

**Whitewater Township Board
Minutes of Regular Meeting held February 11, 2020**

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.

The Pledge of Allegiance was recited.

Roll Call of Board Members

Board Members present: Treasurer Benak, Clerk Goss, Trustee Lawson, Popp

Board Members absent: Trustee Hubbell

Others present: County Commissioner Gordie LaPointe, Fire Chief Brandon Flynn, Deputy Supervisor Ron Bachi, and 7 others

Popp announced that phone calls with vendors beginning at 7:30 may interrupt reports.

A moment of silence was observed for the passing of Keith Hubbell, father of Trustee Hubbell.

Set/Adjust Meeting Agenda

Goss asked that Chief Flynn's request to dispose of old computer equipment be added under New Business.

Added as New Business #5.

There were no other adjustments.

Declaration of Conflict of Interest

None

Public Comment (07:13)

Janet Bachi, 6987 Cook Road, voiced a concern regarding how information is traveling from the township board to the planning commission.

(09:17)

Mark Dragovich, 1305 N. 39 Road, Manton, spoke about possibly having the board explore introduction of a marijuana facility in the township, and stated he spoke with Popp a couple years ago while they were exploring different locations up here. He elaborated on rules and other available licenses, and stated if everything goes well, they would like to work toward a dispensary or something larger scale in the township. They would like to explore an initial business plan to possibly allow them to bring cannabis to Whitewater Township.

(15:14)

William Haas, 1315 Stateline Road, Niles, said it is up to the township whether they want to opt in or not, and stated he is not here to shove cannabis down anybody's throat. He owns a consulting firm and property management company that is mostly in the cannabis industry, as

well as a company called Native Michigan Remedies. He elaborated on his history of dealing with cannabis, and said he could be a consultant for the township to decide whether it is the right thing to do for the township.

Public Hearing (18:33)

None

Reports/Presentations/Announcements/Comments (18:44)

County Board of Commissioners Report

Gordie LaPointe gave the following report:

- They have had a lot of discussion on the Grand Traverse plan for compliance with the indigent defense committee per the state guidelines. The guidelines are very extensive. The county puts in about \$330,000, as mandated, to assist in defense of the indigent. The state puts in another \$500,000. Because the reporting back to the state is so extensive, the county has had to hire an attorney close to full-time to document everything and pass it on to the state.
- Regarding the state mandated requirement to participate in providing mental health counseling in their community, Grand Traverse County has formed an alliance with five other counties called Northern Lakes Community Mental Health to provide those services. The bulk of the money comes from Medicaid. The issue is that Grand Traverse County, at \$682,000 annually, is paying considerably more than the five other counties combined, who contribute \$342,000. They are trying to resolve that, but the paperwork of how this was put together is scarce. Northern Lakes' solution is that the counties negotiate with each other, but LaPointe feels it is a waste of time to get a consultant to negotiate it. It was signed years ago and has no end date. If they pulled out, their costs would go up significantly.
- Regarding airport governance, it is currently organized as a commission and they are discussing going to an authority. LaPointe is in favor of going to an authority, for numerous reasons. He sees no downside to the community. It is a regional asset and should be governed by an authority.
- Discussion of combining the Clerk and Register of Deeds will probably come up in the next month or so. Five members of the board must approve it. He does not think it will pass, and questions the value of it in terms of saving any money.
- Regarding the Second Amendment sanctuary county ordinance, the gist of it is it affirms support for the sheriff and prosecuting attorney to not enforce against any citizen an unconstitutional firearms law. He stated the county board has no control over the elected offices of prosecuting attorney and sheriff. If a state legislature passes a law that is unconstitutional, until it is overturned by a court, it is the law of the land. He said he is conceptually for it, but thinking it is going to have any effect, in his mind, is of little value.

There were no questions.

County Road Commissioner Report (27:55)

Marc Mackellar gave the following report:

- They are wrapping up the last year of their 4-year local millage. They are going to ask for a renewal of the exact same millage for another 4-year period. It has helped tremendously on the road systems. He said they have spent the money wisely and used it for matching dollars for state and federal funds.
- The road commission board is opposed to the idea of bonding for roads that the governor proposed. She wants to not use the money through Act 51. They are not going to help the bulk of the roads that need it at the local jurisdictions through the municipalities. It is going to put decades of debt on ourselves and our children and grandchildren. It is a political stunt. The county road commission is against it, as is the state level association of all 83 county road commissions.
- They are moving forward with the East-West Corridor. They are implementing immediate repairs, including on the signals that they are responsible for. MDOT is doing their own signal upgrades. They hope in the future the signals will all communicate together. They will be starting some roundabouts in key areas. They are going to realign and straighten out Hammond Road.
- They have fully funded their partnership funds and amped up the number of dollars to work with local townships to do road improvement projects and special assessment districts. They are open to those, and he thinks if they had more requests and approvals to go forward than what they budgeted, they would probably find the money to help their partners.

There were no questions.

Mobile Medical Response Report (32:41)

No one is present from Mobile Medical Response. January activity reports were provided.

Fire Department Report (33:16)

Brandon Flynn gave the following report:

- They had a busy month in January, which has carried over to February.
- The big news is the 2% award received from the tribe for a snowmobile trailer.
- Attached to Flynn's report is the calendar year runs for the department.

Unfinished Business (34:40) (Reports resume on page 3574)

Ordinance Recodification Proposals

a. 7:30 p.m. Phone Q&A Session with Municipal Code

Tracy Stevanov joined the meeting via a phone call placed by Goss. Through questions from various board members, the following information was provided:

- The municipality owns the copyrights to the ordinance. Everything is owned by the municipality.
- It takes them 3-4 months to create a legal memo, at which point the township reviews it for what they want to keep in the code based on their suggestions. After the township has approved everything they want in the new code book, it takes some time for them to implement the changes and create a code for the township. They have seen it go as fast as six months and as slow as three years.

- They have a lot of web services, as shown on page 5 of their quote. Standard web hosting includes the ability to search using keywords, print and save the entire code to Word, print sections, link to new sections on social media. She explained other add-on services.
- The township website would have a link entitled Code of Ordinances, which goes to the Municode site. Use of a banner makes it look like the township's website.
- Municode is on a high security server, with a backup server.
- MuniDocs allows uploading of any document, such as minutes, resolutions, budgets, etc.
- Once the code is created, they would assist in finding which product would best serve the township. They do not have to be purchased up front.
- MuniDocs is documents only at present, but they are working on video. She can provide a timeline for when it is available.
- The base cost is the same regardless of 10-point or 12-point font.
- If the township discontinues website services, the code will be provided to the township in PDF, Word, HTML version. Unused months will be credited.
- The township can decide to self-publish. They have a new software platform which allows the township to update the code itself in real time and to host the code. They can provide pricing. It can be decided at any time, during the codification or after, if the township wants to use it.

b. 7:45 p.m. Phone Q&A Session with General Code

Marcia Clifford joined the meeting via a phone call placed by Goss. Through questions from various board members, the following information was provided:

- General Code does not hold the copyrights to the ordinance.
- Regarding web hosting services, she explained the three levels of eCode and some additional products.
- They are part of the International Code Council family.
- Regarding the supplementation process, new ordinances are submitted to General Code via an e-mail address. Within 48 hours, it will be appended to the code under the New Laws tab and there are indications throughout the code that there is a new law to look at. It will not be incorporated into the code until a supplement is done. The township decides how often they want to supplement; it is a separate charge. The supplementation pricing is \$18 per page. The typical time frame for supplementation is annually. It is a function of how often you are passing ordinances. It takes about 4 weeks to do that update.
- She believes the PubDocs module accepts video.
- There is no problem with discontinuing services. They will provide the code in a useable format or it can be downloaded, depending on the eCode version. There is no supplementation contract. The maintenance is an annual renewal. The township is not locked in for a certain number of years.
- They estimated the page count at 688 pages for an 11-point code.

c. 8:00 p.m. Phone Q&A Session with American Legal

Richard Frommeyer joined the meeting via a phone call placed by Goss. Through questions from various board members, the following information was provided:

- The township owns the copyrights to the code book.
- The township would not have to purchase software. They put the code into their software online. It is an open source format. The township can get the code out of the software in Word, WordPerfect, etc., and put it into their own software. They put it into a software online so that it is searchable.
- Regarding available web services, they have hosting available. They will host the township's code online. They have a lot of different services they can provide, other languages, instant updates. As the township makes changes to the code, they can be done instantly. They typically get that done within 7 to 10 days, depending on the size of the ordinance. They also provide a service that links newly passed ordinances to the code section which it affects. Those are additional services. They suggest that updates be done as ordinances pass. You do not pay an extra fee for that and the online code is always the most up to date. He explained other services they can provide and offered to do a demo of those services.
- The subscription service does not prohibit the township from providing people with sections of the code. American Legal will mail copies of the code to people who want it. From the American Legal website, the township can download and print the entire code or sections of it. They can also provide it in a PDF.
- To have the code be searchable, it needs to be on their website. But if the township wants to, they can give it to the township in Word, WordPerfect or PDF, and the township can put it on their own website, at no charge. If the township used American Legal for updates, at the chosen interval, American Legal would give the township a new disk or flash drive, or the township could download it and put the new code on the township's site, at no charge.

Planning Commission Report (1:15:31)

Lloyd Lawson gave the following report:

- The PC met last Wednesday. They had quite extensive public comments, lot of talk on event barns, discussion of the 5-acre and the RC issue. Someone notified that there was a seminar on 2/12 on short-term rentals and the market for continuing education.
- They reviewed their bylaws and adopted the calendar without open houses. They had a couple small changes in their bylaws. Regarding conflict of interest, if an individual on the planning commission is within 300' of somebody being notified for a special use permit, they would have to recuse themselves.
- Event barns was tabled until late mid-summer by consensus.
- They are working on the 5 acres. There are questions and concerns. Most of the PC members are interested in getting information on the attorney's opinion, either the board release it to them or ask the attorney for a summary for the PC.

After discussion of the legal opinion issue, Lawson will do his own synopsis for the planning commission.

Parks & Recreation Advisory Committee Report (1:22:35)

Cheryl Goss gave the following report:

- The committee met last night; 4 members were present; 1 member and the alternate were absent. Vice Chair Brandon Hubbell stood in for Melton.
- The January 13 meeting minutes were approved.
- Discussion of scheduling a work bee to hang the batting cage net was tabled until March due to Melton's absence.
- Melton was scheduled to share what she learned at a playground safety webinar, but this was also tabled until March due to her absence.
- The proof of the proposed trail signs for Whitewater Township Park was reviewed. A number of changes were made. Goss will transmit those changes to Image 360 and get an updated proof.
- Regarding the main field dugouts at Hi Pray, Slopsema sent an e-mail update of her communications with David Capser and another price quote she received from Poligon. This third quote is still very expensive. Leach and Hubbell are going to pursue quotes from some people they know.
- Other budget figures were discussed briefly.
- Hubbell will pick up two Motorized Vehicles Prohibited signs for Lossie Road Nature Trail.
- A possible field trip in the spring to the east end of Lossie Road Nature Trail was suggested to scope out a possible off-the-road parking area.
- Again, the committee is very concerned about the difficulty in finding volunteers to work on various projects and would urge the board to hire a building and grounds worker to take the lead on projects.
- Hubbell suggested the need for a gravel parking lot for the lower field at Hi Pray Park as the current parking area is too small.

There were no questions.

Consent Calendar (1:25:15)

Receive and File

1. Supervisor's Report for January 2020
2. Clerk/Parks & Recreation Administrator's Report for January/February 2020
3. Zoning Administrator's January 2020 Staff Report
4. Mobile Medical Response January 2020 Activity Reports
5. Fire Department January 2020 Report
6. Historical Society January 2020 Report
7. Treasurer's Cash Balance Report 12/31/2019
8. Approved 09/26/2019 Zoning Board of Appeals Minutes
9. Approved 10/14/2019 Parks & Recreation Advisory Committee Minutes
10. Approved 12/04/2019 Planning Commission Minutes
11. Approved 12/09/2019 Parks & Recreation Advisory Committee Minutes
12. Approved 12/11/2019 Historical Society Minutes

Correspondence

1. Grand Traverse County Sheriff Department Statistics for January 2020
2. 01/14/2020 Dee Prabhaker Public Comment re: Event Barns
3. 01/14/2020 E-mail Dee Prabhaker re: Paul Wiemerslage Comments re: Event Barns
4. 01/14/2020 Ron Bachl Public Comment re: Event Barns

Minutes

1. Recommend approval of 01/14/2020 regular meeting minutes

Bills for Approval

1. Approval of Alden State Bank vouchers # 44889 through 44978
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 01/31/2020

Popp noted the following:

- Packet page 24, ZBA minutes 09/26/2019, should there be an approved date.
- Packet page 27, PRAC minutes 10/14/2019, same problem.
- Packet page 32, PRAC minutes 12/09/2019, footer indicates 10/14/2019.

Goss will ask the recording secretary to include approved dates and make the footer correction.

Motion by Lawson to approve the Consent Calendar with the changes discussed; second by Benak. Roll call vote: Benak, yes; Goss, yes; Hubbell, absent; Lawson, yes; Popp, yes. Motion carried.

Unfinished Business (1:31:28)**Miami Beach Sewer System Transfer****a. Resolution #20-01 Resolution to Authorize Sale of Property**

Motion by Goss to adopt Resolution #20-01; second by Benak.

Popp asserted there were duplicate documents, referring to the deed on page 117 and the deed on page 121.

It was clarified that the first deed is for the septic field; the second is for the lift station parcel.

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

Document signing was discussed.

A true and complete copy of said resolution is attached to the minutes.

b. Discuss/Decide Manner of Termination of O&M Agreement with County BPW (1:37:48)

Nolan said they have an understanding that they are going to enter into a similar agreement that the township has. Without ownership, he was limited to what he could commit to and speak of. Divozzo said he would be willing to waive, with their board approval, the immediate termination of the township as long as the MBRA would enter into a similar agreement. Their board is fully committed to wanting to continue. Divozzo said he would take it to the March board meeting. In the interim, however, the township would still have responsibility for the bills until they enter the separate agreement. Nolan said that they currently collect \$1,000 monthly of dues from the payments. The money currently being paid out is from \$400 to \$500. It used to be lower, but they changed their methodology. They went to 1/12th recovery versus an actual basis. This year's true-up is going to be much less because they have collected \$4,500 year to date toward that.

The timing of terminating the township's maintenance agreement, as well as partial disbursement of Miami Beach funds, was discussed.

It was agreed that a letter of termination of the township's agreement, to coincide with a new agreement between the county BPW and MBRA, will be crafted and sent to Divozzo tomorrow morning.

After lengthy discussion, there was consensus of board members present and Nolan that a check payable to Miami Beach Road Association will be prepared next week for partial disbursement of the Miami Beach Sewer Fund monies, with the township retaining \$5,000 until after the new agreement is signed.

Ordinance Recodification Proposals (continued) (2:08:19)

Choose Codification Company

The board discussed and compared the features and services offered by each of the three codification companies.

Motion by Benak to select Municode to codify the township's general and zoning ordinances and to authorize the clerk or the supervisor to sign the appropriate contract; second by Lawson. Roll call vote: Hubbell, absent; Lawson, yes; Popp, yes; Benak, yes; Goss, yes. Motion carried.

Where choices were available in the Municode proposal, the following selections were made:

- 12-point font.
- Teleconference or web-based conference, 3-hour session.
- Semi-bright black binder, silver stamping.
- \$4,180 owed on execution of agreement.
- My Municode premium, \$1,195 annually.

It was agreed that Goss will sign the proposal and send it in tomorrow.

New Business (2:34:27)**Resolution #20-02 Whitewater Township Poverty Exemption Application, Guidelines, and Income Levels****Motion by Goss to adopt Resolution #20-02 Whitewater Township Poverty Guidelines; second by Lawson.**

The highest income level for the minimum poverty guideline will be utilized, as noted in the Federal Register.

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

A true and complete copy of said resolution is attached to the minutes.

Motion by Goss to adopt Whitewater Township Poverty Exemption Application dated January 28, 2020; second by Popp. Roll call vote: Benak, yes; Goss, yes; Hubbell, absent; Lawson, yes; Popp, yes. Motion carried.

Planning Commission Appointment - Mickey Dean (2:38:00)

Motion by Goss to appoint Mickey Dean to the planning commission, term to expire 12/31/2022; second by Lawson. On voice vote, all those present voted in favor, none opposed, Hubbell absent. Motion carried.

Approval of Revised Zoning Board of Appeals Bylaws (2:38:32)

Popp said he was recently informed that the board does not have jurisdiction over the planning commission, ZBA, or board of review; they operate under their own laws, and the township board does not have the authority to approve the bylaws.

Benak and Goss questioned who told Popp that and where is the law.

Brief discussion followed.

Motion by Goss to adopt the Zoning Board of Appeals Bylaws as revised; second by Benak.

Benak said she would feel better if she knew where it was coming from, and would rather err on the side of caution.

On voice vote, Benak, Goss, and Lawson voted in favor, Popp opposed, Hubbell absent. Motion carried.

Annual Review of Medical Marihuana Opt-Out and Recreational Marihuana Prohibition (2:40:33)

Popp said he tried to highlight the changes he has been made aware of. He does not think there are any changes in the medical side. He thinks the only changes since the board reviewed this a year ago are emergency rules that have been put in place originally 07/03/2019 and have been extended for six months to 07/03/2020.

Audience member Dragovich confirmed that all the new rules have come out for the recreational side.

Popp brought up the \$40,000 collected annually by the state per license and revenue sharing based on sales tax.

Benak said the problem she has with changing what we decided last year is that we based our opinion on overwhelming information that came from a survey we did, people saying they did not want it here in the township. She does not see where you are going to get a different opinion if you did another survey. Because there is so much money attached to this does not mean that we should forget what the people said.

Discussion followed, with it being pointed out that the zoning administrator receives phone calls every month.

Goss said she does not see any reason for the board to change its prior decision, pointing out that all the people she has heard from are coming in from outside of our township and they want to do something here. She has not had any local people call up to say they wish we would allow some medical and recreational marihuana here, and stated she is not going to change her decision about it.

Lawson said his decision is going to stay the same. When we start getting people from our community asking for it, maybe he will change his mind. Right now, they have said no.

Motion by Goss to make no changes regarding the medical marihuana opt-out and the recreational marihuana prohibition in Whitewater Township; second by Lawson. On voice vote, all those present voted in favor, none opposed, Hubbell absent. Motion carried.

After brief discussion, there was consensus to review this topic annually.

Disposal of Fire Department Old/Surplus Computer Equipment (2:50:45)

Motion by Goss to permit the Fire Department to remove from asset inventory and dispose of five outdated computers and peripheral equipment; second by Popp. Roll call vote: Goss, yes; Hubbell, absent; Lawson, yes; Popp, yes; Benak, yes. Motion carried.

Tabled Items (2:51:39)

None

Board Comments/Discussion (2:51:41)

None

Announcements (2:51:47)

1. Next regular meeting date 03/17/2020 at 7:00 p.m.
2. Budget work sessions on 02/13/2020 at 6:00 p.m., 02/18/2020 at 7:00 p.m., and 02/25/2020 at 6:00 p.m.

Public Comment (2:52:20)

Ron Bachi, 6987 Cook Road, spoke on the topic of recreational marihuana and said he did not think the survey was overwhelmingly leaning one side; he thought it was very close. He thinks the board should try to keep more of an open mind; there are a lot of aspects that are financially beneficial for the community and thinks the board should probably talk about it just a little more.

(2:54:21)

Mark Dragovich spoke again on the topic of recreational marihuana, provided revenue figures, and said he knows four or five farmers who live in the township that are currently growing recreational marihuana. He touted the tax revenue and access for the citizens who are driving elsewhere to get their medicine.

(2:57:01)

William Haas spoke again on the topic of recreational marihuana, saying his company alone in Niles would bring 40 jobs minimum which are not low paying jobs and do not require a 4-year degree, and supplied information about the cannabis industry in Michigan and elsewhere.

Adjournment (3:01:04)

Motion by Lawson to adjourn; second by Popp. On voice vote, all those present voted in favor, none opposed. Meeting adjourned at 9:56 p.m.

Respectfully submitted,

Cheryl A. Goss
Whitewater Township Clerk