

**Whitewater Township Board
Minutes of Regular Meeting held February 13, 2018**

Call to Order/Pledge of Allegiance

Supervisor Popp called the meeting to order at 7:02 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: Benak, Goss, Lawson, Popp

Board Members absent: Hubbell

Others present: Zoning Administrator Dennis Habedank, County Commissioner Carol Crawford, County Road Commissioner Marc McKellar, and approximately 17 others

Set/Adjust Meeting Agenda

There were no adjustments.

Declaration of Conflict of Interest

None

Public Comment

Mike Jacobson, Skegemog Point Road, stated ever since the beginning of Battle Creek Natural Area he has tried to explain to the township that the creek is not called Battle Creek; it is Bottle Creek. In legal land descriptions, it is called Bottle Creek. If it is Bottle Creek in the legal land description, we can surmise that is the legal name of that creek. The natural area is named after a creek that does not exist. If the name of the natural area remains Battle Creek, does that mean we have changed the name of that creek? In the early 1960's, the DNR came and started changing the names of things. Round Lake is no longer called Round Lake. He states he never heard the swamp trail called Lossie Road Trail. His grandfather grew up on the trail. People from Elk Rapids will tell you it was called the swamp trail. The name Battle Creek is a typographical error on a map. He would appreciate it if someone would take a serious look at it and see what we can do to correct it. It is a bit of our heritage and history.

Judith Danford, 1139 NW Silver Lake Road, Traverse City, property owner in Whitewater Township, stated she has been remiss in not providing Goss with a letter about a parcel of land that was deeded to the township by her parents which sits at the corner of Vinton Road and Old M-72. The intent for the gifting of the parcel was for schoolchildren to go there on field trips. It has wetlands, a variety of vegetation, and bird wildlife. She has talked with the people at Mill Creek and they are interested in using the parcel. She is hoping for some type of coordination between the two entities to allow for that. She previously provided Goss with a copy of the quit claim deed. Also, when the board decides on Bottle Creek or Battle Creek, let her know because the headwaters are on their farm.

Public Hearing – Proposed Adoption of Municipal Civil Infraction Ordinance

Popp opened the public hearing with the following comments:

- The public hearing on the proposed adoption of Whitewater Township General Ordinance No. 51, Municipal Civil Infraction Ordinance, is open at 7:09 p.m.

- Everyone should sign in.
- Notice of the hearing was posted in the Traverse City Record-Eagle on Sunday, 01/28/2018.
- Written comments were received from MaryLou Baggs, Kim Mangus, Tom McElwee, and Judith Danford.
- For oral comments, come to the podium and state your name and address for the record.

Public comment:

- Mark Bak, 4211 Broomhead Road, thanked the board for looking after the affairs of the township, also thanked MaryLou Baggs and Kim Mangus who he knows through the e-mail he received from the township. He offered various comments in opposition to the ordinance, including that the words “alleged violator” are sprinkled through the document, terminology is loosely worded, no opportunity to be represented at an informal hearing, each day is a separate violation, this will drive a wedge between people.
- Martine Byrne, 766 East South Airport Road, Traverse City, owner of property on which her son placed a shed, recited how she became aware that there was a problem with the shed. Stated she does not have any notice of any legal action taken, zoning administrator wants to be able to issue a ticket, fines would be well over \$100,000 to today or I go to jail for 90 days. Would like due process to remain in place.
- Glenn Frantz, 633 Armstrong Road, Kalkaska, stated MaryLou Baggs is his mother-in-law. He posed several questions and stated the board should do their due diligence, citing the Fourth Amendment of the U.S. Constitution and the Magna Carta.
- Judith Danford, 1139 NW Silver Lake Road, Traverse City, owner of property on Broomhead and Hursh Roads, provided a 3-page writing, made various comments in opposition and asked the board to reconsider the document.
- Rod Challender, 3811 Broomhead Road, stated he has lived in the township for 36 years, he is totally against Ordinance 51, it is not good for the people.
- Jim Wilson, 9184 Whitney Road, stated he has lived here since 1969, was on the fire and rescue for a few years. Asked about a police power ordinance and whether the township lawyer has looked at it. Hopes the board does not pass it.
- Ted Hooper, 6575 Cook Road, former zoning administrator for Whitewater Township, stated zoning is a necessary evil for us to get along with our neighbors. Difference here is two ways to enforce the law. Process starts with a letter, not with a court case and fines. Does not see this as a way that the zoning administrator is going to look for violations all over the township; just a way for him to do his job.
- Steve Mangus, 1214 Cerro, stated he is against the adoption; he contacted his attorney and asked him what it is about. Are we going to have a system that is traditionally constitutional, or are we going to supersede that? Mangus provided the board with a 3-page document and read it aloud.
- Don Pishney, 7855 Pinedale Drive, Acme, stated he owns Classic Power Equipment and has done business here for about 25 years. Detailed how he was sued by the township for zoning for outside display a number of years ago. Pointed out past overzealous enforcement of the zoning ordinance. Questioned who will be here 5 years from now, who will be interpreting this. Stated the board needs to do a better job of defining what they want to do, and applauds the due process of law from the criminal side.

- Mike Jacobson, Skegemog Point Road, stated the ordinance is way too strict, taking away some of our rights, questioned whether it is constitutional, putting the government heavy handed. Provided numerous other comments in opposition to the ordinance, including that at the very least a lot more deliberation has to be made on this thing. If left intact and the wrong person gets hold of it, a lot of people are going to get hurt.
- Kim Mangus, 1214 Cerro Drive, stated she appreciates the board making a commitment to take every general ordinance to a public hearing, stated she is not in favor of the civil infraction ordinance. She suggested going through our ordinances first, schedule a town hall style meeting, then a survey or a vote of the public. All steps should happen between April and August. The township doesn't have a manual of steps to be taken by the zoning administrator.
- Annette Nesky, 7337 Skegemog Point Road, stated this is not the ordinance that needs to be in place; it needs a public vote, send out a survey, give a deadline. It is unfair for the board to be the only ones to decide how this goes down. Stated she does not want the ordinance to pass the way it is.
- MaryLou Baggs (via e-mail read aloud by Goss) stated she was blown away on hearing of the new ordinance proposal, wants the board to wait until all residents are present, objects to the township issuing tickets, very underhanded, no legal right to undermine constitutional heritage and protection, calls it betrayal.

With no one else expressing a desire to comment, Popp declared the public hearing closed at 8:23 p.m.

Reports/Presentations/Announcements/Comments

County Board of Commissioners Report

Carol Crawford gave the following report:

- Stated she likes to see public participation and doesn't mind waiting.
- BOC is again looking for a new administrator. Most recent former administrator had family emergencies and had to leave very quickly. They have started the process again with the same search firm. The process has changed a little bit; commissioners will have more input; public will have a chance to meet the final few candidates. They hope to get a new administrator by the end of May.
- Jean Derenzy will be leaving as of 2/28. Nate Alger and Chris Forsyth, along with Dean Bott, will share the duties of the administration until they get a new administrator.
- Talked about Animal Control last week. Will talk about a millage again in May once they get some numbers.
- Commissioner pay is back in for the next term.
- Approved the Commission on Aging COAST bus in cooperation with BATA for the rest of the year at three days of the week.

Staffing changes were briefly discussed.

County Road Commissioner Report

Marc McKellar gave the following report:

- Phil Masserant is their new finance director as of three weeks ago.

- There will be an invitation for attendance as a local area of government stakeholder in the east-west corridor program. They are in a 12-month study right now. It should be done by the end of December. Out of that will come suggestions from an engineering group regarding the best solutions for an east-west corridor. They hope to get something done within the next 4-5 years.
- McKellar was contacted by a township resident on Elk Lake Road who is getting a lot of RVs in his driveway because they have missed the entrance to the park going north, starting to become pretty problematic and dangerous when they back out onto the road and they are damaging his yard. McKellar reported they have checked on the sign. The sign is owned by the township. They will ask the township to consider a larger sign with larger letters. The existing sign is close to the recommendation as far as location and proximity to Park Road. The township will have to pay for the sign. Road Commission does the installation. If the township does not want to pay for a larger sign, it will be left as is. The estimated cost is \$2,500.
- McKellar provided further information concerning the possibility of an east-west corridor.

Mobile Medical Response Report – No one is present from Mobile Medical Response.

Planning Commission Report

Lloyd Lawson gave the following report:

- PC had their meeting on 2/7, had a public hearing with great public involvement. They moved forward to the board the results of the public hearing regarding Whitewater Pines subdivision. Most people assumed condominiums were going in but were told there would be people buying individual lots and building houses. Everybody was pretty much for it.
- Started talking about accessory dwellings and how to define them. Options were lot coverage, square foot ratios, time of rental, percentage of the larger building or the dwelling versus the accessory dwelling.
- They decided to have an extra meeting on 2/21 from 6:00 to 8:00 p.m.

Parks & Recreation Advisory Committee Report

Goss reported she was not able to attend last night's committee meeting but provided them with some requested information and asked them to finalize their budget requests.

Grand Traverse Rural Fire Department

Popp stated there has been no other Grand Traverse Rural Fire Department meeting since the last one; nothing to report.

Consent Calendar

Receive and File

1. Supervisor's Report for February 2018
2. Clerk/Park & Recreation Administrator's Report for January/February 2018
3. Zoning Administrator Yearly Report 2017
4. Mobile Medical Response January 2018 Activity Reports
5. Approved 12/11/2017 Parks & Recreation Advisory Committee Minutes

6. Approved 12/13/2017 Fire Department Subcommittee Minutes
7. Approved 12/21/2017 Zoning Board of Appeals Minutes
8. Approved 01/03/2018 Planning Commission Minutes

Correspondence

1. Grand Traverse County Sheriff Department Statistics for January 2018
2. Grand Traverse Rural Fire Board DRAFT Minutes of 01/17/2018 Regular Meeting
3. GTRFD Officers' Meeting Minutes (not available)

Minutes

1. Recommend approval of 01/09/2018 and 01/23/2018 regular meeting minutes

Bills for Approval

1. Approval of Alden State Bank vouchers # 42369 through 42455
2. Approval of First Community Bank Miami Beach voucher # (none)
3. Approval of First Community Bank WMDLS voucher # (none)

Budget Amendments (none)

Revenue & Expenditure Report (in next Budget Work Session packet)

Motion by Goss to approve Consent Calendar items as presented; second by Benak. There was no further discussion. **Roll call vote: Benak, yes; Goss, yes; Hubbell, absent; Lawson, yes; Popp, yes. Motion carried.**

Unfinished Business

Establishment of Whitewater Township Fire Department

a. Review/Approve Proposed Ordinance Establishing Department/Set Public Hearing

Popp noted that the township board has opted to bring all ordinances in front of the public in a public hearing, even if they are non-controversial, in order to provide clarity and openness. The Rural Fire system is breaking up. The final draft of the ordinance is in front of the board tonight.

Goss consulted the township attorney to get questions answered concerning the ordinance. Under Section 2, Coverage Area, the township attorney confirmed that "other jurisdictions" does apply to the tribal status property within the township; hence, a contract for fire service will need to be in place in order to provide service there, and there will need to be discussion of cost recovery. Attorney Patterson suggested that the township's first step might be to contact the Governor's office tribal liaison.

Under Section 4, Organization, Chain of Command, the position of Safety Officer was eliminated by the attorney's office, but they have advised that it can be added back in. Goss would suggest it be added back in under "Fire Lieutenants."

Under Section 7, Fire Chief Duties, specifically Section 7b, Duties, paragraph 4, Goss suggested, per her discussion with Attorney Patterson, that the first sentence be changed to

read, “As needed, the Fire Chief shall notify the Township Board of major problems or issues that arise.” The remainder of the paragraph would remain unchanged except that the words “and the ratification by” would be removed in the last sentence.

Goss also spoke to Attorney Patterson regarding contents of the personnel files in her office and in the chief’s office. Patterson will provide a list of items for each file.

Under Section 12, Compensation, second sentence, language indicating that time records shall be submitted “to the Township Board for payment by the Fire Chief” should be changed to read “to the Township Clerk for payment.”

Under Section 17, Donations; Firefighters Association, Goss confirmed with Patterson that the Whitewater Emergency Services Auxiliary can also be listed in the ordinance (in addition to the statement referring to “The Whitewater Township Firefighters Association”).

Popp commented that he is disappointed that he wasted all of his time with the Fire Department Subcommittee and he apologized to the first responders who took time off of their paying jobs to help write the ordinance, only to have it thrown essentially completely away.

Goss pointed out that she wishes the board would have thought through the ordinance-writing process a little closer. The board should have asked Patterson’s office to draw up the ordinance from the very beginning. The 10/10/2017 minutes show that Shugart and other responders had already started working on the MTA sample ordinance, apparently at Popp’s direction. The Fire Department Subcommittee met for the first time on November 15. Goss, too, apologized to the firefighters.

Discussion followed. There was no objection to any of Goss’s proposed changes. With regard to Section 17, Benak stated the auxiliary’s name does not need to be listed.

There was consensus that the proposed ordinance establishing the Whitewater Township Fire Department will be set for public hearing at the March 13, 2018, regular meeting.

b. Affirm 01/23/2018 Motion re: Apparatus and Equipment

Popp restated the previous offer of \$300,000 to Rural Fire in exchange for possession of the apparatus and equipment on the Metropolitan Appraisal lists, plus 1/3 of the residual equipment located in Kingsley. Benak added that Popp was authorized to offer up to \$350,000. Popp provided details of an offer from Long Lake Township to sell an engine and tanker to Whitewater. Lt. Nick Carpenter provided some details regarding equipment repairs before Chief Weber’s departure, and added that the engine and tanker Long Lake is selling are nearly identical to what we have now. He noted another item to consider is possibly replacing the tanker with something that has a pump unit, in order to have a backup pump. Goss noted it is pretty late in the game to be making a lot of big changes in equipment. Popp stated he will go ahead with what was discussed at our last meeting and is recorded in the minutes.

c. Approve Job Descriptions/Wages for Fire Chief Consultant, Deputy Fire Chief Consultant, and Fire Captain Consultant

Popp explained the reason these job positions were created. Goss noted a couple corrections that should be made, i.e., the wording under the heading Salary should be the same for all three descriptions; fix a typographical error in paragraph 3 of the Specific Duties and Responsibilities for Fire Captain (“to the Consultant Fire Chief”); and switch the job titles of the Captain and Deputy Chief job descriptions. It is intended that the captain does the training and the deputy chief oversees the equipment.

Motion by Popp to approve the Fire Chief Consultant, Deputy Fire Chief Consultant, and Fire Captain Consultant job descriptions as amended; second by Lawson. There was no further discussion. **On voice vote, all those present voted in favor, none opposed, Hubbell absent. Motion carried.**

Discussion followed with respect to wages. The Fire Department Subcommittee recommended \$18 per hour for each position.

Goss noted that she has a question about appointing an acting fire chief, if Arbenowske is willing. The Application for Fire Department ID calls for a fire chief signature.

Motion to change the Fire Chief Consultant, Deputy Fire Chief Consultant, and Fire Captain Consultant job description titles to read as Interim Fire Chief, Interim Deputy Fire Chief, and Interim Fire Captain; second by Goss. Brief discussion followed. **On voice vote, all those present voted in favor, none opposed, Hubbell absent. Motion carried.**

Wages were discussed. The Salary/Wage Schedule will be amended to reflect the new job titles. **Motion to accept the wages as written at \$18 an hour for Interim Fire Chief, Interim Deputy Fire Chief, and Interim Fire Captain on the Salary/Wage Schedule 2017/2018 document; second by Benak.** The motion was re-read. There was no further discussion. **Roll call vote: Goss, yes; Hubbell, absent; Lawson, yes; Popp, yes; Benak, yes. Motion carried.**

Review Zoning Ordinance Amendment No. 73

Planning Commission Chair Mangus is present.

Issues raised with the amendment text include:

- Under Section 7.10, Permitted Uses, referring to the language “two-family dwellings either attached or detached structures,” Popp stated he is not in favor of two detached structures on the same lot. Mangus countered that they should still be connected on the same septic and well. Popp is okay with it if the word “detached” is taken out.
- Popp stated the home occupation has been eliminated from those zoning districts. Is it still a use by right and covered some other place? Mangus stated they were eliminated because they are already listed as permitted uses in R1, and the first statement is that you can do everything you can do in R1.

- Goss inquired about the definition of “farming of all types” under Section 7.10 and lot sizes in R2. Mangus stated they wanted to refer to the standards for farming in Article 37. Lot sizes vary from 20,000 square feet to 10 or 15 acres. Most people would not be able to have large animals. Popp brought up the issue of cash crops.
- Mangus explained that Article 14, Waterfront Property, was expanded to include language from Article 6 regarding the Boardman River Valley in an attempt to have one place for all waterfront standards. There were some alterations to the Boardman River Valley standards.
- Benak inquired about the movement of Section 6.13 language prohibiting cutting of existing trees and shrubs in the Boardman River managed vegetative strip into Section 14.11B. Mangus stated the items covered in that paragraph have been covered under B, although it is not word for word.
- Referring to the same section, Popp inquired if the township has the authority to remove some of the protections of the Natural Rivers Act. It was noted that this act has been repealed. Any variance from the standards imposed would require permission from the Zoning Board of Appeals.
- Benak inquired about Section 37.60(2), which says, “No fence may be erected between a residence or a business and waterfront of a size or material that obstructs a clear view to the waterfront from an abutting lot of an existing riparian lot owner.” Mangus said the proposed ordinance says that you will not obstruct the view of a fellow riparian waterfront owner; it is meant to replace the line that says you can’t have fences. Benak countered that they do not own the view; if we don’t own the view, how can we put it in an ordinance that you can’t obstruct the view? Mangus replied that they were trying to alter it so that you could have a fence in front of the water. Mangus further noted that fences are not structures, according to the ordinance. Benak stated she does not agree with this; fences make good neighbors. Discussion followed.

The following existing fence standards are also proposed to be eliminated:

“3. Fences shall not exceed a height of 6 feet.”

“4. Prohibited fences include barbed wire, electric charges, or fences with sharp materials located on top.”

Lengthy discussion ensued concerning fences, including pro and con on the 6-foot requirement, whether to require a land use permit, whether to charge for the land use permit.

There was consensus that the fence standards should be moved out of Article III and into Article 37, keep the standards as written, and add a requirement of a land use permit at no charge.

Returning to the “detached” language in Section 7.10B, Goss and Popp prefer to remove the language “either attached or detached structures.” Lawson argued that they are everywhere in the township and county-wide, apartments over garages, bonus rooms, which will eliminate that. Benak pointed out that we are not eliminating anything that is not already there. Mangus stated they are not prohibited, they are not permitted, it is not specified.

Modifications to the amendment were briefly discussed, but Mangus volunteered that it is just as easy for the planning commission to bring it all back to the board, following another public hearing.

It was agreed that Zoning Ordinance Amendment No. 73 will be sent back to the planning commission.

New Business

Appoint Fire Chief Consultant, Deputy Fire Chief Consultant, and Captain Consultant (see Page 3067 of these minutes for approval of job title changes to Interim Fire Chief, Interim Deputy Fire Chief, and Interim Fire Captain)

Lt. Carpenter advised that it has not been decided yet who will fill the captain position.

Motion by Popp to appoint Interim Fire Chief Tim Arbenowske and Interim Deputy Fire Chief Nicholas Carpenter; second by Goss. There was no further discussion. **Roll call vote: Hubbell, absent; Lawson, yes; Popp, yes; Benak, yes; Goss, yes. Motion carried.**

Authorize Supervisor/Clerk/Fire Chief Consultant to Apply for Fire Department ID Number and Execute Other Startup Documents

Popp stated there are documents to execute, i.e, the application for fire department ID number, documents for Central Dispatch, new box alarms, related to the startup of the fire department. It was agreed that if there are application fees, purchase orders will be issued. **Motion by Benak to authorize the Supervisor/Clerk/Fire Chief Consultant to execute any and all necessary documents, including payment of associated fees and/or expense, to have an operational volunteer fire department in Whitewater Township as of 04/01/2018. Goss suggested Fire Chief Consultant be changed to Interim Fire Chief. Second by Lawson.** There was no further discussion. **Roll call vote: Lawson, yes; Popp, yes; Benak, yes; Goss, yes; Hubbell, absent. Motion carried.**

Approve Whitewater Township Park 2018 Dates and Rates

Motion by Popp to approve Whitewater Township Park 2018 dates and rates as presented; second by Lawson. There was no further discussion. **Roll call vote: Popp, yes; Benak, yes; Goss, yes; Hubbell, absent; Lawson, yes. Motion carried.**

Obtain/Retain Rural Fire Records for Station 3/Whitewater Township

Popp stated Rural Fire is looking at what to do with run documents and personnel records for the required retention period. The county clerk says each individual township could have their records separated out and the township could have access to them. Employment records have to have a form signed by each responder.

Discussion followed.

There was consensus that the township will retain the records.

Ordinance No. 51 – Municipal Civil Infraction Ordinance

Goss noted that Zoning Administrator Habedank has not had an opportunity to comment; he is the one who proposed that the township adopt the ordinance, and also noted that Habedank provided a document dated today consisting of a 1-page letter along with the township's 4-page Code Enforcement Policy and Procedures Manual.

Habedank stated that the current ordinance defines any violation as a misdemeanor violation, a criminal offense. In 1994, the state allowed townships and municipalities to adopt civil infraction violations to decriminalize those types of activities. A couple cases in point have cost the taxpayers/citizens a considerable sum of money to try to get the violations corrected and it never happened. Under the civil infraction ordinance, if it is adopted, it will be a much better way to address something that should not be a criminal offense to begin with. Ninety percent of the townships in the State of Michigan have done that. He believes all of the townships in Grand Traverse County have adopted civil infractions. It is just a tool.

He added that everybody is excited because you could have somebody who runs amok and charges through the township issuing citations. He stated he does not have the time or desire to do that. Everybody says what if you're gone. He stated yes, he will be gone from here someday, but we need to give him the tools to enforce the ordinance. He can't do it as a misdemeanor violation; it is not going to work. Every month he can come here and say here is what I am doing on the junk complaints; nothing. If you want to spend the money, that's fine. But if you're concerned that somebody is going to cause a lot of problems, keep the ordinance you have. He stated if he wanted to go out and harass somebody, he can harass them with a misdemeanor violation, a criminal record. Not so with civil infraction.

Habedank also pointed out that the board has to hire people that are competent; that is their responsibility. If he goes out and starts issuing civil infraction violations, somebody should grab him by the collar and ask what he is doing. He added that he strongly supports the adoption of this ordinance, and noted that the township has a plan in place already, that has been here for 10 years, on what the procedure is before you even issue the ticket.

Benak stated the Code Enforcement Policy and Procedures Manual is pretty extensive.

Popp questioned whether it has been adopted.

Benak noted that it addresses quite a few of the concerns that many of the citizens had, i.e., neighbor complains, somebody gives me a citation. According to the steps, that is not how it happens. There are seven detailed steps before it ever gets to that point. Benak read aloud the Criteria for Establishing Priority paragraph.

Proceeding to the Initiation of Code Enforcement paragraph, Benak noted that code enforcement can be initiated by the following methods: citizen complaints, anonymous complaints, and township staff.

Benak read aloud the required steps under the Recording and Files paragraph, the Investigation paragraph, and the Enforcement Levels paragraph.

It was noted that the Enforcement Levels paragraph would need to be amended if the civil infraction ordinance was adopted.

Benak explained that one particular case cost the township citizens tens of thousands of dollars, for one person that would not follow the code enforcement, and there was no other choice than to take them to court because we can't write a citation.

Popp said all he is saying is that he didn't know that we were taking some lady to court.

Lawson stated he didn't know either.

Habedank stated that isn't even the case, and this isn't the place to talk about it. He stated she is totally out of line; she does not know the story. Habedank acknowledged that there was a citation issued.

Popp asked if the township board knew about it.

Habedank responded by saying probably not.

Popp then asked: What are the instructions?

Goss answered that Habedank thought there was a municipal civil infraction ordinance in place, attempted first to get voluntary compliance, which was not successful, then issued the citation.

Habedank said he discovered we didn't have one after the citation had been sent. It was not sent to her.

Goss stated there was no case against that lady, and the board should have known about this because Habedank recited it in an e-mail back in November.

Benak stated it was dropped when Habedank found out there was no ordinance.

Popp stated he believes what we have in place has worked well.

Benak countered that it costs the citizens a lot more money.

Popp stated he wonders how many of those citizens would be willing to pay to maintain their rights.

Benak stated she does not understand how it is taking their rights away.

Goss stated it is taking a criminal penalty and reducing it to a civil penalty of fines only. People are objecting that they do not have their right to jury trial; that is true. They do have a right to a formal hearing in front of a judge, but they do not have the right to a jury. Goss stated she did talk to Attorney Chris Patterson about the amount of the costs. Patterson stated the fines alluded

to in the proposed ordinance are what would be imposed if Whitewater Township had its own enforcement bureau and collected fines here. If someone was issued a civil infraction ticket, they would be given a date and time to appear at the magistrate's office. They have their own schedule of fines that apply to all townships.

Goss stated people have said they don't want it; they would rather a violator face a criminal record than a civil fine. Goss stated personally she thinks it is a better option for the people and those present were obviously not given all the information by whoever contacted them and asked them to be here tonight, but they have a responsibility to get their own information. Goss added that there will not be very many people who are cited, whether it is criminal or civil.

Discussion turned to citizens' inability to sell a house because of a neighbor's ordinance violations, following county ordinances, not discussing individual cases, and the process that brought the proposed ordinance to the board.

Motion by Lawson to not adopt the Civil Infraction Ordinance; second by Popp.

Discussion followed concerning contact with Attorney Patterson regarding this ordinance and the attempts to get this matter on the board's agenda. The motion was re-read. **The verbiage "and to abandon it" was added to the motion. Roll call vote: Benak, no; Goss, no; Hubbell, absent; Lawson, yes; Popp, yes. Motion failed.**

Benak asked if there is a chance that we could bring this back after budget and after the fire department stuff.

Popp and Lawson stated they have no desire to see it come back. Lawson stated there are too many people who are opposed to it.

Benak stated she heard they want us to look at it closer and to publicize it and to really look at it, not abandon it.

Popp stated if it comes back, it can be proposed through the normal channels.

Set Date for Review of Fire Chief Applications

During discussion of a date on which to review fire chief applications, Popp announced that there isn't anybody that sits at this table that is qualified to interview a fire chief, that this board does not have enough expertise to vet out a fire chief. Popp proposed getting a local fire chief to sit in on the interviews. Popp stated he thinks it would be beneficial to have another chief look at all of the applications and chime in on who they think should be interviewed.

Addressing a concern stated by Popp, Goss noted that the fire chief applications will be public record as soon as the board packet goes out.

Tuesday, February 20, at 6:00 p.m. was set to review fire chief applications and begin working on budget.

Popp stated he will attempt to find a person who will help us through the process.

Set Budget Work Session Dates

The board declined to set a date beyond February 20, 2018.

Tabled Items**Review Administrative Policy Section 5 (tabled 10/14/2014)**

This agenda item will remain tabled.

Review Ordinance 22 Pension Plan (tabled 10/25/2016)

This agenda item will remain tabled.

Review Whitewater Township Planning & Zoning Fees (tabled 02/28/2017)

This agenda item will remain tabled.

Board Comments/Discussion

Goss stated she will not give weight to the idea that we need to have things in the summer when the snowbirds are here. The snowbirds are the ones who decided to absent themselves from the community. They can get on the website and read everything. The business of the township does not stop because somebody went to Florida or Arizona for two months. Also, if it is going to be the case that ordinance matters cannot be heard when the snowbirds are gone, then that will apply to zoning ordinance matters as well. Goss also advised that it has been brought up that the zoning ordinance amendments should be sent to the attorney for their input since they are the ones who have to stand up in court and defend it.

Announcements

The next meeting date is 02/20/2018 at 6:00 p.m. The next regular meeting is 02/27/2018 at 7:00 p.m.

Public Comment

Steve Mangus, 1214 Cerro Drive, pointed out that on a survey done in the township several years ago 84% of people answering said that voters should get a chance to vote on major changes to the zoning ordinance.

Glenn Frantz, 633 Armstrong Road, Kalkaska, accused the board of being dictators, communists and socialists, and stated the township's zoning ordinance is illegal because the township is not incorporated and the township does not have a state charter. He made various other comments, including that the township should only be meeting once a year, where do "you" have the inclination that you can tell somebody what they can and cannot do, that's not biblical, the state of the country, the illegal ratification of the 1963 Constitution, if townships don't own it they can't zone it, and townships aren't allowed to have a private attorney.

Kim Mangus, 1214 Cerro Drive, stated if the township was following those policies and procedures, she and Tim would be the only ones sitting here tonight because this wouldn't have happened.

Mike Jacobson, Skegemog Point Road, stated the system is easily abused and has been abused. You can't take people's rights away. Why is it only okay for rich people to do what they want on their property and the poor guy has all this stuff crammed down his throat? He stated nothing in his yard has ever affected the welfare, health or safety of any of his neighbors. Now, because of Lossie Road Trail, the cops can come to his yard and say he can't have anything in his back yard. He asked: What good is my property to me? I can't live on my own property; I can't have my own lifestyle on my own property. He offered other comments regarding the value of junk, the township taking money out of people's pocketbook, the 50+ years he has lived on his road, new residents on the road disagreeing with his lifestyle, the fact that he does not interfere with their lifestyle, and stated, "it has to be equal; it can't just be for the big guy; it has to be for everybody."

Tim Shaffer, 5309 Moore Road, stated this board needs to start working together again and working as a team.

Adjournment

Motion by Popp to adjourn; second by Lawson. Meeting adjourned at 11:25 p.m.

Respectfully submitted,

Cheryl A. Goss
Whitewater Township Clerk