

**Whitewater Township Board
Minutes of Regular Meeting held October 13, 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, followed by the Pledge of Allegiance.

Roll Call of Board Members

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

Board Members absent: None

Others present in person: 14

Others present via Zoom: Fire Chief Brandon Flynn, Popp, and 5 others

Set/Adjust Meeting Agenda

There were no adjustments.

Declaration of Conflict of Interest

None

Public Comment (5:06)

All those present via Zoom declined public comment.

(6:43)

Phil Knapp, 8784 Palaestrum Road, requested to put a boardwalk on Lossie Trail, 220' long, about 1/4 mile east of Cook Road, at the bend in the road. He is ready to put some money behind it. He will match \$1,000 from any other source.

(8:30)

Ron Bachi, 6987 Cook Road, spoke on the proposal for growing and processing of marijuana by Chris Hubbell. He quoted from prior board minutes and said we need to hit the brakes on this.

(14:03)

Dee Prabhaker, 6925 Cook Road, said regarding marijuana that he has concerns from a safety perspective and mentioned farmers he knows in the community. He spoke about drugs introducing a risk to our children, to the safety of our community.

(15:20)

Popp read aloud two e-mails, one from Tracy Spincich expressing opposition to a marijuana dispensary in the township, and one from Jessica Ziecina stating her opposition to marijuana business, distribution, storage, or mass production in her home town.

Public Hearing (18:00)

None

Reports/Presentations/Announcements/Comments (18:00)**County Board of Commissioner Report**

Popp reported that LaPointe will be absent this evening.

County Road Commissioner Report (18:10)

Brad Kluczynski, Road Commission Manager, said he wants to catch the board up on what the road commission has been doing over the summer, as well as provide information about the November millage proposal. He provided dollar figures for what was spent in 2020, described bridge replacements planned for next year, and reported on progress on the primary road network. He supplied history and facts about the road millage and said they are requesting renewal in 2020 for another four years. Also mentioned was a future ability for the township trustees to come to their office and utilize a program to apply asset management principles to township roads.

Mobile Medical Response Report (25:40)

No one is present from Mobile Medical Response. September activity reports were supplied.

Fire Department Report (26:00)

Brandon Flynn gave the following report:

- They had an uneventful month in September. They are still working on the asphalt paving project. Elmer's has one more lift to do, after which they will do the striping and landscaping.
- They have been getting things ready for winter.
- The next big event on the horizon is MMR taking over North Flight.

Planning Commission Report (27:17)

Due to Lawson's inability to attend the last planning commission meeting, Popp gave the following report:

- The PC is still getting their feet underneath them.
- Glenn Savage resigned.
- They looked at the condominium ordinance and are hopeful for a December public hearing.
- Some work was also done on the master plan with the emergency services section, some of the history, and some of the pictures were recommended to be updated.

Parks & Recreation Advisory Committee Report (28:35)

Cheryl Goss gave the following report:

- The meeting was last night; 4 regular members and the alternate were present. Denny Leach passed away in September.
- Updates were given on the dugout project, Whitewater Township Park trail sign project, and the kiosk project for Lossie Road Nature Trail and Battle Creek Natural Area. Leach was able to get the three kiosks built.
- The rest of the meeting was spent on developing a survey regarding park improvements and review of the Recreation Plan, which expires at the end of the year.
- A special meeting will be posted for October 26 to continue review of the Recreation Plan.

Consent Calendar (31:00)

Receive and File

1. Supervisor's Report for September 2020
2. Clerk/Parks & Recreation Administrator's Report for September/October 2020
3. Zoning Administrator Staff Report October 2020
4. Mobile Medical Response September 2020 Activity Reports
5. Fire Department September 2020 Monthly Report
6. Historical Society Report for September 2020
7. Approved 08/10/2020 Parks & Recreation Advisory Committee Minutes
8. Approved 08/12/2020 Historical Society Minutes

Correspondence

1. Grand Traverse County Sheriff Department Statistics for September 2020 and 3rd Quarter 2020 Totals (CG)
2. Letter 09/02/2020 Jason Torrey 911 Director re Local 911 Surcharge Ballot Proposal (CG)
3. E-mail 09/22/2020 Corinne Prabhaker re Special Meeting 9-22-2020 Public Comments (CG)
4. 2020.09.15 E-mail from Zoning Administrator Bob Hall (RMP)
5. FEMA Open House (RMP)
6. Grand Traverse County Recycle Smart – September Newsletter (RMP)
7. Fahey Schultz Burzych Rhodes – Short-Term Rental Update (RMP)
8. Alward Fisher Rice Rowe & Graf – Lossie Road Request (RMP)
9. E-mail from Steve Sawvel – Construction Update DTE/186networks/Cherryland Electric (RMP)
10. CARS – Letter Regarding Upcoming Road Millage (RMP)
11. News Release 10/06/2020 Mobile Medical Response and North Flight EMS Merger (CG)

Minutes

1. Recommend approval of 09/08/2020 regular meeting minutes and 09/22/2020 and 09/28/2020 special meeting minutes

Bills for Approval

1. Approval of Alden State Bank vouchers # 45792 through 45930
2. Approval of First Community Bank Miami Beach voucher # 1273
3. Approval of First Community Bank WMDLS voucher # 1322

Budget Amendments (none)

Revenue & Expenditure Report (none)

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

Unfinished Business (31:52)**COVID-19 Preparedness and Response Plan**

Goss noted there no longer exists any executive order that requires a COVID-19 preparedness plan.

Popp replied that the COVID-19 preparedness plan is an OSHA requirement.

Discussion followed.

Benak said it brings to mind that the township does not have an emergency management plan. Maybe it is time we start thinking about putting that on the docket to work on.

Discussion followed.

Popp said we will put that on the agenda.

Proposed Ordinances re: Medical and Recreational Marijuana (34:05)

Matt Kuschel, attorney at Fahey Schultz Burzych Rhodes, provided an overview of the three marijuana acts in Michigan, i.e., the Michigan Medical Marijuana Act (MMMA), the Medical Marijuana Facilities Licensing Act (MMFLA), and the Michigan Regulation and Taxation of Marijuana Act (MRTMA). Kuschel also touched on industrial hemp and noted that it is handled under a different regulatory framework. Regarding zoning, he said there are a lot of different ways to move forward from a zoning perspective, i.e., special use permits, overlays.

In response to a question from Popp about whether the township should combine the MMMA and the MMFLA, Kuschel responded no, because they approach growing differently, and expanded on the DeRuiter vs Byron Township case mentioned by Popp.

Kuschel then provided an overview of the proposed ordinances.

Popp indicated he has a number of questions he would like to submit outside the meeting and will submit them to all board members.

Kuschel responded to several questions posed by Goss.

Benak asked Kuschel to tell the board about the three different options to process the applications.

Kuschel said there are several different ways to go about reviewing the applications and approving permits. One is to identify an individual staff member or department; in this case, we have the zoning administrator. Another would be to have the township board or a member of the township board, rather than staff, take on that responsibility and then you are vesting it within that elected office, or potentially ultimately to the township board itself as a whole. In terms of application review, you would want to keep that more efficient in one individual rather than the township board as a whole from a review capacity, most likely. The third major alternative would be to set up an independent committee to undertake this work on behalf of the board. He indicated there is a lot of paperwork involved in the application review, whether you do it in house with a member of the elected official staff or use a township staff member like the zoning administrator. If there are any questions from anyone looking at the applications, their office is available to assist in reviewing the applications and the material submitted. Beyond the

administrative review of the materials submitted, there is the permit approval process. He said they have a lot of different communities who have adopted different ways of attacking this depending on what needs they have in the community and the level of resources and staff they have available.

In response to Benak's question, Kuschel indicated that their office is also happy to assist and undertake the application review as well. In that case, they would only be making a decision as to administrative completeness of the application, ensuring all of that material is there, and would leave final permit issuance to the local government. As far as he knows, they have not made a recommendation as to any particular permit, but if there are severe or uncured deficiencies, they will note those as follow-up that the township should consider when they determine whether or not to actually issue this permit.

Popp said he will forward his questions to the board and to Kuschel sometime tomorrow.

The board agreed to hear audience comment.

Mike Corcoran, attorney for Northpoint Farms and the applicant, praised counsel for thorough drafting of the ordinances and thinks the application process will get the board the information they need to make an informed decision about any applicant, and there are teeth in the ordinances. He noted that, as it relates to the Northpoint Farms property, the applicant has four Class C medical grow licenses currently, so they would be in a situation where they would be wanting to stack, and one medical processing license. He noted there is going to be a lot of conversion from medical growers to recreational growers over the next few years. He urged the board to consider 7 or 8 grow permits allowed under each ordinance, both medical and recreational. He thinks the township zoning administrator is really informed in this area and is probably adept at handling this; maybe he does not have the time. In such case, it makes sense to have the attorney do it. Ultimately, it does make sense to have the board make the call on the permit. That is what he has seen in a lot of other townships. The way the ordinance is drafted, 30 days after the ordinance becomes effective, an applicant could submit an application. If they were to receive a permit ultimately, they then have to go get a special use permit through the zoning ordinance. He said the township has set itself up to provide adequate assurances and protections, and asked the board to pass versions of this at the earliest potential date.

Kuschel responded concerning how the board might want to determine the number of permits, and also stated, regarding zoning, they always recommend that any uses be permitted only under a special use permit, i.e., location, setback, screening, lighting, etc. He also provided different scenarios for the order of the process.

Daniel Till, 7746 Hoiles Drive, property owner in Whitewater, stated there is no difference between a hemp plant and marijuana except the psychoactive nature, and the THC version is required to be grown securely. He would like to see farmers have the opportunity to cultivate cannabis the same way they farm hemp, allowing for an open-air cultivation method, so that more farmers can utilize their land and the product will bring more money per acre than hemp. He would like to see some type of language to remove the odor restrictions from an open-air cultivation, making sure the zoned areas will not create an odor nuisance for the location.

Robert Ziecina, 6951 Cook Road, said he knows zoning has always been super strict in the township, and from what he knows about these businesses, it seems odd that everything is so structured as far as permits and everything else, but the actual facilities themselves, when you have got people sleeping in their vehicles, toting guns in center consoles. He pointed out that marijuana is illegal federally and there has always been a distinction where you could not have guns and drugs. Now you see almost what looks like shanties set up with people sleeping in campers next to these businesses. He said his biggest concern would be more surveillance and making sure they are not ripped off. That is not the kind of stuff he would like to see in our township. He asked for restrictions on people camping out for long term at these places. He also expressed a concern about someone getting shot trying to rip off a plant.

Popp asked if we want to set an ordinance review for a public hearing, or do we want to work on items we heard from Mike and Bob and Dan.

Goss said she would like to see the ordinances go forward to public hearing, with changes, and noted that setting them for public hearing is going to provide the public the best opportunity to weigh in.

Discussion followed.

There was consensus to set a special meeting on November 17, 2020, at 6:00 p.m. for public hearing on the ordinances.

Kuschel indicated their office will be available.

Motion by Goss to set both of the proposed ordinances for public hearing on November 17 at 6:00 p.m.; second by Lawson. Roll call vote: Goss, yes; Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes. Motion carried.

New Business (1:54:55)

Extension of Mobile Medical Response Contract

Motion by Goss to approve a 1-year extension of the current ambulance service agreement between Whitewater Township and Mobile Medical Response, with no changes to any other terms of the agreement; second by Popp. Roll call vote: Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes; Goss, yes. Motion carried.

Lossie Road Trail - Review Nonmotorized Designation (1:56:27)

Popp related some history of the Lossie Road Nature Trail and referred to a letter from Roland Oosterhouse citing legal cases about access to public roads.

Benak said she does not see this as a big problem; we need to give them access to their property, which they have always enjoyed before the nonmotorized signs were put up, and stated she does not wish to take people's rights to be able to access their property away from them. It's not opening it up to everybody; it is the property owners that are right there.

Discussion followed:

- Suggestion that, rather than doing it through resolution, as Oosterhouse's attorney has recommended, do it through a deed process, a covenant, so it goes with the land; it is something that transfers.
- A resolution could be drafted for the next meeting.
- Resolutions are not well tracked and are not recordable.
- What is "adjacent."
- Aerial map of Lossie Road Trail was referred to.
- Suggestion to call out the parcels affected in the resolution.
- Chet Grant said some of the survey stakes/metal posts are on his property, but that is not what is showing on the map.
- Suggestion to have the attorney's office come up with something that will protect the interests of those property owners.
- Due to the nonmotorized status of the trail, the Parks & Recreation Advisory Committee requested signs be erected.
- Chet Grant said it is not the four-wheelers that tear it up; it is trucks and cars that get stuck where the corner is. It was filled with sawdust after the big storm 4 or 5 years ago from Cook Road east. It needs a culvert.
- Conflict is between motorized and nonmotorized access. Change name of sign to authorized motor vehicles or permitted motor vehicles. Sign is in a bad place because there is no place to park.
- Roland Oosterhouse desires to build a house on his property with driveway access down Lossie Road Nature Trail.
- Battle Creek Natural Area Management Plan says, "Lossie Road Nature Trail shall be utilized for passive recreational use by the public, including hiking, skiing, and wildlife viewing. Such use shall be nonmotorized. However, motorized vehicles may be used for maintenance activities by authorized persons."
- Suggestion that something be put in writing to make sure current owners and successor owners have the ability to go down the trail with motorized vehicles, and that if properties are split and sold, those owners would also have that ability.
- Chet Grant asked what will be the penalty if you get caught on a motorized vehicle.
- Suggestion to take the signs down.
- Suggestion to amend the Battle Creek Natural Area Management Plan to take out all references to the fact that it is a nonmotorized trail.
- Suggestion to replace the signs with ones that say "No Unauthorized Vehicles."

There was consensus that the township attorney will be asked to draft language protecting adjacent landowners' motorized vehicle rights to Lossie Road Nature Trail.

Popp said he will take care of that tomorrow.

Review Bids/Award Snowplowing Contract (2:26:56)

Goss noted only one bid was received, from 365 Outdoor. A bid was requested from Northwest Michigan Contracting, but they said they would not be able to meet the requirements for frequency of plowing.

Motion by Goss to accept the 3-year bid submitted by 365 Outdoor for snow removal services; second by Hubbell. Roll call vote: Lawson, yes; Popp, yes; Benak, yes; Goss, yes; Hubbell, yes. Motion carried.

Fire Department Disposition of Snowmobile Trailer (2:28:12)

Popp said he thinks the Chief's idea of a sealed bid is a good idea.

Discussion followed.

Motion by Goss to allow Chief Flynn to dispose of the 1998 Wells Cargo snowmobile trailer in a manner determined by him; second by Lawson. Roll call vote: Popp, yes; Benak, yes; Goss, yes; Hubbell, yes; Lawson, yes. Motion carried.

Skegemog Point Road Letter Approval (2:32:05)

Popp requested permission to send out a mailer to gather Skegemog Point Road owners' e-mail addresses for road project purposes.

Discussion followed.

There was board consensus that Popp will spend \$150 to send letters to Skegemog Point Road residents to gather contact information.

Request for Authorization to Execute Designated Assessor Agreement with Grand Traverse County (2:36:30)

Motion by Lawson to authorize Supervisor Ron Popp to sign the Interlocal Designated Assessor Agreement between Grand Traverse County and Whitewater Township as presented; second by Benak. Roll call vote: Benak, yes; Goss, yes; Hubbell, yes; Lawson, yes; Popp, yes. Motion carried.

Tabled Items (2:37:32)

None

Board Comments/Discussion (2:37:34)

None

Announcements (2:37:38)

Next regular meeting date is 11/10/2020 at 7:00 p.m.

Public Comment (2:37:45)

Ron Bachi, 6987 Cook Road, asked to have the marijuana survey be put back on the township website.

(2:38:37)

Dee Prabhaker, 6925 Cook Road, asked that the 11/17 special meeting be published in the Elk Rapids News.

(2:39:18)

Heidi Vollmuth, 8388 Winnie Lane, said no one is bringing up how to police this and suggested grants go to some police. Also, there are 15 people here; we are not notifying the public very well again; shame, shame.

All those present via Zoom declined public comment with the exception of the following:

(2:40:23)

Vaughn Harshfield said this marijuana thing is starting to frighten him. After tonight's presentation, he thinks it is going out of control. It was his understanding that Hubbell was going to grow, process, and ship it out of the township, and now he honestly does not know what is happening. They bring up the concern of odors and trailers parked along the roadway. He seriously questions if this is good.

Adjournment (2:42:46)

Motion by Lawson to adjourn. Meeting adjourned at 9:38 p.m.

Respectfully submitted,

Cheryl A. Goss
Whitewater Township Clerk