

**Whitewater Township Board
Minutes of Regular Meeting held January 22, 2019**

Call to Order

Supervisor 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: Goss, Hubbell, Lawson, Popp

Board members absent: Benak

Others present: County Commissioner Gordon LaPointe, Ron Bachi, Janet Bachi, John Nolan, Tom Slopsema

Set/Adjust Meeting Agenda

There were no adjustments.

Declaration of Conflict of Interest

None

Public Comment

None

Correspondence

1. Fahey Schultz Burzych Rhodes Township E-Letter December 2018
2. Grand Traverse Band Notification of 2% Award to Fire Department

Correspondence was not discussed.

Public Hearing

None

Reports/Presentations**County Board of Commissioners**

Gordon LaPointe gave the following report:

- The only thing coming up now is the pension deficit, the \$50 million or so. He has met with MERS once already. They have a study session tomorrow. A couple years ago, when Tom Menzel came in, they put together a plan to get the county 100% funded, \$5.9 million into MERS every year. In 16 years, they should be 100% funded. That is a good plan and they are adhering to that. The issue is that it is all predicated on 7.75% return on investment. Those types of returns are not in the cards, according to investors. They have asked MERS for more realistic numbers. They want to be 100% funded at the 16-year point. He stated that was his focus when he ran and knocked on doors. That is the one thing that folks understood needed to be addressed, and they did not want a millage or bonding to fix it. He stated they will look for every penny they can find in the current budget or reserves.

- Regarding the jail, there has been a lot of discussion based upon some incidents in the jail, some suicides. The knee jerk reaction is we need a new jail for \$25-30 million. He stated he does not know how they are going to find that kind of money. There are a number of things that are options to building a new jail. That was also one of the things he ran on. In talking to people, they said we have to look at all the options, the total cost/benefit, before we decide if that is really needed. There are recent studies that more jail cells is not the answer. He assured everyone that he and some other members of the board will make sure that they look long and hard before they commit to doing something like that.
- He stated if there is anything going on at the county level where the township board is getting input from folks or the board has any ideas, he will put a lot of weight on feedback he gets from the township board in terms of emails or phone calls. He stated he is looking for input from the township board if there is anything they see or think he should be working on.

There were no questions.

Unfinished Business

Emergency Services Building Parking Lot/Driveway Project

Popp apologized, stated he met with the fire chief today and this should not have been put on the agenda. If needed, it will be put back on the agenda. The chief has a bid package created and is ready to send out, and offered that the board could see it.

Goss stated there has to be a notice and the board needs to see it before it goes out.

Popp stated it will be put back on the agenda once final adjustments are made.

Miami Beach Sewer System

Goss reported that the zoning administrator found 3 sets of plans today while looking for the as-built plans. A letter from long ago has been found from Scott Jozwiak indicating that he is going to be giving the as-built plans to the township, but they have not been found yet.

Another update is the e-mail exchange between Tom Slopsema and the DEQ, which says that the original construction permit does not get transferred to the Miami Beach Association. Referring to page 18 of the packet, paragraph 1, “. . . the DEQ doesn’t transfer those Part 41 permits.” Goss noted that permit is also in the township files.

Also, in paragraph 2, it says, “The DEQ is not involved in the transfer of ownership of the sanitary collection, treatment and disposal systems, meaning that no DEQ approval is needed to legally transfer the ownership of a sewerage system from one legal entity to another.”

Quoting paragraph 3, Goss read, “The DEQ has concerns related to the continuity of sanitary service and the obligations of MBRA to maintain the continuity of sanitary service.” Goss noted that MBRA has committed to doing that and there is a section that they have to comply with. Goss stated there is not going to be any problem with the continuity of service; they have been doing all the service themselves anyway. The township has not been involved in that at all.

Also, MBRA has to notify the DEQ when the ownership transfer is complete, and they have to continue to make sure the county sends annual discharge reports to the DEQ.

Goss noted that was great information that Slopsma obtained from the DEQ clarifying that their role is really very minimal in this.

Goss stated another update is that the township attorney had some questions late yesterday and we are in the process of answering those questions, one of which is asking for the as-built plans. Goss stated things are moving along, the attorney is working on the agreement, and they will have questions along the way.

Popp stated he has been working with the road commission to let them know about the private-public interface along Cook Road. They also want to see the as-built drawings. If not, maybe we have to go through a mapping process like when the gas line was installed.

Nolan stated he has a partial set, pages 1, 3, and 4 of the as-built plans. He would be willing to share it for copying purposes.

Popp noted that it was found that the as-builts were off by a significant amount. The wire was no longer attached to the pipe.

Goss asked what the road commission's role is.

Popp replied that the force main travels in the Cook Road right-of-way.

Goss noted the road commission must have issued a permit way back for the system to go in the right-of-way because it was a county road. Goss suggested that the road commission should have in their files copies of what was supposed to be built and they would have issued a permit. Goss stated she does not know what their role is now, because the system has been in there for 20-some years.

Popp stated it looks like Brian Jankowski was incorrect; he was very concerned about what the DEQ had to say, that there was no process for all of this, but when Brian's boss got involved, this is the e-mail that Tom got back.

LaPointe stated he saw in the packet what these folks (Miami Beach Road Association) are doing. He said they did the same thing 5 years ago in Acme. There is one permit, a discharge permit. There is a form that is required to be filled out that transfers responsibility. The DEQ does not play a major role in the transfer.

Goss asked again what the road commission's role is now.

Popp stated whatever role they wish to play. It is their right-of-way. Likely, the permit was granted to Whitewater Township, who had fiscal responsibility, so he assumes it is something very similar to an escrow fund that you have to set up under part B.

Goss stated the township attorney will probably have to see the law on that.

Popp stated then we will have to decide whether or not how we communicate easements of public land and if we want to do that. How do we stop other people from asking for the same thing across public land?

Goss replied that they would have to have a purpose. What would their purpose be? These people have infrastructure down a public easement.

Popp stated not until we sell it to them. It is our infrastructure.

Goss stated that is only the case since the bonds have been paid off. The whole plan is that it is going to be transferred.

Popp asked: Will we provide an easement to the township hall or other public lands?

Goss asked: For what purpose?

Popp replied: Any purpose. Private use.

Hubbell stated you cross that bridge when you get to it.

Popp stated that is some of the sensitivities that we have to be careful of.

Hubbell stated you could take that too far, too. He thinks this is a reasonable request and does not think we need to belabor it.

Nolan said he thought the precedent had been set where an easement across the park was granted by a private owner to reach a drain field at Whitewater Park.

Goss stated access was allowed across park property but not for infrastructure.

Brief discussion followed regarding another person driving on the east end of Lossie Road Nature Trail to access his property.

Goss pointed out that, according to Nolan and Slopsema, the county only visits the Miami Beach drain field and the tanks a couple times a year, so you are giving the MBRA and maybe the county DPW permission to take a motorized vehicle to the gate where they access the infrastructure for the Miami Beach sewer system, and doesn't see what the harm would be in doing that.

Slopsema brought up that the township got more information from the attorney, and the board has said before that it can't give us exactly what the attorney gives the board, although there were a couple attorney letters in the packet.

Popp stated what we cannot share are legal opinions with attorney-client privilege notations. Everything else is a public document.

Goss noted this was an e-mail.

Very brief discussion followed.

Review Attorney Changes to Zoning Ordinance Articles 6, 7, and 14 (Proposed Zoning Ordinance Amendments 73 and 74)

It was suggested by Popp that the new documents are a rewrite and it feels like a second review.

It was noted that the articles which were originally in two amendments, 73 and 74, have been lumped together by the attorney under one amendment, No. 73.

Discussion followed.

Goss stated the questions posed by the attorney ask for intent and have to be answered by the planning commission.

There was brief discussion concerning the verbiage in the Intent paragraph of Article VII, also the fact that home occupations has been eliminated.

Popp stated he has questions of things that don't make sense to him.

Goss stated this document is not at the board yet. This has to go through public hearing at the planning commission. Goss related the history of Amendments 73 and 74.

Popp stated but now there are more questions on this document.

Lawson stated it needs to be reviewed by the planning commission and needs to go on their agenda for their next meeting.

Goss stated she does not have the sense that the attorney changed anything in these red/purple lined documents and the final versions. He has questions, and we cannot go forward until the planning commission answers those questions.

Popp stated we can certainly give the planning commission our thoughts on them and on these documents.

Goss said we don't need to, because we can question that after the planning commission has their public hearing and we see what comes from the planning commission. The status of this document is it needs to go to public hearing.

Popp asked, if we get the document back after public hearing and we see a problem, does the new document then go back through public hearing.

Goss replied that the planning commission can make changes to it at public hearing and it does not have to go back through public hearing.

Popp stated but if we see the problem after it comes back and it has been through public hearing, doesn't it then have to go back through public hearing. Popp said all he is saying is let's take this opportunity to review it and highlight those areas that we have questions.

Goss suggested that will just muddy up the planning commission's process.

Hubbell stated it feels like we are trying to doing their job and he doesn't want to do that.

Lawson said send it back to the planning commission.

Goss said the planning commission's answers to the questions will determine whether the attorney is going to make any changes to the documents, so we do not need board changes in there as well.

Lawson said the process is not complete yet.

Popp said he is going to forward a bunch of questions to the planning commission. In several areas, there are major inconsistencies.

In answer to Popp's assertion that Amendment 74 is a dead issue, Goss stated she wants to talk to Mangus about that. She does not know that we want to have this all in one document. She would just as soon not have more unadopted amendments, and the attorney gave the option to go back to that.

Goss also noted that Zoning Administrator Wolf is putting the questions and text on the agenda for the next planning commission meeting.

New Business

Review Whitewater Township Board Policy & Procedure Manual Section 2.4(d) – Possible Modifications to Public Comment Section

Popp stated it was brought up previously that East Bay Township had an admirable public comment notation, and the board asked him to put this on the second January agenda.

Popp stated this would be a change or modification to our Policy & Procedure Manual, Section 2.4(d). Popp inquired if the board wished to add a No. 5 to Whitewater Township's public comment rules, and referred to the text concerning avoidance of unscheduled debates.

The proposed text says, "In order to avoid unscheduled debates, the Board generally will not comment or respond to presenters. Silence or non-response from the Board should not be interpreted as disinterest or disagreement by the Board."

Motion by Goss to add the East Bay Township public comment paragraph regarding avoidance of unscheduled debates to Whitewater Township's Public Comment rules;

second by Lawson. Brief discussion followed; the text will be changed in the Policy & Procedures Manual and on the agenda. **On voice vote, all those present voted in favor, none opposed, Benak absent. Motion carried.**

Review of Recreational Marijuana

Popp stated it is his understanding that because the township has not adopted some type of prohibitive language, all the licenses that are available for LARA to issue are now available in Whitewater Township.

Discussion followed.

Motion by Goss to have the attorney draft the ordinance prohibiting recreational marijuana establishments in Whitewater Township; second by Popp. There was no further discussion. **On voice vote, all those present voted in favor, none opposed, Benak absent. Motion carried.**

Popp asked if we should use the MTA version.

Goss said we should have the attorney draft it. We have already had him give an opinion on it.

Further brief discussion on this topic continued on page 3306 of these minutes.

Set Budget Work Session Dates

Popp requested that Goss provide a 2017/2018 year-end document.

Goss said she will provide the adopted budget with the prior year numbers which have been audited and closed out.

Possible dates, times, and unavailabilities were discussed.

It was agreed that budget work sessions will be scheduled for 2/5 at 6:00 p.m., 2/19 at 6:00 p.m., and 2/21 at 6:00 p.m.

Goss will prepare the meeting notice and distribute it to everyone.

Board of Review Appointments

There was brief discussion of the reason for the reappointments.

Motion by Lawson, second by Hubbell, to appoint Eric Sanborn of 7905 Cook Road, Williamsburg, Michigan, to a 2-year term on the Whitewater Township Board of Review, ending 12/31/2020. There was no further discussion. **On voice vote, all those present voted in favor, none opposed, Benak absent. Motion carried.**

Motion by Hubbell, second by Lawson, to confirm the recommendation of the supervisor appointing Connie Rountree of 5413 Glendenning Trail, Williamsburg, Michigan, to a 2-

year term on the Board of Review, ending 12/31/2020. There was no further discussion. **On voice vote, all those present voted in favor, none opposed, Benak absent. Motion carried.**

Motion by Goss, second by Lawson, to appoint Kim Halstead of 7923 Cook Road, Williamsburg, Michigan, to a position on the Whitewater Township Board of Review, a 2-year term ending 12/31/2020. There was no further discussion. **On voice vote, all those present voted in favor, none opposed, Benak absent. Motion carried.**

Approval of 2019 Whitewater Township Park Dates and Rates

Motion by Hubbell, second by Popp, to designate May 10 as the opening date, May 10 through 12 as Free Camping Weekend, and October 13 as the closing date of Whitewater Township Park Campground for the 2019 season. There was no further discussion. **On voice vote, all those present voted in favor, none opposed, Benak absent. Motion carried.**

Motion by Popp, second by Lawson, to increase the 2019 camping rates to \$25 per night off-peak season and \$30 per night peak season. There was no further discussion. **Roll call vote: Benak, absent; Goss, yes; Hubbell, yes; Lawson, yes; Popp, yes. Motion carried.**

Proposals for Recodification of Zoning Ordinance

American Legal Publishing, General Code, and Municipal Code have provided proposals for the services outlined at the 11/07/2018 joint meeting of the planning commission and township board.

Goss noted the proposals have already been added to the planning commission's agenda for their 2/6 meeting. They are on the board's agenda for a preliminary look. Goss would like to gather questions from the planning commission and township board before re-contacting the companies.

Goss also noted that, most of the time, the recodification companies review all of a municipality's ordinances, including the general ordinances. The reason for that is that there are other ordinances which affect the zoning ordinance, such as the land division ordinance, the private road ordinance, subdivision ordinance, arterial road access management ordinance. When they review all of those, at the appropriate places in the zoning ordinance, they point to those other ordinances as something that also has to be reviewed. So you wind up getting a more comprehensive document and reference that is more useable to the zoning administrator, developers, attorneys, the board, the general public, because you have everything interconnected. There is additional cost, but you have a comprehensive document of all the laws which apply in your township.

Lawson stated he agrees with that statement, and stated he argued for doing both, including them all, when recodification was originally being considered.

Goss stated, from what she has seen on the prices, they are quite reasonable, and noted that there is \$10,000 budgeted in the planning commission budget for professional services.

Brief discussion followed.

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

None

Announcements

Next regular township board meeting 02/12/2019 at 7:00 p.m.

Public Comment

Janet Bachi, 6987 Cook Road, (holding up a document), asked if these are outside the building when people drive up so they can see what is happening in a meeting.

Goss noted the agendas are not posted outside. They are inside and also online. Goss noted they can be picked up or emailed or be downloaded off the website.

Bachi said so someone can't just like pull up when someone's not here and there's nothing for them to know about the meeting.

Goss stated there is a notice out there of all meeting dates for all boards, commissions, and committees in the township.

Bachi stated her only question was, because she knows we have talked about it, on here like tonight it says, "review attorney's change in ordinance articles 6, 7, and 14, proposed zoning ordinance amendments 73 and 74." She thinks most normal person would be like what the heck is that. She just thinks that it needs to be a little bit more, if someone comes across it and says, oh, 73 and 74 are.

Goss stated that's why we have the book over there which has all that information in it.

Bachi said she knows that, but not everybody has access to Internet and things like that, so they wouldn't know. She just thinks it makes things more visible to what is going on.

Ronald Bachi, 6987 Cook Road, stated he hasn't seen anybody here in a year and hopes your Christmas and your holidays and New Year's was a blessing. Hope everything went well. Welcome to the New Year. He stated he is going to make this short, because he has enough material here to last about two hours, but he is going to make this like two minutes. He stated he loves Whitewater Township. He loves everything it is about, the streams, the lakes, the rivers, the forest, the agriculture. He stated we live in the best township in Northern Michigan,

something we can be proud of. But our biggest asset are the people of our community. Whitewater Township people are the best. He stated he is a little worried about the year that is coming, 2019, what is going to happen in our community. He stated he knows you guys always have issues that confront you that you got to make big decisions on. You know, the power that you have as a township board, you decide our future, how we live our lives. You can make or break what it's like to live in Whitewater Township. He thinks one of the biggest concerns that we are going to have coming up in 2019 is the special use permit that would allow commercialization in agricultural, residential districts. That is the biggie of the year, in his opinion. That could change the face of what Whitewater is like. He stated he doesn't think we are prepared for that. He stated he doesn't know about you, but he doesn't know what it would be like driving down Elk Lake Road seeing industrial parks to the right and industrial parks to the left. He knows that seems farfetched, but once you allow something like this to happen, it will never stop. Whitewater Township right now, if you do nothing, you're all going to be superheroes. But he knows you can't do nothing; change is inevitable; he understands that, but you've got to make the decisions. He stated he has talked about transparency; he thinks we lack that. You know, there's so much going on in our community that the boards know so little about, and he hears about it every day just on construction sites. It just blows his mind; he really truly thinks that information is not put out there. He thinks it is important to be honest and forward. He stated another thing he would like to talk about is accountability and he is pushing this toward the township board. What accountability means is to make decisions and actions and then be responsible for those decisions and actions. He stated you guys have a lot on your plate this year. Anything that confronts you or comes in front of this board that has to do with the commercialization of agricultural land, that's going to be a huge decision. It's going to be a vote that's your biggest decision of the year; he's pretty sure of that. There's a handful, a couple dozen people in our community that are really pushing that. And he had somebody that he respects and he gained trust for in the last six months approach him and say maybe you should let the event barn happen; maybe if you let it happen, we can control what goes on in our community. He stated he thought about that for about a month. He played with it. He talked to people in our community. And he sat in his office and he reached in a file and he pulled this (holding up a document) out and it had 95% of our community that surrounds Cook Road plain and simple say abandon the ordinance. Concerned citizens. It's black and white. The people have already spoken. Are you listening? You know, if you take a survey, it's going to fail when it comes to this issue. There is no way a survey that's not biased and leading is ever going to pass. One last thing. You cannot make everybody happy all the time. That is impossible. That is a job that you've got to try to do all the time, make everybody happy. It can't be done. But what you can do is you can make most of the people happy, and he thinks that is your job. If you make most of the people happy, if you plan on running again, that will get you reelected. But your vote, the way you vote on this particular issue this year -- it's going to be this year -- you're going to have to be accountable for that vote. Thank you.

Review of Recreational Marijuana (continued)

Popp asked the board for leeway to back up on the agenda and stated he needs some direction on the marijuana. He stated we are going to have Patterson draft that up and he will just re-forward everything that he forwarded to him and have him draft one up.

Goss stated she doesn't think Popp needs to forward him anything; just tell him that we are ready to take up an ordinance prohibiting recreational marijuana establishments; please provide same.

Popp stated he will do that first thing in the morning.

Goss reminded the board that the ordinance will need to go to public hearing.

Adjournment

Motion by Lawson, second by Hubbell, to adjourn. On voice vote, all those present voted in favor, none opposed. Meeting adjourned at 8:12 p.m.

Respectfully submitted,

Cheryl A. Goss
Whitewater Township Clerk