

**Whitewater Township Board
Minutes of Regular Meeting held October 8, 2019**

Call to Order/Pledge of Allegiance

Supervisor Popp called the meeting to order at 7:00 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: Treasurer Benak, Clerk Goss, Trustee Hubbell, Trustee Lawson, Popp
Board Members absent: None

Others present: County Commissioner Gordie LaPointe, Fire Chief Brandon Flynn, John Nolan, Tom Slopsema, Deputy Supervisor Ron Bachi, and 13 others

Set/Adjust Meeting Agenda

Goss requested the addition of approval of new Whitewater Township Fire Department member and wage.

There being no objection, the item was added as New Business #8.

Declaration of Conflict of Interest

None

Public Comment (3:25)

John Nolan, 9933 Miami Beach Road, provided a summary of business conducted recently by the Grand Traverse County Road Commission regarding private utilities in a public right of way and asked for the continued cooperation of the township to assist them in resolving these issues.

Public Hearing (6:56)

None

Reports/Presentations/Announcements/Comments (7:01)

County Board of Commissioners Report

Gordie LaPointe gave the following report:

- At the last BOC meeting, there was a presentation by Carlisle/Wortman concerning the county construction code office. They have a plan to automate and streamline and make the code office more efficient through the purchase of a \$280,000 piece of software from Tyler Technologies for one stop/one shop permitting. In his opinion, there is a lot of opportunity to better service the public and make it much more efficient. He recommended the township board take a look at the presentation.
- Another big issue has been the proper administration of medications at the jail. The county outsources that to a company called Wellpath. County taxpayers pay about \$700,000 per year to administer the program. They pay another \$160,000 per year for mental counseling for the inmates. Wellpath did an excellent presentation and he thinks they addressed the concerns of the public in terms of the service the county is providing to the inmates as far as mental and physical health.

- Regarding TIF 97, the board passed a resolution stating it was a 30-year TIF agreed by both parties, the DDA, the city and the county, and they feel they should honor that and not extend it for another 8 to 14 years. The vote was 6 to 1. If the township board agrees with the concept, they can duplicate it and pass it on to the city and the DDA.

County Road Commissioner Report (16:50)

No one is present from the Road Commission.

Elk Rapids Schools Superintendent Tom Enslin - Bond Proposal Presentation (16:50)

Tom Enslin introduced himself and related how he came to be the new superintendent at Elk Rapids. Regarding the bond proposal, they did a facility assessment. The needs to date are in the neighborhood of \$42 million; it is an old district and the needs are significant. He said they operate on about \$12.5 million and there is no way they can address even a fraction of the needs. They can go out for a \$42+ million bond, extend out the debt, and for the first \$32 million there would be no increase in taxes. The impact on a \$100,000 home is about \$20 annually. He said this would meet the needs of the district according to the facility assessment and all the conversations he has had to date. A fourth community forum is scheduled for next Tuesday at 6:00 p.m. at the middle school. He invited everyone to attend. He relayed what he plans to do to educate the public about the needs of the district. He also talked about the lack of available and affordable housing, enrollment numbers, and stated the district is healthy but they need to grow.

Brief discussion followed. They are looking at next May for putting it on the ballot.

Mobile Medical Response Report (30:43)

No one is present from Mobile Medical Response. September activity reports are in the packet.

Fire Department Report (30:53)

Brandon Flynn gave the following report:

- They had 15 calls in September, a new all-time high.
- Most of the meetings were cancelled. He was not able to attend the county fire chief meeting.
- They have a lock down drill scheduled at Mill Creek Elementary later this month, and they have scheduled some fire safety talks and demonstrations for October 25.
- They had a lockdown drill at Woodland School toward the end of September.
- They did an extrication demonstration at the spaghetti dinner.
- He met with the medical control authority this morning. They are working on registering their agency for medical first responder. They are in the process of changing some of the rules for MFRs.
- Last night, they had a meeting with CSI about the new pumper tanker. The chassis is due to be delivered probably mid-November. The CSI representative foresees a completion date probably toward the end of March.
- Engine 3 will be going to CSI for annual maintenance and pump test. They have an insurance claim on it for an accident that happened in June at the gas station.
- A resignation letter has been received from Firefighter Nick Strine. His brother Zach is still with the department and has moved into the township.

- An application came in from Garrett Fairchild, who lives in the township, but he has accepted the position as interim fire chief for the Grand Traverse Band in Peshawbestown due to Chief Moldenhauer's sudden retirement for an illness.

Planning Commission Report (36:43)

Lloyd Lawson gave the following report:

- The planning commission had an open house and a meeting on 10/2. The open house only had one attendee. The PC is planning to do better outreach for the next one.
- There was discussion of a statement in the master plan that monthly updating is recommended. They also recommend updating the description of the fire department and ambulance. There was discussion about the PC doing updates in the newsletter.
- At the regular meeting, there was a lot of confusion on the way that amendments are numbered. They would like to get direction from the clerk, something in writing which shows the way they are numbered.
- The PC is forwarding to the board their findings of fact on environmentally sensitive areas and the rationale on clarification of accessory structure. A motion was made to send it to the board with a recommendation to adopt it.
- The PC is having another open house on January 8 at 6:00 p.m. and they plan to get information out in the newsletter so it reaches more people, and also putting in some questions to encourage people to come in and discuss anything, i.e., seasonal rentals, ADUs, event barns, personal storage, etc.
- They are going to continue to review the master plan, and if the board has any questions for the master plan, please forward them on to the PC and they will discuss them.

Goss said she will provide the PC with a list of the amendments.

Brief discussion followed, including a reminder that material for the December newsletter should be submitted to Benak at least two weeks in advance.

Parks & Recreation Advisory Committee Report (43:47)

Cheryl Goss gave the following report:

- The October meeting of the Parks & Recreation Advisory Committee is next Monday.

Consent Calendar (44:32)

Receive and File

1. Supervisor's Report for September 2019
2. Clerk/Parks & Recreation Administrator's Report for September 2019
3. Zoning Administrator's October 2019 Report
4. Mobile Medical Response September 2019 Activity Reports
5. Fire Department September 2019 Report
6. Approved 08/07/2019 Planning Commission Minutes
7. Approved 08/12/2019 Parks & Recreation Advisory Committee Minutes
8. ~~Approved 08/15/2019 Zoning Board of Appeals Minutes~~

Correspondence

1. Grand Traverse County Sheriff Department Statistics for January/February/March/April/May/June/July/August/September 2019 (delayed due to technical issue at county)
2. Gordie LaPointe – Economic Impact of Enbridge Line 5 on GT County and Michigan
3. Rep Jack O'Malley – Invitation to Discuss Senate Bill 431 Mining

Minutes

1. Recommend approval of 09/10/2019 regular meeting minutes

Bills for Approval

1. Approval of Alden State Bank vouchers # 44464 through 44575
2. Approval of First Community Bank Miami Beach vouchers # (none)
3. Approval of First Community Bank WMDLS vouchers # (none)

Budget Amendments (none)

Revenue & Expenditure Report 09/30/2019

Goss recommended deleting from the Consent Calendar the 8/15 ZBA minutes so the recording secretary can correct the type of meeting to a "special" meeting, and also asked for clarification of the listing price of the Vinton Road parcel as shown on page 3511 of the township board minutes.

Discussion followed.

Motion by Popp to strike through the \$34,400, replacing it with the \$30,440 figure as noted on 9/10 board packet page 125; second by Benak. On voice vote, all those present voted in favor, none opposed. Motion carried.

Motion by Lawson to approve the Consent Calendar as amended; second by Goss. Roll call vote: Benak, yes; Goss, yes; Hubbell, yes; Lawson, yes; Popp, yes. Motion carried.

Unfinished Business (55:35)**Sealed Bid Opening - Emergency Services Building Pavement Project**

No bidders were present. Bids were received from Team Elmer's and North County Contracting.

Opening of the Team Elmer's bid revealed four separate prices:

1. Total of 19097 bid items, \$66,108.60
2. Total of 19097 Addition No.1 bid items, \$28,845.04
3. Concrete pavement reinforced with fiber, \$30,420.00
4. Total of 19097 bid items with alternate No. 1 bid items, \$83,399.00

Opening of the North Country Contracting LLC bid revealed the following:

1. Total of 19097 bid items, \$58,890.00
2. Total of 19097 Addition No. 1 bid items, \$21,412.50
3. Base bid alternate No. 1, concrete pavement reinforced with fiber, no bid.

Goss will provide copies to everyone in the morning.

Miami Beach Sewer System Transfer (1:02:09)

MBRA representatives John Nolan and Tom Slopsema are present.

The Grand Traverse County Road Commission board, at their 9/26 meeting, adopted two new conditions (F and G) for permitting of private utilities in the public road right of way.

“F. The government entity agrees at the time of transfer that in the event the private entity fails to perform any terms or conditions of the permit, the government entity shall be responsible for the performance of the terms and conditions of the permit and shall defend, hold harmless, and indemnify the Road Commission from any claims against or liabilities, costs, or expenses incurred by the Road Commission as a result of the private entity's failure to perform the terms and conditions of the permit.

“G. The government entity and the private entity shall agree at the time of transfer that the Private Utility shall be transferred to the government entity in the event that private entity fails to obtain an annual permit or provide annually proof of insurance as required by the permit within 30 days following notice from the Road Commission to the private entity and the government entity.”

Nolan expressed concern that the road commission has the right to suspend and revoke the permit, and MBRA has to abandon the right of way at the commission's will and has no legal recourse to fight it. He also stated that, per John Divozzo, insurance for underground infrastructure is not available and the owners retain responsibility for piping in the ground.

Key points of discussion were:

- What took place at the 9/26 road commission meeting.
- Goss's proposal that the township retain ownership of the infrastructure in the Cook Road right of way.
- Popp's suggestion that the township retain ownership of the portion of the underground infrastructure that currently resides on public land, i.e., along Cook Road, Lossie Trail, and the leach bed.
- Slopsema's agreement with Cook Road and Lossie Trail but not the 5-acre drain field.
- Other landowners whose property abuts Lossie Road Nature Trail.
- The township has already agreed not to retain ownership of the 5-acre parcel or any pipe under Lossie Road Nature Trail, and an easement document has been drawn up.
- The Miami Beach Road Association will need to apply for a permit every year to keep the pipe in the public roadway.

Motion by Goss to have Whitewater Township retain ownership of the portion of the Miami Beach Sewer System that exists within the public right-of-way of Cook Road.

Goss noted that an additional document giving MBRA the right to use it may need to be drafted, and MBRA will still be responsible for 100% of the operation and maintenance of the pipe but

may need to pay a nominal amount to the township each year as consideration for the right to use.

Second by Benak.

Roll call vote: Goss, yes; Hubbell, yes; Lawson, yes; Popp, no; Benak, yes. Motion carried.

Goss volunteered to send the up to date versions of the documents to Patterson and provide him with the motion so he can determine what changes will be required in the documents and then provide the documents to Attorney Price.

Slopsema suggested Patterson be asked if an additional document for right to use is required, and also pointed out an error on page 3 of the June lift station deed; "Exhibit A" should be changed to "Exhibit B."

Sale of Vinton Road Parcel 28-13-004-065-00 (1:31:35)

Popp said he hopes to electronically post the parcel for sale this month.

Review Legal Opinion re: 5-Acre Minimum Lot Size in RC District (1:32:00)

Goss noted that the legal opinion said that, although things were not done exactly correctly, that cannot be used as a basis for challenging it; however, Article 11 can be amended.

Key points of discussion on this topic were:

- The planning commission has talked about discussing it at the January open house and would like to get the legal opinion.
- The planning commission can be provided with a synopsis or summary of the legal opinion but not the opinion itself. Popp has promised a private citizen that he would write a summary or synopsis, and it can be shared with the planning commission.
- Benak would like to see the planning commission take it up and bring recommendations back to the board.
- Hubbell agreed.
- Popp referenced a process for changing the zoning ordinance, i.e., a local business owner petitioning for a change in side yard setbacks in the commercial district.
- The change in RC-1 to 5 acres was done at the board level only. The board can make the amendment. There does not have to be an applicant.
- Goss listed several points in favor of removing the 5-acre minimum and suggested the planning commission should focus on the pros and cons of going to a smaller minimum lot size in the RC district.
- Benak pointed out that 54% of Whitewater Township is owned by state, county, or township, and she thinks we are preserving enough rural character. Rezoning the private property back to its original zoning and leaving the state land at the current 5-acre minimum has been suggested to her; Benak said the state does not normally sell. She agrees with Goss that families have been harmed by this, and stated her family has been directly affected by this. The board back then was very underhanded and sneaky, as far as she is concerned, and it was wrong what they did.
- Lawson feels outreach should be done to see how people feel on this on both sides.

- Hubbell agreed with doing a little research but does not think it needs to be belabored.
- Popp said his read is those folks who can afford a 1-acre lot in this township are likely very few and far between. We have known for quite some time that we do not have anything in the middle 200's for sale on a 1-acre lot, so the affordability question about a 5-acre versus 1-acre lot is not an argument at all, and stated there are no affordable parcels of land for affordable housing in Whitewater Township. Even the mobile home area is now part of the tribal nation. He likes the idea that the PC is willing to listen to those folks who live in that district, and believes that is where the change, if any, should come from. Anyone aggrieved by a zoning issue can go to the ZBA and special case hardships and special circumstances can be granted.
- Referencing the point of her brother-in-law's recent letter to the ZBA, Benak pointed out that if you are going to change a whole district's property rights, you should notify them individually; you should not just post it in the paper as a text amendment without saying what the text amendment is. She further stated this was done wrong and the fee will not be waived when people come to special meetings. She stated she had to pay to ask permission to do something that was taken away from her. She thinks it needs to be corrected. If people want to keep 5 acres, let them keep it, but do not take rights away from people that do not want 5 acres, that want to break off an acre to give to their child to build a home so their kids can go to Mill Creek school. She also stated there is a big difference between affording 1 acre and 5 acres.
- Hubbell agreed that there is a huge difference; there are a lot of young kids who cannot afford 5 acres who want to be in this school district or in this township, and there are a lot of people out there that do not want 5 acres. They want an acre to put a house on and they do not want a great big thing to be responsible for.
- Lawson pointed out that is why we have such a large school of choice; people are coming from outside, where they can afford to live, to go to school here.
- It was pointed out that not everyone wants to be in a subdivision.

Motion by Goss to refer the issue of the 5-acre minimum in the RC district to the planning commission for development of a list of pros and cons of reducing the minimum acreage, to be brought to the board no later than February of 2020; second by Hubbell. On voice vote, all those present voted in favor, none opposed. Motion carried.

Popp indicated to those present for this issue that they can speak in second Public Comment.

DTE v Whitewater Township (MTT) Update (1:53:47)

Popp provided Attorney Karrie Zeits' e-mail stating the township would lose its voice on any new multipliers proposed by DTE to the State Tax Commission. Popp said his thought is that the township's best financial foot forward is to forego the \$60 a year it is going to cost us and authorize the attorney to enter a stipulation.

Brief discussion followed.

Motion by Popp authorizing Attorney Karrie Zeits to enter a stipulation to agree with DTE's proposed new lower personal property values; second by Benak. Roll call vote: Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes; Goss, yes. Motion carried.

Review/Approve Private Road Ordinance Repeal Language/Set Public Hearing Date (1:56:47)

Popp provided a memo and the proposed repeal ordinance but did not provide a motion as he is not in support of the repeal.

Discussion followed.

Motion by Goss to set the repeal of the Private Road Ordinance for public hearing at the November meeting; second by Lawson. On voice vote, all those present voted in favor, none opposed. Motion carried.

New Business (2:03:50)**Emergency Services Building Roof Ice Issue**

In response to Goss's question, there was agreement that half of the expenses of this project will come out of the Fire Fund and half out of the Ambulance Fund.

Regarding the accounts to which the proposed expenditures will be posted, Popp and Flynn concurred that installation of the gutters is a capital expense, and the rest are physical (sic) repairs.

Brief discussion followed.

Goss will provide budget amendments to allow some of the expenses out of Facility Repairs & Maintenance.

Popp recommends fire expenses come out of contingency in the Fire Fund.

Motion by Goss to authorize Chief Flynn to execute repair agreements with Minka Insulation in the amount of \$6,414, Hertler Construction & Restoration in the amount of \$6,200, Michigan Gutter in the amount of \$1,252, and Topline Electric in the amount of \$3,865; second by Hubbell. Roll call vote: Lawson, yes; Popp, yes; Benak, yes; Goss, yes; Hubbell, yes. Motion carried.

Review Elk Rapids Youth Baseball Request to Place Team Sponsorship Banners (2:10:47)

Amber Voice is present and clarified that she is going to use both fields, if possible.

Motion by Popp to approve Elk Rapids Youth Baseball Association's request to install no more than 20 signs per field of 5' x 3' advertising banners at Hi Pray Park for the 2020 baseball season; second by Lawson. Roll call vote: Popp, yes; Benak, yes; Goss, yes; Hubbell, yes; Lawson, yes. Motion carried.

Approval of Event Contract for 2019 Halloween Party (2:12:48)

Motion by Goss to approve the Event Contract for the 2019 Halloween Party; second by Popp. Roll call vote: Benak, yes; Goss, yes; Hubbell, yes; Lawson, yes; Popp, yes. Motion carried.

Review Aflac Supplemental Insurance Proposal for First Responders (2:13:44)

There was brief discussion regarding investigation of life insurance, claims are turned in online, and the \$4.98 and \$1.38 premiums total \$3,637.92 annually.

Motion by Popp to approve the Aflac Individual Accident Advantage Option 2 supplemental coverage for Fire Department employees payable from Fire Fund line item 713; second by Benak.

There was brief discussion of offering it to other township employees, including elected officials.

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

Proposed Revisions to Personnel Administration Policy (2:19:25)

Popp would like the policy to remain as it is, stating past and present employees indicate they need more than one avenue to speak to board members. As current hiring policy is stated, the employee reviews and interviews are all conducted by the supervisor and the clerk's office.

Benak said in reality that is not how it works for the park or the fire department. The job description for the park administrator clearly says who does the interviewing and the hiring. For it to go the way of the rest of the policy, it would take way too long to be able to hire rangers. For the fire department, hiring and firing should be left with the chief, just like it was for Rural Fire. Benak said she thinks the changes are reasonable and do not in any way step on the authority that Popp or the clerk currently have.

Goss noted that, per the ordinance, the fire chief does not have the authority to fire. Also, employees have every avenue they want to speak to board members, which does not have anything to do with hiring. Popp is unfamiliar with the duties at the park. What we are doing is aligning what the personnel administration policy says with the parks and recreation administrator's job description, as well as with how hiring at the fire department works.

Benak added that we hired the chief to do that particular job and to interfere in that would be micromanaging. Also, the park administrator has always done the hiring and the firing and the training; it is nothing new; a precedent has been set.

Motion by Benak to adopt the proposed changes to Section 3.6, Employee Selection, of the Whitewater Township Personnel Administrative Policy; second by Hubbell. On voice vote, Benak, Goss, Hubbell, and Lawson voted aye; Popp, nay. Motion carried.

Approval of Capital Expenditure for New Computers (2:25:00)

Goss provided a memo detailing desktop and laptop computers currently in service, as well as those needing updates or replacement.

Lawson said his laptop died at the PC meeting and has not come back up.

Motion by Popp to have IT Right assess our entire system needs with looking at a server-based system with automatic backups and protection against computer kidnapping.

Discussion followed.

The motion was not seconded.

Motion by Goss to increase the Capital Expenditure budget by \$2,100 and decrease the Contingency budget by \$2,100; second by Lawson. Roll call vote: Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes; Goss, yes. Motion carried.

Motion by Goss to approve capital expenditures up to \$7,900 for upgrade/replacement of desktop and laptop computers, as detailed; second by Popp. Roll call vote: Lawson, yes; Popp, yes; Benak, yes; Goss, yes; Hubbell, yes. Motion carried.

Popp said don't replace the supervisor desktop, at least not at this time, and asked who is going to make these technical purchases.

Brief discussion followed.

Lawson will provide some links for computers that are cheaper and more powerful.

Review/Approve National Prescription Opiate Litigation Continuance (2:34:25)

After very brief discussion, **motion by Popp to remain in the National Prescription Opiate Litigation class action lawsuit.**

Further discussion ensued as to how the township was added to the lawsuit, the length of time it will take to settle, and the limited activity of the township that would trigger any type of reimbursement.

Second by Benak.

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

Approval of New Whitewater Township Fire Department Member and Wage (added) (2:38:05)

Chief Flynn said his new employee is Ethan Passalacqua. He is a full-time firefighter/paramedic for Peninsula. He recently moved to this area. He works 24-hour shifts 10 days a month, 56 hours a week. He will be able to help us out on his days off.

Brief discussion followed.

Motion by Hubbell to approve Ethan Passalacqua as a new Whitewater Township Fire Department employee and wages per resolution, pending successful completion of physical, driver record check and background check; second by Goss.

Goss noted that wages are \$11.25 per hour for training, \$16.50 per hour for response time, per the Salary/Wage Schedule.

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

Tabled Items (2:43:15)

None

Board Comments/Discussion (2:43:16)

None; see below.

Announcements (2:43:20)

Next regular meeting date is November 12, 2019, at 7:00 p.m.

Public Comment (2:43:22)

Steve Haver, 184 Island View Drive, asked questions regarding what part of the township has the 5-acre minimum acreage and high density and low density.

Popp responded to Haver's questions.

John Mater, 464 Island View Drive, commented on the history of the 5-acre minimum and a 133-acre piece of property close to Island Lake, and said zoning of 1.5 or 2 acres does not fit in that area at all and the people at Island Lake are not in favor of that.

Board Comments/Discussion (2:51:36)

Benak reminded everyone that this weekend is the Annual Community Halloween Party at the park, 6:00 to 8:30. Food and entertainment is free. Campers are decorating and there is trick or treating in the campground.

Adjournment (2:52:15)

Motion by Popp to adjourn; second by Lawson. On voice vote, all those present voted in favor, none opposed. Meeting adjourned at 9:51 p.m.

Respectfully submitted,

Cheryl A. Goss
Whitewater Township Clerk