

*DRAFT MINUTES – FOR 11/13/2018 CONSENT CALENDAR*

**Whitewater Township Board  
Minutes of Regular Meeting held October 23, 2018**

**Call to Order**

Supervisor Popp called the meeting to order at 7:00 p.m. at the Whitewater Township Hall, 5777 Vinton Road, Williamsburg, Michigan.

**Roll Call of Board Members**

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

Board members absent: None

Others present: Fire Chief Brandon Flynn, David Johnson and Rick Stout from Fleis & VandenBrink, John Nolan

**Set/Adjust Meeting Agenda**

Hubbell requested to move New Business #7 forward a bit.

There was consensus that New Business #7 will be moved to New Business #2.

**Declaration of Conflict of Interest**

None

**Public Comment**

None

**Correspondence**

None

**Public Hearing: Ordinance No. 54 – Consumers Energy Company Electric Franchise Ordinance**

Popp opened the public hearing at 7:02 p.m. and reminded those wishing to comment to sign in.

Legal notice of this public hearing appeared in the Traverse City Record-Eagle on October 7, 2018.

One written comment was received via e-mail; however, no name or address was provided.

There were no other comments.

Popp closed the public hearing at 7:04 p.m.

**Reports/Presentations**

None

**Unfinished Business**

**Attorney's Review of Township Liability re: Private Sewer Systems**

Goss stated she has not yet posed the question to the attorney's office.

**New Business****Whitewater Township Fire Department****a. Engine Repairs and Rental Agreements**

Flynn described items on the engine which need repair, as well as the annual DOT and pump inspections. He anticipates the engine will be gone 2 weeks, with quite possibly a substantial repair bill, although an exact amount is not available until it is actually inspected. CSI did say they could probably get the items done in a week, but worst-case scenario, 2 weeks.

Discussion followed, including the fact that Flynn has not been able to find the DOT inspections for the past few years. He stated he needs the past 3 years' records for DOTs and pumps for the upcoming ISO inspection. Flynn believes CSI has copies of those records.

**Motion by Popp to approve spending up to \$7,000 on the list of needed repairs; second by Benak.**

Goss noted the unbilled service call will also be billed, and that her proposed motion was meant to cover any additional work found to be necessary.

Discussion continued.

Flynn noted that if it does not pass the pump test, we would all have to get together, because that is probably a \$25,000 repair.

Efforts to obtain a rental engine were detailed by Chief Flynn, as well as his most recent conversations with B&B Truck Equipment in Comstock Park.

Goss re-read the motion as follows: **Motion by Popp to approve spending up to \$7,000 on the list of needed repairs/routine maintenance submitted by Chief Flynn and the unbilled 06/28/2018 service call; second by Benak.**

Popp stated his motion did not have the routine maintenance; it was just the needed repairs.

Goss noted the inspections are routine maintenance; it is on the list.

**Benak confirmed her second of the motion.**

There were no further questions.

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

**Motion by Goss to approve a daily cost of \$220 for 14 days for fire engine rental from B&B Truck Equipment; second by Benak.**

Popp said he will be voting no because we do not have an agreement.

Goss reported that Paul Olson said there is no problem meeting the insurance requirements in the B&B agreement, without additional cost to the township. Goss also stated that as long as a reasonable rental agreement is brought forward, we should give Chief Flynn the authority to execute it and go get the equipment.

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

**b. Proposed Fire Services Agreement between Whitewater Township and Grand Traverse Band of Ottawa and Chippewa Indians**

Chief Flynn said the redlined agreement from the attorney really scared him and is not something he would personally want to give back to them. One of the biggest concerns was whether it was an actual mutual aid agreement, and it appears the attorney doesn't believe so. But after doing some soul searching and some discussion with peers, Flynn stated we can use this as a mutual aid agreement. We may not see a piece of their fire apparatus coming from Peshawbestown to help us, but they have a lot of other resources. Even if he just asks Chief Moldenhauer for incident command help at one of his properties in our township, that would be considered mutual aid. Manpower could be mutual aid. Perhaps the smokehouse that we use that they never charge us for could be considered mutual aid. Flynn stated he would like to keep the mutual aid language in it. He stated Chief Moldenhauer still wants to build a fire station or have fire protection over here for their properties, mostly in Acme Township. They do own property across from the post office and would like to build a fire station, even if it is just a three or four bay pole barn. Flynn stated the mutual aid part of it could help us in the future if that ever happens.

Flynn stated the only concerning thing was the EMS term. That would have to be their (MMR's) own contract or mutual aid agreement.

Benak stated her concern with the mutual aid agreement is the attorney's focus on state and federal court. She stated she is not concerned with it, and is not concerned with having to deal with anything within the tribal courts. She has not seen once where the Grand Traverse Band has reneged on paying any of their bills. She stated in past conversations with the tribe where we were talking about putting up a fire station together, this was a huge thing and we ended up insulting the tribe over it. She stated she does not want to be one of those people that do that again. She stated that she was quite upset when she saw that they had a mutual aid agreement with Metro; we are less than a mile from them. They went with Metro because they didn't know what was going to happen with Rural Fire breaking up; they wanted to make sure they are protected. But now the six-month time period with Metro is coming to an end, they see that we are back on track and they have met with Chief Flynn and they must be comfortable with what we are doing, they want to come back to us, and this is the first time they have said let's do a mutual aid agreement. She said her opinion is that this is something that we should do and she does not want to insult them again by saying, okay, we paid for an attorney's opinion; we should take it, when they are not here, they do not understand the relationship that we are trying to build with the tribe. They are just looking at black and white.

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Flynn stated this really was a basic generic mutual aid agreement that they had come up with as far as the liability that each of us would have. He stated he is not really concerned with some of that language. It looks like the attorney also took out the term “rescue.” He stated there is a possibility that they would have to perform a rescue on that property. He thought it was kind of harsh to take that language out.

Popp pointed out that each department should be liable for its own costs, such as for equipment repairs, payment of personnel.

Benak proposed a 1-year agreement and then re-evaluate to see how it is working for both parties.

A trial period of 6 months or 1 year was discussed.

Changes to the proposed agreement will be as follows:

- The words “and EMS” will be deleted in two places, on Page 38 of the packet, in the first Whereas paragraph, 3rd line down, and on Page 39 of the packet, first paragraph, 3rd line down.
- In Paragraph 8, “County” should be changed to “Whitewater Township.”
- In the “Thereby” paragraph, after the words “Thereby, this agreement shall remain in full force and effect,” the words “for 1 year from the date signed” will be inserted, and then continue with “until and unless terminated by either party.”
- Also in the “Thereby” paragraph, written notice of termination will be changed from “30 days” to “90 days.”

**Motion by Popp to adopt the Mutual Aid Agreement between Whitewater Township Fire Department and the Grand Traverse Band of Ottawa and Chippewa Indians Fire and Rescue Department in Grand Traverse County, as amended; second by Benak.** There was no further discussion. **Roll call vote: Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes; Goss, yes. Motion carried.**

Goss will provide the list of changes to Flynn tomorrow.

**c. Fire Fund Budget Amendment**

**Motion by Benak to approve the Fire Fund pension plan budget amendment as recommended by the clerk; second by Lawson.** There was no further discussion. **Roll call vote: Lawson, yes; Popp, yes; Benak, yes; Goss, yes; Hubbell, yes. Motion carried.**

**Fleis & VandenBrink Proposal for Whitewater Township Park Master Plan**

David Johnson introduced himself and Rick Stout from Fleis & VandenBrink Engineering. Johnson stated he met with Goss at Whitewater Township Park a few weeks ago to tour the facility and discuss proposed improvements. They have submitted a proposal for the board’s consideration. Their firm pursues grant funding for communities. Johnson indicated Stout is the landscape architect who would be doing this job and asked him to explain the job.

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Stout described that their company specializes in grant funding and has landscape architects, engineers, architects, surveyors, environmental specialists, and construction engineers; they are able to bring all of those disciplines into the project. One of their areas of expertise is park and recreation planning and design. During Stout's tenure, they have assisted over 30 communities in the development of their 5-year park and recreation master plan. They have done site-specific master plans of very similar scale and scope. The 5-year master plan qualifies the township for DNR funding, primarily the Trust Fund, Land and Water Conservation Fund, the Passport Fund, and Waterways, which is probably the one that might be a little more applicable to a good portion of the work that the township is looking at.

Stout explained that they brought with them today an alternate proposal, and stated projects of this size are going to take some amount of phasing, regardless. Their original proposal was to do a full master plan of the entire facility, but then questioned if the scope should be reduced to look at the more immediate need of the entry drive, the issues of circulation and stacking, potential relocation of the ranger station, and then really tackle the issue of additional parking at the launch and maybe some day use parking. He indicated they could look at this one segment and then target the Waterways, or do some additional engineering on the design grant and look at the whole park, or focus on reconstruction of the launch ramp. He stated there is no right or wrong difference; it is just how you want to start taking bites of the apple. They looked at this alternative because it sounds like the traffic management and the overall launch situation with not enough trailer parking and the overall circulation seems to be the recurring theme that he kept hearing.

Discussion ensued concerning traffic management issues at the park, expansion of the launch ramp, grant deadlines, meeting with stakeholders, ADA accessibility to the pavilion and beach, dock issues, involvement of the Parks & Recreation Advisory Committee, and, if a grant is successful, probable construction in 2020.

**Motion by Hubbell to approve the Fleis & VandenBrink Proposal for Day Use Area/Boat Launch Expansion & MDNR Waterways Grant Application for Whitewater Township Park, at a cost of \$4900; second by Benak.** There was no further discussion. **Roll call vote: Popp, no; Benak, yes; Goss, yes; Hubbell, yes; Lawson, yes. Motion carried.**

**Board Decision on Ordinance No. 54 – Consumers Energy Company Electric Franchise Ordinance**

Directing the board's attention to the first page of the ordinance, under Section 2 Grant and Term, in the third line, Goss reported that she noticed some missing words, contacted the attorney, and was directed to insert "erect, construct, maintain, and commercially use" in the location indicated.

Brief discussion followed.

**Motion by Goss to adopt Ordinance No. 54; second by Hubbell.** There was no further discussion. **Roll call vote: Benak, yes; Goss, yes; Hubbell, yes; Lawson, yes; Popp, yes. Motion carried.**

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Goss will publish and post the ordinance and send a copy to the board.

**Miami Beach Sewer System – Budget Rough Draft**

Popp prepared a budget document and stated it is a presentation of what numbers could look like, what replacement fund balances could look like, what they looked like in 1997 and how they look after an inflation rate of 2.14% has been applied.

John Nolan, Miami Beach property owner, was present for the discussion.

Extensive discussion ensued, with the following key points made:

- John Divozzo favors an approach that looks at a \$2 per year increase every year for the next 10 years and then an evaluation.
- John Nolan stated they started this initiative in July and there has been a lot of misquoting and misstatement of dollars that has caused a lot of concerns by the Miami Beach organization. One time a pump was quoted at \$70,000 to replace. It is actually \$700. It is a half-horsepower motor. DPW replaced it with a spare and they were able to rebuild it.
- Benak questioned the relevance of the 1997 numbers as opposed to the conditional assessment numbers.
- Nolan stated the general consensus of the July meeting was that if the system required total replacement, the road association would prefer to be assessed for that fee or go back to request another grant or bond. This system was paid for in full by the residents paying the bond back. A lot of the rates quoted do include debt recovery. Systems were installed and part of the monthly fee is payment back of a debt recovery, where they paid and funded their own system separately. Each house was like \$20,000.
- Per Nolan, the rate inflation chart does not use the 2.14% inflation multiplier. At one place, it is 6%; in another, 4%. Tom Slopsema said 2018 should be \$33, not \$59. The system has worked for 20 years very well and it has produced savings of approximately \$5,000 a year, up to the year they put the gas in. In the other 19 years, it has operated on less than \$2,000 a year to maintain and operate it. Also, the association is very satisfied with Grand Traverse County's services and expertise in maintaining the integrity of the system.
- Nolan confirmed, in answer to a question from Benak, that the opinion of the group is that if it has to be fully replaced, they would rather do a special assessment at that time to do the replacement.
- Nolan pointed out that this system is not your typical sewer system. All it does is remove gray water. It is not pumping sludge into a septic tank. It removes the gray water out of their tanks and pumps it up to the field. He stated it is their intention to maintain the integrity of the system. They have really tried with adding socks and repairs they have made with putting the gas in. There is talk of putting a 6-month fund for O&M, but their dues are very timely paid. He has known of no delinquency that has ever been brought back to their organization.
- In discussing whether the Miami Beach Association would be interested in becoming the owner of the system, Benak told Nolan that if somebody stopped paying their bill, that amount would be put on their taxes.
- Nolan acknowledged that no one has ever been shut off.

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- Nolan offered that they could pay an annual fee (as opposed to monthly) to assist with reducing the costs of administration, and that annual inspections get reported to the township.
- Benak observed that the Miami Beach residents are doing all the work already. If they became the owners, all they would be doing is taking the middle man out, i.e., the township. Benak urged Nolan not to close the door on becoming the owners, because if they ever have to replace the system, they would still come back to the township for a special assessment.
- Nolan disagrees with the proposed annual fee for legal work. The \$1,000 annual audit could also be removed. The current contract with the county says they will provide the financials.
- Nolan argued for a “reasonable” increase in the monthly rate. A lot of people are retired and on single income.
- Nolan acknowledged that he has volunteered to provide information to the board no later than 11/7.
- Goss reported that the Miami Beach system has 36 connections being billed \$25 a month and 2 parcels which are not connected being billed \$20 a month, for a total monthly billing of \$940 per month.
- Goss provided copies of the last revenue check from the county, as well as the last invoice from the county for DPW expenses, with explanations of the attached pages.
- Benak provided an update showing that as of today, there is \$77,101.77 in the Miami Beach Sewer Fund.
- The \$77,000 figure is leftover revenue after the monthly DPW expenses are paid, plus interest posted to the account every month.
- Divozzo told Goss he has \$6,900 in the 2019 budget, plus another \$1,100 for directly billed routine maintenance. Divozzo would like to see approximately \$125,000 in the bank in 10 years. Achieving that level would require an additional \$2 to be paid per year, every year for 10 years, which would generate \$50,160. The county is projecting some items will need replacement over the next 10 years, which extends the life of the system. The additional \$2 per month every year for 10 years would go toward system replacement, other than what is needed for routine maintenance.
- There was discussion of moving excess monies into a replacement fund.
- Contracted services are paid out of the contracted service line item.
- Divozzo has suggested that, since the township is now the owner of the system, the township should be paying the electric bill.
- Benak questioned where the \$120,000 figure came from and why we need to get to it at the end of 10 years. Miami Beach owners would rather do a special assessment if they have to have system replacement.
- Popp said the \$2 recommendation does not include anything for the township as far as administrative, any legal work that might have to be done, or insurance in case there is a problem down there.
- The conditional assessment suggested regular mowing of the field, with Popp stating this is now the township’s responsibility. Goss noted that should fall under maintenance the county is responsible for.

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- Liability insurance was briefly discussed. Nolan stated there are alarms on the system in case of pump failure and on individual pumps, some of which have had to be replaced by the homeowner.
- Popp stated this is a good first look and was intended to provide solace that there are not any hundred dollar a month fees.
- Lastly, Goss pointed out that the \$940 per month billing generates \$11,280 per year. Subtracting the \$7,000 contractual fee, plus another \$1,100 for routine maintenance, leaves \$3,180 per year to go toward eventual replacement, without an increase in the fee.

**Review of Recreational Marijuana**

A ballot proposal to legalize recreational marijuana is on the 11/06/2018 ballot.

Popp explained that, in contrast to medical marijuana where the township had to do something to be involved, this one requires the township to opt out (if they want to prohibit recreational marijuana establishments in their community).

Popp indicated that most of our residents do not want marijuana for sale in the township; is that what we learned from the survey?

Goss replied that 2/3 of the people who responded to the survey said they did not want anything to do with medical marijuana.

Discussion followed regarding details of the proposal.

It was noted that, “under the terms of Proposal 18-1, the state is not required to begin accepting applications for recreational marijuana establishments until 1 year after its effective date. If approved, Proposal 18-1 would take effect 10 days after the results of the election have been certified. The 1-year deadline for the state to begin accepting certain applications would likely be in mid to late November 2019. However, there is nothing that would prohibit the state from deciding to accept certain applications sooner. Therefore, municipalities should not unreasonably delay in the adoption of an appropriate ordinance.”

Lawson stated that it says you can partially accept, where you have only certain restrictions, or you can have more stringent restrictions.

Popp asked if the board wants to approach the attorney about getting an ordinance.

Benak said her feeling is not until we know if it passes.

Popp replied that he thinks we move now and protect the wishes of our constituents.

Hubbell said he thinks we can make a decision after the election.

Lawson agreed.

Benak suggested we put a moratorium on it until we get our ordinance in place.

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Goss replied that even a moratorium is an ordinance, and stated that she prefers to wait and see if it passes. If it does pass, we ask the attorney to provide an ordinance, without the necessity to have it on another agenda.

There was consensus that if the proposal passes, Popp will get the ordinance.

**AT&T Request for METRO Act Right of Way Permit Extension**

**Motion by Goss to authorize the supervisor or clerk to approve and sign the AT&T METRO Act Right of Way Permit Extension; second by Lawson.** There was no further discussion. **Roll call vote: Goss, yes; Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes. Motion carried.**

**Disposition of Log Splitter**

**Motion by Hubbell to list the Yard Machines log splitter on Craigslist at an asking price of (not stated), with authority given to the clerk to sell it to the highest bidder.** Discussion followed; the asking price will be \$250. **Second by Benak.** There was no further discussion. **Roll call vote: Hubbell, yes; Lawson, yes; Popp, yes; Benak, yes; Goss, yes. Motion carried.**

**Fleis & VandenBrink Proposal for Whitewater Township Park Master Plan**

This item was moved up on the agenda. Discussion began on Page 3247 of these minutes.

**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**

None

**Announcements**

1. Township Board/Planning Commission Joint Meeting on 11/07/2018 at 7:00 p.m.
2. Township Board Regular Meeting on 11/13/2018 at 7:00 p.m.

**Public Comment**

John Nolan thanked the board for the opportunity to come and participate in this process. In response to the comment that the Miami Beach board has not responded to Popp's inquiries, he stated they have had a change in officers. Hans Gunderson was maybe the main contact. Right now, they do not have a board representative for their sewer. He and Tom Slopsema would like to be the single point of contact. If not, he can get a board member.

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Referring to the presentation earlier on Whitewater Park, he would like to express some recognition to his personal experience of pulling the boat out. It is kind of stressful lining up and taking turns and backing up. But the young lady, a ranger, was polite, professional, and deserves some recognition about how nice she was when they entered the park. He said he does not have her name, but it was a very good experience.

**Adjournment**

Motion by Lawson to adjourn; second by Popp. On voice vote, all those present voted in favor, none opposed. Meeting adjourned at 9:52 p.m.

Respectfully submitted,

Cheryl A. Goss  
Whitewater Township Clerk

DRAFT