

**Whitewater Township Board
Minutes of Regular Meeting held June 12, 2018**

Call to Order/Pledge of Allegiance

Supervisor Popp called the meeting to order at 7:01 p.m. at the Whitewater Township Hall, 5777 Vinton Road, Williamsburg, Michigan, followed by the Pledge of Allegiance.

Popp reminded everyone that there is a 5-minute limit on public comment.

Roll Call of Board Members

Board Members present: Benak, Goss, Hubbell, Lawson, Popp

Board Members absent: None

Others present: Zoning Administrator Dennis Habedank, County Commissioner Carol Crawford, and approximately 40 others

Set/Adjust Meeting Agenda

Goss requested that, when Chief Flynn arrives, his introduction be moved up on the agenda.

Declaration of Conflict of Interest

None

Public Comment

Mike Jacobson, Skegemog Point Road, pointed out that the park surrounding Bottle Creek has been incorrectly named Battle Creek Natural Area. He has pointed out many times in the past that the correct name of the creek is Bottle Creek. It was named this because the springs creating it pour out of the hillsides as if they were pouring out of a bottle. Land descriptions of the properties surrounding Bottle Creek refer to it as Bottle Creek. He has asked in the past if the township officials have the authority to change the name of the creek. He asked if the landowners have been notified of this change and if the change has any legal effect on their properties. The name of Round Lake was changed to Lake Skegemog. Also, what is now called Lossie Road Trail was widely known as the Swamp Trail. In his youth, he never heard it called Lossie Road Trail. He stated these pieces of our heritage are lost forever. He does not believe that we should let the name of Bottle Creek be lost forever because someone misspelled it on a map and the township was unaware of the mistake. He stated that it irritates him that he has brought this topic up so many times and no one from this office has explained why the incorrect name cannot be corrected. The correct name of the creek should be preserved.

He also stated that most of the land on both sides of the Swamp Trail is private. The township has invited everyone to use the trail via their website. This invite has adversely affected all of the bordering taxpaying landowners. He cited instances of trespass on his property and his neighbor's property. He asked that the township give the taxpaying property owners along the trail some relief from the millions of people they have invited to pass through their land, perhaps with a more accurate map on the website, and the township should post a sign at both ends of the trail explaining that the trail passes through private property, indicating where the trail connects to the natural area, and asking users to be respectful of the taxpaying property owners. He stated he was raised on the east end of the trail and still lives there today.

Popp stated the Historical Society is looking into the name and how or when it might have been changed.

Goss noted that she has asked Luann Snider to research the issue and will mail the results of her research to Jacobson.

Dusty Christensen, landscape architect and planner with Mansfield Land Use Consultants in Traverse City, stated he is here on behalf of township property owners Carol and David Williams to request that the board adopt proposed Zoning Amendment No. 76, the inclusion of event barns as a permitted use in the agricultural district. They feel strongly that providing for additional uses in the agricultural zoning district provides owners of larger parcels with additional potential revenue streams and opportunities to keep those parcels whole and help preserve the rural character of the township. He stated that the planning commission recognized that there may be some potential impacts of a use such as this on adjoining properties and they are recommending the adoption of a list of special conditions that would be applied to special use permits for event barns. He stated they would urge the board to adopt Ordinance Amendment No. 76.

Bob Campbell, 8886 Skegemog Point Road, provided a copy to each board member of a statement which he read aloud. He strongly urged the board to reject the recommendation to amend the township zoning ordinance to permit accessory dwelling units on any residential zoned lot of 30,000 square feet or more. He stated 52 people have signed petitions on Skegemog Point and connecting roads north of M-72. Others have circulated petitions and gathered about 40 signatures on Larsen Road, Palaestrum Road, Timberline Road, Cook Road, and Elk Lake Trail. Others have sent emails saying they wanted to sign. All have registered their strong opposition to this. He expressed concerns about change in neighborhood character, erosion of the qualities many of them have sought, unregulated short-term rentals, invitation to developers to split lots, builder of a home on Skegemog Point Road sits on the planning commission and voted for this amendment, more docks and boat lifts to accommodate renters, shoreline views obscured, removal of native vegetation, erosion, overloading of septic systems with resulting contamination of the lakes, more traffic, more noise, more people. He urged the board to say no to this proposal, and handed the circulated petitions to the supervisor and asked they be entered into the record.

Formal Introduction of Fire Chief Brandon Flynn

Chief Brandon Flynn, his wife, and three daughters are present.

Chief Flynn introduced himself as the new fire chief and provided a brief history of his involvement in the fire service, then introduced his wife Rebecca and daughters Emily, Chloe, and Sarah. He also provided a short fire department report.

Chief Flynn also recognized Assistant Chief Nick Carpenter, Captain Tim Arbenowske, and Firefighter Dave Tilley, who are present this evening.

(Applause)

Popp welcomed Flynn and his family and thanked them for attending.

Chief Flynn announced the Emergency Services Building open house on Saturday, June 23rd, from 11 am to 2 pm, and invited everyone to come and see the newly renovated station.

Public Comment (continued)

Don Bonato, 8781 Skegemog Point Road, stated he is a retired attorney and finds the proposed zoning amendment to be very vague and ambiguous. He pointed out inconsistencies between Section 2H and other zoning ordinance requirements for two-family dwellings. Quoting the language of Section 2F, he asked what is referred to as the exception; what does it mean. In Section 2G, he questioned the “land contiguous to the principal dwelling or structure” language and stated he finds it to be confusing. In Section I, he stated he is unable to discern what type of variations from standards might be allowed or considered, or why variations from standards would even be allowed on such a significant issue. He stated he is very concerned about the notion that the township might allow people to vary from this simply by getting a special use permit. He noted also that there is some vagueness in the drafting of this amendment, i.e., using the words land, parcel, lots, property. The differences in this terminology create confusion on what is being referred to. He further stated he questions the wisdom of the provision in Section 3 dealing with who is to handle the application for an ADU. In closing, he asked why the township would take the R1 and essentially obliterate it by allowing multiple dwellings in the single family residential unit when the zoning ordinance already provides for single family dwellings, two-family dwellings in R2, and multiple family dwellings in R3. He stated he is not interested in having his neighbors change from one dwelling to two, or perhaps more, under this ordinance and have renters. It would totally change the character of the neighborhood.

Dave Hauser, 9240 Skegemog Point Road, stated he has been asked to read a letter presented by a couple of his neighbors, Gary Cramer, 8666 Skegemog Point Road, and Rick Singer, 8644 Skegemog Point Road. They bought their property with the idea of using it as a single dwelling lakefront home. Allowing multiple dwellings on each lot could create additional stress to their environment, particularly on Skegemog Point, also the unknown impacts of sewage, garbage, and fertilizer. Additionally, it will change the atmosphere. The lots as subdivided did not account for additional people or dwellings. They are requesting a signed affidavit from each of the board members that they have no secondary gain or self-interest as it relates to the zoning change. They believe they are entitled to know who proposed or asked for the zoning change. If there is gain or self-interest by any member, (that person) should excuse themselves from the process. They feel this should not be a board decision; the zoning change should be put on the ballot. (Mr. Hauser handed a copy of the letter to the supervisor.)

Gordie LaPointe, 6375 Plum Drive, Acme Township, stated he is running for county commission on the Republican ballot in District 6. He related his educational and employment background and explained why he is running for office.

Greg Hamilton, 9895 Elk Lake Trail, stated the board has seen the letters he has written, the signatures he has provided, and he spoke at the last meeting. He stated he echoes what other township residents have shared with the board tonight. Amendment No. 75 is very loose, unrestrictive. There are dozens of things that could develop from this that he does not think the

board or the planning commission have considered yet. Four houses on his road that are currently for sale could become ADUs. Their R1 neighborhood would be drastically impacted and their quality of life affected adversely. A couple private accesses would soon become public accesses with high-volume weekly and daily rentals coming through, with no restrictions on the number of people who can stay in each ADU. He asked the board to imagine what it would be like to have one of these next door. He would encourage the board to not support the amendment at this time.

Ted Hooper, 6575 Cook Road, stated he is a member of the planning commission and it seems to him that there is quite a bit of misunderstanding on what an ADU is and what they were trying to accomplish. They are not trying to accomplish having people rent these out on a weekly basis. It was more or less for mother-in-law apartments, a way to have extended family. He stated they already exist in the township, and this is a way to bring ones that are already existing into the fold. Regarding the concern for septic systems, he stated these things go on all the time. They do it without getting permits. But if you get a permit and go through the proper process, those things are taken care of. He stated he would suggest to everyone that if they don't like what they are doing at the planning commission, their meetings are open and on the first Wednesday of the month. All the people who are upset and do not understand what is going on can come and listen to how they go through the process. He stated they spent multiple meetings going over what to do with these. He stated they are not trying to create something that did not exist before. It exists now and this is how you protect it; you bring them into the fold. He stated they are trying to avoid people renting on a weekly basis because they know it is going to be a big issue, but people getting land use permits are requesting it. If they don't get it through a land use permit, they do it anyway. He invited everyone to come to their meetings and help them make it right. He resents the attitude that they have something to gain. He stated he does not care if it goes one way or another. If it goes by the wayside, that is fine. He stated there is a lot of misinformation and it is hard to explain unless you are at the meetings and you go through the whole process.

Bill Clark, resident on Elk Lake Trail, stated it is about the money. Whether the money comes to the township, or to a builder, or to a person who builds these houses and rents them out for income, there is an environmental and social impact. He related his working experience in Traverse City in 1960. Grand Traverse Bay boasted of having the purest water in the state. Today, there are E. coli counts on beaches. He stated it does not happen overnight; it is insidious and progressive. He has worked on marine patrol and stated that 90% of the problems they encountered on the water are people who rented boats and property. When you rent, you do not treat it as your own. If we try this out and find out 4 or 5 years from now that this does not work, there is no going back. He stated he does not think there is anybody in the room who is in favor of this. He stated when he built, he overbuilt his septic system. He questioned what septic field an ADU would hook into. He bemoaned the development of Traverse City and cautioned the board to be careful what they do here today.

Julie Bravender, 9327 Fairview, stated she spent 7 years on the planning commission during a time when the township was very polarized. She stated she was the middle-of-the-road person who could listen to both sides and see value in both sides. She stated her only comments are that accessory dwelling units are not necessarily vacation rentals. There are many, many accessory dwelling units already in the township and most of them are not being rented. She stated she has

the same fear of the nightmare of rentals, but that's a vacation rental issue and we should be zoning for the noise or the trash or the parking or the fireworks, and putting penalties in place to fix those things. She stated her husband and her have talked about doing an ADU to get the toys out of the yard and maybe putting an office above it. Maybe the college student who boinged home might live there. She pointed out that there are non-bad reasons to have an ADU. Regarding the septic, they would have to pull the proper permits and have the septic acceptable for the size of it, and it would probably end up upgrading a lot of systems from what they are now if somebody was putting additional septic in. She stated her only negative is that she is a mortgage loan officer by profession, and by putting two houses on one property you are creating odd ducks, which are difficult to finance unless an appraiser can come up with sales of two other odd ducks out there.

Pat Pierce, 9500 Larsen Road, stated he was one of the petition circulators against ADUs. He covered an area along Elk Lake from Larsen Road north to Townline Road, about 100 residences, 40% of which had people at home. Of the people he spoke with face to face, 9 out of 10 signed the petition after reading it. About six of the residences he went to had mother-in-law apartments above their garages. He stated he feels for the planning commission and how frustrating it must be to get people to attend those meetings, and stated he appreciates the service they all give, as well as the board. He stated he heard tonight that the word rent is kind of insignificant, and if that is the case, why don't they take it out of the language. He also stated that lakefront property is a little different from property found in the countryside, i.e., square footage as opposed to acreage, as far as ADUs being built on it. With frontages of 100 feet, a rental unit nearby is an immediate and obvious intrusion with any kind of turnover in renters at all.

Randy Hector, 9235 Skegemog Point Road, stated he heard the comment that this type of thing is happening anyway. Why is it happening, is what he does not understand. Who is controlling it? If someone wants to build a guest house for their family, approved by the township, so be it. If they want to rent it, as far as he is concerned, that becomes a commercial property. Then it has to be zoned commercial, it has to be taxed, it has to go through township rules as a commercial building. He stated there is a rental house down the road from him; it is not fun, with quads running up and down the road, across your front yard. You approach them, they tell you where to go. There is a pile of trash at the edge of the road on Monday morning, bigger than anything he puts out in 3-4 weeks, and it is scattered all over. He does not like it. If someone wants to have their family up, that's fine, they can stay in your house. If you want to build a guest house, build it to specs, township rules; your family stays in it. If you rent it, that's commercial and it should be charged as such.

Glenn Savage, 9833 Pineneedle Lane, stated he is a resident of Whitewater Township, he was born in Whitewater Township, he has lived here most of his life, and he is on the planning commission. He stated there are very few faces in the crowd that he has seen at any of the planning commission meetings. He stated he does not mind criticism and usually takes it pretty well. He told the crowd that they are citizens of Whitewater Township; they need to be involved, and not just come when they are angry about something, but be involved in your township. He stated he works 60 hours a week at their quilt shop and the last thing he wants to do is be here tonight, but he is here because he is a citizen and he cares about this township. He

stated he cares about zoning and he does not like what is going on with rentals and lakefront properties. They are renting these places anywhere from \$3,000 to \$7,000 a week, and it is wrong because they are not paying the taxes on it. The people who buy the properties are working people. They buy the property; they rent it out for 10 years and the renters pay for it for them. When they retire, they move into it and they have lakefront property. That is what some of this is. How do you control it? The gentleman said there's a lot of garbage. How do we know that it's not relatives' garbage? How can you investigate something like this? You have to try and regulate it. How do you regulate it? You have people like me that are making these rules and regulations. He stated he doesn't know anything about it; he will admit that, but he tries. He stated he has nothing at all to gain; he just wants to help the people.

Mike Jacobson, Skegemog Point Road, stated he is also on the planning commission. He told the crowd the planning commission needs their help; none of them are lawyers. He stated after the planning commission and the board gets done with it, it gets sent to a lawyer. Those here have to understand the process and understand what they are trying to do. He stated, from the sounds of it, what they have down on paper is not coming across to the public what they are trying to do. He stated these units are already being built. He knows of more than one on Skegemog Point Road. He stated he has been on Skegemog Point Road more than 50 years and lives on property his family has owned for over 100 years. He politely reminded those in attendance that there has been plenty of "change" on Skegemog Point Road, i.e., \$2 million houses and the influx of people to "paradise." He stated the planning commission is trying to be transparent with this new ordinance. There are people who want ADUs and they want to get the permit and put the right septic system in and make it right and match the neighborhood. When they can't do it, they build a pole barn and put a room upstairs in the pole barn, and then it is not hooked up to the right septic system and it is not regulated and it is not taxed properly. He stated they are trying to get those in the fold. He pointed out that a lot of the neighbors of those in attendance are asking for ADUs; this is one of the biggest things that comes in front of the zoning administrator. He stated the planning commission is trying to accommodate a need that is being asked for in the community. He reiterated the pleas of Hooper and Savage that those in attendance come to the meetings, stating the PC is open minded, have very thorough discussions, and have never turned anyone's opinion down. He asked that they be a part of it.

Karen Mackenzie, 8257 Round Lake Road, Rapid City, stated she is a realtor and manages some property in Whitewater Township. She told the audience she has been to a lot of the planning commission meetings over the last 17 months and noted they are working really hard trying to get everything right. They are willing to take public input; it is not a one-sided decision. She asked the crowd to be patient with the planning commission.

Carol Williams, no address given, stated she is a management representative; they sent the letter; they are interested in Amendment 76, for Art Schneider LLC.

Kim Mangus, 1214 Cerro Drive, stated she has a house under construction in Whitewater Township and is the chair of the planning commission. She stated they have heard the concerns and they are more than happy to address them. She stated this was not an affront on the audience; there is no intention of a short-term rental population. Their true intent in this ordinance is to address things that are already going on illegally. If the zoning administrator is

not given a way to address these, where you can come in and apply for a use and then go through the review process of construction code, blueprints, health and septic, then they go in anyway, but there is no health and septic and most do not construct their system in a way that will handle future expansion. She stated they were not trying to change the character of their neighborhood; they were specifically trying to preserve it. She stated the reason rentals were mentioned was they could not restrict you to renting one, which is currently legal, without using the word rental, and they wanted to make sure that someone was not trying to rent both properties. Referencing the suggestion that this ordinance was fast-tracked, Mangus stated this ordinance started when Julie (Bravender) was on the planning commission, right around 2010. They developed the ordinance, decided to hold off, then found it continued to be a problem. They continue to go in, continue to be unregulated, undocumented, untaxed, not properly inspected. She stated this was their attempt to address a recognized problem, not change the neighborhood or the environment. They are wide open to change. She stated they did not have one comment in over six months of working on the ordinance. This isn't just something they came up with randomly. This was something they came up with to try to address what they recognized as a long-term problem. She stated they will not move forward without more contribution from the community, if they move forward at all. There was no ill will or personal self-gain behind the intention of this ordinance.

Sucile Mellor (via e-mail read by Goss), 9604 Bluff Trail, re: Proposed Amendment 75, stated the proposed amendment needs to be divided into two parts, noncommercial and commercial. The noncommercial part makes sense to her and is a great idea. The commercial part, using ADUs for services and rental income, requires further investigation and details added before implementation. There are unanswered questions concerning the commercial component of the amendment. Does the "primary unit" mean homestead property or non-homestead property, either/or? Will the homeowner be required to be on site those nights the ADU is rented? What are the minimum and maximum number of days a single guest can stay in an ADU? How many nights can a homeowner rent out their ADU in one year? Is there a limitation for number of people that can rent a single ADU? What are the requirements for the nature of the rental property? Could she rent out a yurt or fifth wheel camper? Will there be an annual licensing process? How can a neighbor file a complaint/concern about use of an ADU? How will enforcement of ADU rules be implemented? Should there be fines for violation of the process? Does the off-street parking requirement apply to trailers, boats, snowmobiles, etc.? She encouraged the township board to remove the words "services" and "rental income" from the proposed amendment and vote on the revised amendment tonight. She proposed the issue of commercial use of ADU be opened up for community discussion over the next several months and a new detailed amendment be drafted regarding commercial use of ADUs.

Public Hearing

None

Reports/Presentations/Announcements/Comments

County Board of Commissioners Report

Carol Crawford gave the following report:

- She attended a county leadership institute in Washington for 5 days.

- They had interviews for county administrator and chose to offer the job to Nate Alger. They are working on a contract.
- The Friends of Easling Pool have reached their \$625,000 goal for refurbishing of the pool. They exceeded the goal. The work is going to start soon. The BOC approved a new roof for the pool section of the Civic Center. The BOC voted out of their own budget to donate \$25,000 to that effort.
- In answer to the millage question brought up earlier, she said millages are generally for non-mandated services and gave examples. The only one they have that is a mandated service is veterans' affairs.

There were no questions.

County Road Commissioner Report – No one is present from the Road Commission.

Whitewater Township Fire Department Report

Chief Flynn submitted a written report, which he referred to in his earlier remarks to the board and public.

Mobile Medical Response Report – May activity reports are in the packet. No one is present from Mobile Medical Response.

Planning Commission Report

Lloyd Lawson gave the following report:

- PC met last week on Wednesday. Everybody was there. They discussed some corrections to the February minutes. They came up with some possible changes in processes and procedures for the end of the year. The planning commission will start producing their own findings of fact. The completed documents would be signed by two planning commission members at the following meeting.
- They also did a lot of review of wording and definitions. There is a lot of work being done by the PC members. The PC does a lot of reading and then discusses it.
- He stated everyone is welcome and urged them to attend to provide input.

Parks & Recreation Advisory Committee Report

Cheryl Goss gave the following report:

- The Parks & Recreation Advisory Committee met last night.
- A sketch was sent to Mark Pressell (engineer) today for the engineered drawing. Goss hopes to have the drawing for the next meeting for board approval.
- There is an upcoming meeting of two members of the committee, plus Goss and a park ranger, to devise a plan for assembling the used playground equipment at Whitewater Township Park.
- Two tribal grants were submitted, one for the batting cage/dugout project and one for nature trail improvements. Signs and small kiosks are planned for Lossie Road Nature Trail, as well as signs for Battle Creek Natural Area, and signs and benches for the trails at Whitewater Township Park.

Consent Calendar

Receive and File

1. Supervisor's Report for May 2018
2. Clerk/Parks & Recreation Administrator's Report for May/June 2018
3. Zoning Administrator's Report 06/05/2018
4. Mobile Medical Response May 2018 Activity Reports
5. Fire Department April-May 2018 Report
6. Approved 02/14/2018 Historical Society Minutes
7. Approved 03/14/2018 Historical Society Minutes

Correspondence

1. Grand Traverse County Sheriff Department Statistics for April and May 2018
2. Letter 04/26/2018 Department of Treasury re: 2018 Audit of Minimum Assessing Requirements
3. Letter 05/14/2018 Thunder Bay Tree Service re: Vegetation Management Program
4. Letter 05/22/2018 Carol Williams re: Event Barns (and identical e-mail of 05/23/2018)
5. E-mail 06/04/2018 Robert Campbell re: Accessory Dwelling Units

Minutes

1. Recommend approval of 04/25/2018 special meeting minutes and 05/08/2018 and 05/22/2018 regular meeting minutes

Bills for Approval

1. Approval of Alden State Bank vouchers # 42666 through 42794
2. Approval of First Community Bank Miami Beach voucher # 1241
3. Approval of First Community Bank WMDLS voucher #s 1310 through 1312

Budget Amendments (none)

Revenue & Expenditure Report (none)

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

Unfinished Business**Whitewater Township Fire Department****a. Formal Introduction of Fire Chief Brandon Flynn**

See Page 3149 of these minutes.

b. Approval of Capital Expenditure for Fitness Room Equipment

Motion by Hubbell to purchase fitness equipment as detailed on the McLain Cycle & Fitness quote dated May 31, 2018, at a cost of \$11,982.82; second by Lawson. Goss noted that all of the equipment is commercial grade and warranties will be handled through McLain's. **Roll call vote: Goss, yes; Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes. Motion carried.**

c. Approval of Capital Expenditure for Hose Rack

Motion by Goss to approve the purchase of a hose cart; second by Popp. It was agreed that Chief Flynn will select the vendor. **Roll call vote: Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes; Goss, yes. Motion carried.**

Popp stated Chief Flynn can make purchases like this.

Goss reminded Popp that the financial administration policy calls for capital expenditures to be approved by the board.

Hubbell stated, from his past experience on this board, it is a good way of doing business.

New Business

Approval of Additional Park Rangers

Motion by Goss to approve Riley Weitschat and Kerry Kinery as 2018 park rangers, to be compensated according to the 2018/2019 Graded Wage Scale; second by Hubbell. Popp inquired if the board wants to see/meet new rangers. Hubbell stated Goss has been doing a great job at the park; he trusts her judgment. **Roll call vote: Popp, yes; Benak, yes; Goss, yes; Lawson, yes; Hubbell, yes. Motion carried.**

Review/Approve Zoning Ordinance Amendment No. 73

Amendment No. 73 proposes changes to Article 7 (Residential R-2 and Residential R-3), Article 14 (Easement to Waterfront), and Article 37 (Supplementary Provisions), and was previously reviewed by the board on February 13, 2018. At that time, it was sent back to the planning commission but is now before the board again with no changes made in the interim.

Regarding Article 7, Popp stated he goes back to his February comments.

Hubbell stated he has no comments at this time.

Goss stated she used the red line copy to see how it compared to what is currently in effect and listed numerous items of concern, including several instances of current language that has been removed but is not shown as being removed.

Popp noted that the language “consistent with adjoining” has been eliminated in all of the amendments.

Goss stated the attorney will have to look at this because if the ordinance has to be enforced, it is the attorney who will be standing up in court defending the language. Goss referred to comments that were made on 2/13 regarding Article 7.

Board discussion followed.

Regarding Article 14, Waterfront, movement of various verbiage was discussed. Reference to shared easements was discussed.

Goss described a few other concerns with Article 14.

Moving to Article 37, Benak stated she does not agree with taking out the standards for residential fences. She feels a land use permit should be required, even if at no cost.

Popp stated he believes there should be a cost for the land use permit, is in full favor of having fence standards, as well as what happens when the fence looks ugly.

Benak raised an issue with the language “obstructing a clear view of the waterfront from an abutting lot or existing riparian lot owner,” and noted that the law says you do not own the view. The 50-foot setback should be maintained. Benak would add a permit requirement to the standards.

Zoning Administrator Habedank stated that land use permits for fences have been required even when he was here previously, with a \$25 fee.

However, Mangus pointed out that the planning commission cannot find a requirement for a land use permit for a fence anywhere in the ordinance.

Discussion followed regarding whether a fence permit would be required in the agricultural district.

Habedank stated the planning commission worked hard on the amendments before the board tonight. They bounce back and forth from the township board to the planning commission and a lot of time is spent rewriting. He proposed that, in order to eliminate some of that, we need an attorney to look at this even before it gets to the board. In the end, there is a problem with every one of the amendments from a legal standpoint. Why waste the time to review all this tonight, or even passing it, and then find out it is not enforceable?

Discussion followed regarding the process for amendments.

A new process was summarized as follows: Planning commission, board, back to the planning commission for changes, then to the attorney, back to the board, then to public hearing.

Returning to discussion of Amendment No. 73, everything stricken will be shown. New and changed verbiage will be in blue, existing language in black, comments in red. Color legend should be at the top.

After further discussion, Popp stated Mangus will provide the proposed amendment with color codes and verbiage that has evaporated, and the board will take it from there.

Review/Approve Zoning Ordinance Amendment No. 74

Amendment No. 74 proposes changes to Article 6, Residential R-1. After some discussion, it was agreed that the same procedure will be used for 74 as for 73.

Review/Approve Zoning Ordinance Amendment No. 75

Amendment No. 75 proposes to legalize and regulate accessory dwelling units in residential districts.

Popp commented that this amendment would change the residential neighborhood and he does not want to hear music from event barns or hear or see or smell horses. Inconsistent uses that cause people to butt heads need to be diminished, not increased.

Benak stated this is a brand-new amendment to the ordinance. She understands there might be a need for it, but we have clearly heard from the people today that we have missed the mark. She does not think this is something that the board can act on tonight, more work needs to be done on it, and if we decide to put something like this in place, it has to be reviewed by the attorney.

Hubbell and Goss echoed the previous comments.

Motion by Popp that proposed Amendment No. 75 be abandoned in its entirety until such time as we have significant community support; second by Hubbell. There was no further discussion. **On voice vote, all those present voted in favor, none opposed. Motion carried.**

Review/Approve Zoning Ordinance Amendment No. 76

Amendment No. 76 proposes to add event barns as a permitted use in the agricultural and recreational districts.

Discussion followed concerning the amendment needing to be reviewed by the attorney, changing the agricultural and recreational districts, spot zoning, buying in the commercial district or proposing a zoning change, and traffic impact study.

Habedank confirmed that there are 66 agricultural properties which could be locations for event barns.

Mike Jacobson asked if the board is planning to shut down the Samels farm.

Hubbell said he agrees with Jacobson, stating this is an upcoming thing and what younger generations want, and we are making it so people do not want to come to this township and open up a business. He stated we have to have an open mind and look at it carefully, and he thinks we should encourage this in our township.

Benak agreed it needs to go to the attorney.

Further discussion followed.

Motion by Hubbell that the proposed Zoning Ordinance Amendment 76 be sent to the township attorney for review; second by Lawson. There was further discussion regarding whether event barns would be considered a commercial use. **On voice vote, Benak, Goss, Hubbell and Lawson voted in favor, Popp opposed. Motion carried.**

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 relayed that a check was received from the insurance company for the phone system failure which covered the entire cost of the new system.

Announcements

Next regular meeting is June 26, 2018, at 7:00 p.m.

Public Comment

Karen Mackenzie (spoke earlier) stated her client has been waiting a long time, and there is nothing in the zoning ordinance that prohibits them from building this barn. It is not a prohibited use. She advised them to build it and see what happens, but the client wanted to do everything in conjunction and cooperation with the township. They have been really patient and she hopes it moves along pretty quickly. The language provided is straightforward. While 66 parcels might be able to do it, the cost is astronomical. They have to be responsible for the road study. They are waiting for the township to get the ordinance in place for them to do it.

Kim Mangus, 1214 Cerro, stated the board covered a lot of ground. She stated she fully supports sending things to the attorney. She encouraged the board to not go the route of rezoning the land to commercial for event barns. If that is done, any commercial use could be done on that land going forward, whereas if it is a special use permit in the ag district, an event barn is more in keeping with the ag character, but the only commercial agricultural adjacent use that could be done there would be the special use as approved with review.

Popp argued that, once you allow the commercial use, anyone with agricultural property can argue that they have the same right to the commercial use.

Mangus stated she would like to see it stay in the special use permit category as opposed to rezoning the parcel. Also, she stated the biggest difference between things going smoothly with previous articles sent to the board and the ones reviewed tonight is that they were starting with a certified copy that the clerk had gone through. That was not the cases for Articles 6 and 7. Mangus stated she was going through the online copy, and she missed some things on 7. Going forward, if we can start with the same document, it will be easier for her to produce a red line document that matches. Also, they are trying to follow the board's directives and are using four basic premises in going through the ordinance: Prepping for recodification, trying to address items they know are illegal, trying to address resident requests, and frequent issues that are coming before the zoning administrator. They are trying to get through it as quickly as possible.

Adjournment

Motion by Hubbell, to adjourn; second by Lawson. On voice vote, all those present voted in favor, none opposed. Meeting adjourned at 10:19 p.m.

Respectfully submitted,

Cheryl A. Goss
Whitewater Township Clerk

DRAFT