Bin Fencing – Apple Fence Quote

Goss explained the Apple Fence quote, specifically, that the proposal does not call for the fencing to follow the property line, as was originally proposed.

There was brief discussion of the logistics of erecting a fence in the recycle bin area and the quoted prices with and without privacy slats.

Motion by Popp to approve the Apple Fence proposal, with the privacy slats option, for \$3,032; second by Lawson. There was no further discussion. **Roll call vote: Lawson, yes; Popp, yes; Benak, yes; Goss, yes; Hubbell, yes. Motion carried.**

Whitewater Township Park Storage Policy

A proposed storage policy was discussed by the board in January. The recommended changes have been made and are being brought back for approval.

The recommended changes were discussed.

Popp repeated his objection that the zoning administrator should verify the use is allowed in this zoning district. We could be opening up precedence for RV storage in the agricultural district.

Goss replied that it is a very seasonal operation.

Lawson commented that all RV parks do temporary storage.

Motion by Hubbell to adopt the Whitewater Township Park Storage Policy for Recreational Units; second by Lawson. There was no further discussion. **Roll call vote: Popp, no; Benak, yes; Goss, yes; Hubbell, yes; Lawson, yes. Motion carried.**

Review General Ordinance 41 – Video Service Provider Right-of-Way

Popp stated we should make sure our ordinance is up to date. He has sent this to the township attorney to make sure it is in compliance with the law.

Discussion followed.

This agenda item will be brought back for public hearing on any changes.

Proposed Zoning Ordinance Amendment No. 70

Motion by Popp to adopt proposed Zoning Ordinance Amendment No. 70 as written; second by Benak. There was no further discussion. **Roll call vote: Benak, yes; Goss, yes; Hubbell, yes; Lawson, yes; Popp, yes. Motion carried.**

Popp Request for Payment of Expenses (added)

Popp stated that he turned in mileage expense reports. The clerk felt certain charges were not business related or within the supervisor department, i.e., attendance at the funerals of Basil Gray and Matt Lyons, attendance at an information seminar for the Elk Rapids School bond vote, and responding to two junk complaints. He is asking the board to approve mileage reimbursement of \$48.24.

Goss noted that the supervisor waited until 03/30/2017 to turn in all of his mileage for the 2016/2017 fiscal year, which consisted of five or six pages. Goss explained her reasons for denying the requests.

Discussion followed.

No action was taken.

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

Goss stated she would like to know who Popp has talked to, by name, regarding any of the John Goss property on Buck Road, citing the fact that there was a signed purchase agreement until someone spoke to Popp about the property, at which point the proposed purchaser backed out of the agreement. Goss stated she would like to know who, when, and why Popp discussed any of the property belonging to John Goss on Buck Road.

Popp stated he thinks he has only talked to two people. One was recently. His first name is Shane. He was Popp's son's golf coach. He stated he happened to meet him in the parking lot, asked him how he was. Turns out he had questions on that parcel.

Goss noted this is the gentleman who walked in saying he had a question about a land division and Goss directed him to the assessor, and is the same occasion which Goss previously brought

to the board where the supervisor came back into the building with the gentleman and insisted that the clerk open the zoning office.

Goss then asked what information Popp gave this gentleman about the property, because the gentleman was in Popp's office for 30 to 40 minutes.

Popp stated he wanted to see where the land had been divided from; he wanted to see the assessing file of the entire parcel, so they tried to find the parent parcel. As Popp recalls, they could not find the entire parent parcel but only a single land division that involved one piece of land, "and I don't think it was owned by you or John."

Goss interjected that she wants to make it clear that her name is not on either of the pieces of property that John Goss owns on Buck Road.

Goss asked if Popp has talked to anybody else about John's property.

Popp stated there was one other person, but he cannot recall their name. It was a male.

Goss reported that she was told by Lois MacLean a couple Fridays ago that a woman came into the zoning office that day. The woman said she was from TAAR and she wanted to talk to somebody about the Goss property and said she had talked to someone named Popp.

Popp stated no.

Goss asked if Popp has talked to any women, any realtors or any women about the property.

Popp again stated no.

Goss stated it is obvious that we do not need to have the supervisor involved in anything to do with zoning, land divisions, land combinations. Popp has no authority to do those things. The board has not appointed Popp as the part-time zoning administrator, the assistant zoning administrator, the assistant assessor, or the assistant treasurer.

Popp stated the board does not have to appoint him as the assessor because that is his statutory duty.

Goss replied that, according to Leelanau County Equalization Director Laurie Spencer, the supervisor is the assessor only if they have an assessing certification, which Popp does not have.

Popp reiterated that it is a statutory duty of the supervisor.

Goss noted that Whitewater Township has an excellent assessor who handles all questions from the public.

Goss further stated that she heard today that this person or one of the people Popp talked to bought another parcel in Whitewater Township.

Goss inquired of Popp if he talked to any of these people about the private road ordinance, did he give them any information at all about the private road ordinance as it relates to John Goss property on Buck Road.

Popp stated we do not know who “these people” are, except for one.

Goss said that Popp has stated one of them is Shane, and Popp says he talked to one other male, and stated she is asking about all the people Popp said he talked to; did Popp talk to them at all about the private road ordinance and how it might apply to John Goss property on Buck Road.

Popp replied no.

Moving to the topic of the treasurer office window replacement, Goss inquired who the board would like her to call to do the repair.

Discussion followed.

Goss will make some phone calls.

Announcements

Next township board meeting is July 11, 2017, at 7:00 p.m.

Public Comment

Kim Mangus, 1214 Cerro Drive, thanked the board for helping on their progress with the zoning ordinance. She anticipates another public hearing in August. They have been working extensively on the commercial zoning district and have completed a rough draft, and they are nearing completion for the village and the industrial. She anticipates they will be bringing all three before the board after their next public hearing.

Mangus asked that the amended articles be posted on the website and new pages be issued to the PC, perhaps in a different color.

She also brought up the issue of a fan operating beneath a light fixture in the meeting room, causing the light to flash, which might be bothersome to certain people.

Adjournment

Motion by Lawson to adjourn; second by Hubbell. Meeting adjourned at 9:23 p.m.

Respectfully submitted,

Cheryl A. Goss
Whitewater Township Clerk