



**ACME TOWNSHIP REGULAR BOARD MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
Tuesday, March 6, 2012, 7:00 p.m.**

MEETING CALLED TO ORDER WITH THE PLEDGE OF ALLEGIANCE AT 7:01 p.m.

Members present: D. Dunville, R. Hardin, W. Kladder, P. Scott, E. Takayama, L. Wikle, F. Zarafonitis

Members excused: None

Staff present: S. Vreeland, Township Manager/Recording Secretary
P. Kilkenny, Planner & Zoning Administrator
J. Jocks, Township Counsel

A. STUDY SESSION: None

B. LIMITED PUBLIC COMMENT:

Bob Cooney, 7247 Henderson Drive, Traverse City is running for County Prosecutor. The incumbent is retiring this year. He is endorsed by former prosecutor Dennis LaBelle, Sheriff Bensley, Undersheriff Alger and other area prosecuting attorneys and community attorneys. He has been an Assistant Prosecutor for the County since 1993 and would like to make sure the area remains safe for his children. He has been Deputy Civil Counsel since 2005 so he is familiar with county and township issues and perspectives related to land use issues. He would like to encourage more county/townships collaboration and cooperation.

Bonnie Scheele is running for County Clerk. She has 26 years experience working for the county, the last 15 as the Chief Deputy Clerk. She feels she has the experience and knowledge to handle the job, likes what she does and hopes to continue.

C. APPROVAL OF AGENDA: Motion by Dunville, support by Zarafonitis to approve the agenda as amended to remove items H2 and E5. Motion carried unanimously.

D. INQUIRY AS TO CONFLICTS OF INTEREST: None noted

E. CONSENT CALENDAR: Motion by Dunville, support by Wikle to approve the Consent Calendar as presented including:

RECEIVE AND FILE:

1. [Treasurer's Report](#) as of January 2012
2. [Clerk's Report](#) as of 03/01/12
3. Draft Unapproved Meeting Minutes:
 - a. Planning Commission [02/20/12](#)
 - b. Metro Emergency Services [01/19/12](#)
 - c. Farmland Advisory [02/20/12](#)
4. [Parks and Maintenance Report](#) – Tom Henkel:
5. ~~[Fiscal YTD Budget Update](#)~~
6. "The Metro Insider" [Newsletter](#) February 2012
7. [Metro Emergency Services Authority 2011 Annual Report](#)

ACTION – Consider approval:

7. Township Board meeting minutes of [02/07/12](#) and [2/22/12](#)
8. [Accounts Payable](#) of \$614,321.85 through 03/01/12 (recommend approval: Dunville)

Motion carried by unanimous roll call vote.

F. ITEMS REMOVED FROM THE CONSENT CALENDAR:

G. REPORTS:

1. **Sheriff's Report – Mike Matteucci:** Deputy Matteucci reported that in February 30 citations were issued, including 11 traffic crashes, and 21 criminal matters. The township radar trailer has been updated to allow the speed display to blink if it registers people exceeding the limit. A high-speed cutoff has also been installed that will shut off the display if someone is speeding just to see how high they can run it up how fast. During the past couple of weeks there have been several break-ins at The Shores condominiums. Leads in the cases are being followed. In 3 of the 5 cases, patio slider doors were left unlocked making access easy. In 2 cases windows were smashed. Most of the affected units were Resort rental units with minimal personal property but containing some electronics. Wikle asked about a high level of fraud cases on the report. Deputy Matteucci has had this include retail fraud and fraud by computer. He recently learned from a bank that stolen credit card numbers can be sold to buyers worldwide. The buyers try to make a small on-line purchase, and if it goes through then they make some big-ticket purchases.
2. **County Commissioner's Report – Larry Inman:** Mr. Inman is returning from Florida today.
3. **Farmland Preservation Program – Brian Bourdages:**
 - a. **Approval of Development Rights Purchases in March:** Bourdages summarized the materials provided in the meeting packet. Bourdages and Jocks continue to work on obtaining mineral rights subordinations necessary to close on two property development rights purchases prior to the end of March. Kladder recognized how much time and effort is going into resolving these issues cooperatively between the township and GT Regional Land Conservancy.

Hardin asked if there are other Cherry Country Cove properties that would not have the same mineral rights concerns. Bourdages has been in conversation with Nels Veliquette. Other Round 2 properties could face similar challenges. The township has successfully acquired development rights on similarly challenged properties using only millage money; the difficulty is particular to the FRPP grant program.

Motion by Dunville, support by Scott that the Township Supervisor, Township Manager, Township Treasurer, Township Clerk and Farmland Protection Specialist be authorized to complete the purchase of agricultural conservation easements on the Send Property and Engle Property offered to the township in PDR Program Round 1 and not previously acquired subject to final review and approval of all documents for closings by Township Legal Counsel. Motion carried by unanimous roll call vote.

Motion by Scott, support by Dunville to approve sending letter to FRPP program removing the Cherry Country Cove property from the grant. Motion carried unanimously.

H. SPECIAL PRESENTATIONS/DISCUSSIONS:

1. **Shoreline Project Phase II - Purchase of Sun n' Sand Property:** Matt McDonough from the Conservancy summarized the materials provided in the meeting packet. He and Vreeland recommend closing before the expiration of the Trust Fund Grant on March 31 instead of trying to extend the grant period pending resolution of a dispute regarding the allowed purchase price for the property. McDonough is in discussions with a member of the Trust Fund Board who has taken an interest in the issue and is hopeful that we might make some favorable progress on the valuation. If this should occur after the township purchases the property from the Conservancy, the Conservancy asks that we provide a portion of those

funds to the Conservancy to close the approved price gap between what the Conservancy paid and what the township would be paying.

Motion by Scott, support by Dunville to approve purchase of the Sun n' Sand property using either purchase price table as applicable depending on the final purchase price approved by the Trust Fund in the Conservancy memo prior to March 31, 2012. Motion carried by unanimous roll call vote.

~~2. Resolution of Gratitude for Service – Pat Collins:~~

I. CORRESPONDENCE:

1. [02/22/12 Elk Rapids School 2012 Summer Tax Collection Agreement](#): received and filed.
2. [02/24/12 Letter from GTRLC and TART along US31 corridor](#): received and filed. Megan Olds from the Conservancy expressed excitement about being able to interview members of the community about possible long-term cooperative opportunities for parks and trails expansion and linkages. Kladder has arranged the interview meeting for March 21 to include himself and Takayama.
3. [02/08/12 Letter from City of Traverse City Re: Water & Sewer Authority](#): received and filed. Plante Moran has responded to this letter with a reduced price of approximately \$30,000 for the study. Kladder will keep the Board advised.
4. [02/01/12 Letter from Grand Traverse Regional Land Conservancy Re: Phragmites funding for 2012](#): \$8,000 will be available to assist with county-wide Phragmites eradication efforts. This will be the third year of Acme's program. Township contributions of up to 50% may be required as match.
5. [02/24/12 TCAPS Press Release Re: International School of Bertha Vos Information Night](#): another meeting will be held March 13.
6. [Shoreline Fruit APRZ Amendment Request](#): received and filed.
7. [02/27/12 e-mail from Charlene Abernethy re SUP 2009-01P and bike paths](#): received and filed.
8. [Undated letter from anonymous correspondent regarding proposed Meijer store](#): received and filed.

J. PUBLIC HEARINGS: None

K. OLD BUSINESS:

1. **Final approval of Site Plan 2009-01P – VGT Phase I**: Several documents have been prepared since the February 22 special meeting, including: revised Findings of Fact, the proposed Site Plan approval document, a table of contents for the supporting documentation to be Exhibit B to the Site Plan approval document, and a potential motion approving these documents for this evening. Exhibit B will be added to over time as final easement, construction engineering documents and other documents are provided. These documents have been through multiple revisions and were only provided to everyone very shortly before the meeting.

Applicant consultant Terry Boyd asked if there is a timeline for presentation of the needed final documents. Jocks replied that some, such as final engineering plans, will be given to the township when they are ready at some unknown future time. Some documents, such as final easements will be provided more quickly. The township and applicant can work together to ensure that this compilation is complete and accurate and work together to correct any errors

or omissions that may accidentally occur. Final documents must be provided prior to issuance of a Land Use Permit. The township will provide a complete copy of what has been compiled to date for applicant review.

The Findings of Fact should be as discussed and amended at the February 22 meeting. The Site Plan approval document largely repeats the material in the Finding of Fact, combined with the township's standard boilerplate SUP/Site Plan approval document. Exhibit A to the Site Plan approval is the Finding of Fact itself, and Exhibit B are all the other supporting documentation. Exhibit A incorporates all the other information by reference.

Applicant attorney Ken Petterson stated that Mr. Boyd has identified a few places where corrections could be made. In one instance in the fourth paragraph on page 2 there is a reference to the original Conceptual Plan rather than the Conceptual Plan as amended at the February 2004 meeting that indicates full buildout of the main road features would be required at Phase II. The applicant recalled that they would not be required to complete on-street angled parking until adjacent buildings are developed. The original Planning Commission motion from November 28, 2011 was read, which indicated that the forgiveness from providing the on-street parking was given for Phase I only, and if desired to be continued in future phases must be re-requested. It was agreed that the Finding of Fact Document would be revised slightly for clarification of this concept.

On page 4 in the third paragraph, Mr. Boyd questioned the intent of the statement. Jocks intended to recognize that the original form of the application submitted in 2009 is quite different from today. The wording was very slightly modified for clarification.

On page 6, Mr. Boyd questioned the calculations of open space. He will ask Iacoangeli how they were derived.

The Site Plan approval document recognizes that the photometric plan is not yet in final form.

In paragraph 23.5, Mr. Boyd is concerned about there being a problem with providing all required permits to the township before obtaining a land use permit, when he cannot obtain a county building permit without a township land use permit. Jocks will craft some language to address this concern.

Kladder asked the applicant if they are aware of any errors or omissions in the documents. Mr. Petterson indicated that some of the issues were just addressed, and that he is confident that they can work with the township effectively on any additional issues that may be discovered.

Takayama expressed concern about the documents being completed so shortly before the meeting that the Board has not had time to read them at all. He respects that the attorneys and consultants appear comfortable with the documents, but he is not comfortable approving them without a chance to truly read them. Jocks accepted responsibility for the late provision of the documents, and he noted that the only thing the Board has not seen before is the Site Plan approval document. They reviewed the Finding of Fact document in detail and adopted it at the February 22 meeting. The Site Plan approval document is largely composed of elements from the Finding of Fact or other application materials. It is available for approval and he believes it is ready for approval but he understands the concern and recognizes that the Board must make the decision. Takayama is concerned that after he thoroughly reads the document he might have additional questions.

Scott had expected to see the documents sooner. It was his understanding that the Finding of Fact would be an update from the last meeting, and this is why he asked if both attorneys had thoroughly reviewed it and if the current draft reflects exactly what the Board asked. He is comfortable with the answer received that the Board's will has been executed accurately.

Wikle has observed the staff working on the document for the past two weeks and seen how much effort is has taken to compile cross-check and verify the information. She is comfortable that the Board's will has been carried out.

Takayama feels that the way the last meeting was conducted in approving the Finding of Fact was inappropriate. When a meeting is longer than 2.5 – 3 hours they become numbed. By the end of the 6 hours the meeting lasted, he suspects there are things the Board might have had concerns about had their minds been fresher. The Board was not able to review the material prior to the meeting at the February 22 meeting or tonight. He feels the process has been flawed, and that the Board deserves the right to read the materials at their leisure, evaluate them thoroughly and ask appropriate questions. When he raised his issues at the end of the meeting he felt as if everyone felt it was out of place to do so when they wanted to go home. He wanted to place on the record that he felt the entire matter was handled poorly and that a 6-hour meeting is “ridiculous.”

Kladder agreed that the process has been rushed through at the end. He expressed several meetings ago that he wanted to take more time to read and review the materials, and he was ridiculed and told that if he wanted to do so he should join the Planning Commission. He found that inappropriate. He has seen the effort that went into preparing documents at the office. It has been a process Kladder feels the township should never repeat again, and that it does not do the public any good to rush into something, despite how they may feel about the whole 10-year history of the issue.

On motion by Scott, with support by Dunville, the Acme Township Board of Trustees, by a 6-1 vote, approves the Site Plan Application 2009-01P for Phase I of the Village at Grand Traverse as follows:

Whereas the Acme Township Board has reviewed all materials, documents and minutes subject to Site Plan Application 2009-01P for Phase I of the Village at Grand Traverse;

Whereas the Acme Township Board reviewed and approved the Findings of Fact for Site Plan Application 2009-01P for Phase I of the Village at Grand Traverse on February 20, 2012; and

Whereas the Acme Township Board now has before it the Acme Township Site Plan Approval for Phase I of Conceptual SUP 2004-11P which incorporates the Findings of Fact, a compilation of relevant documents, and all requirements and conditions.

Now therefore, the Acme Township Board hereby approves Site Plan Application 2009-01P as set out in the Acme Township Site Plan Approval for Phase I of Conceptual SUP 2004-11P and its attachments.

Motion carried by a vote of 6 in favor (Dunville, Hardin, Kladder, Scott, Wikle, Zarafonitis) and 1 opposed (Takayama.)

2. **Hoxsie House:** Vreeland summarized the Trust Fund Letter and accompanying staff memo. The Trust Fund has provided direction as to the limited allowable uses for the building if approved to remain on-site. Other options include removal of the building from the property by relocation or demolition, or a request to remove the property from the project. The removal of the property from the project would put the township permanently in the bad graces of the Trust Fund and is not recognized.

The possible uses listed in the letter if the building were approved to remain on-site included ADA-compliant restrooms and changing rooms, and perhaps small concession space. Hardin feels that the language in the letter about “similar” uses that support outdoor public recreation would leave room for creative uses, perhaps related to use of the site by kiteboarders or other

water sports enthusiasts.

Kladder opened the floor to public comment.

Fran Gingras, 7057 Deepwater Point Road is co-chair of the Shoreline Advisory. He believes that the Trust Fund was very clear in the project grant agreement that all buildings should be removed within 90 days of property acquisition. It has been 15 months, and he is very concerned that if the building is not removed swiftly it could alienate the Trust Fund and close an opportunity for significant funds that would help the township reach its future goals for the shoreline park. Mr. Gingras believes that if the house truly has historic value it could be relocated to a different site in the township effectively. Mr. Hoxsie once owned most of the land at the heart of Acme, and he only lived in the house for about 2 years, so relocating it to other land he once owned would still seem significant. A plaque could be erected at the former site of the house. He does not see how renting watercraft could make supporting the retention of the house economically viable for the township, particularly if it already needs in excess of \$30,000 to keep it functional. How much should be spent on a building that would just be used for kayak rental for a few months a year, when a more modest building would suffice? He hasn't seen a plan presented that demonstrates an economically feasible way to maintain the house on the site, and we already have enough bathrooms for the park close by. Mr. Gingras believes the house should be removed from the site as soon as possible.

Sally Frye, 2884 Wild Juniper and president of the Acme Heritage Society (AHS), noted that some materials were provided by them for the Board today. She quoted from the RFP for the shoreline district placemaking project regarding the desirability of preserving and enhancing the unique character of places. The AHS believes that by keeping the house in its original location the township can take a first step in this direction. Ms. Frye asserted that if the house is moved it will lose the prospect of receiving national historical recognition, and that investigations by a member of the Shoreline Advisory to the contrary were lacking in completeness. She asserted that moving the building across the street in the shoreline district would not meet requirements for relocation to place with similar size, character and historic value. Ms. Frye said that the AHS is willing to take on responsibility for the house, and they have offered to start simply by working with the township to establish a kayak rental operation.

Jean Aukerman, 4155 Huntington Drive, said that the AHS has done a lot of research and hard work about the project. We also have an indication of allowable uses from the Trust Fund, an entity we have worked hard to establish a positive relationship with that must be maintained. She performed some web research today, and found that in Saskatchewan historic buildings are being successfully repurposed for modern uses. Ms. Aukerman agrees that older buildings are well-made and can be great investments. A quote she found was that when people visit them, they want to see "what you are doing with the past." Putting this information side by side with the suggestion from the Trust Fund that the building could be used for restrooms and kayak rentals, and with an observation that the existing restrooms are sufficient at this time, she questions whether the expense of renovations and upkeep are worthwhile if the only public use is for seasonal kayak rentals and/or restrooms. Can the building be shown off to its best advantage to the world this way, or would it make sense to work with private investors to relocate the building within the shoreline district and repurpose it in a way that will truly allow it to "shine." She personally could not be proud of it as a kayak rental facility.

Takayama proposed moving the house to the Bayside Park property the township already owns, right about where the existing restrooms are. Sewer and water are already in place at that location. The house would then be on land paid for by township millage dollars. Parking is already right there, and the township could then do whatever it wanted with that building while preserved in entirety inside. It would still be part of the shoreline, and still on former Hoxsie property. It might cost money, but would open up a lot of options. Scott feels this

would be a good idea. It is apparent that the Trust Fund's intent and the community's desires for the property are not entirely in sync, but by moving the house just a few hundred feet many problems could be solved. Zarafonitis isn't sure that the existing building could be easily moved. There would still be the question of maintenance and restoration costs, which Takayama believes could be covered by renting the facility out for uses that would be enjoyed by the community such as weddings and banquets. Hardin noted that now we would be talking about not just moving a building, but swapping the locations of the two buildings. The Trust Fund has indicated that bathrooms would be an allowable use.

There was also discussion about the property at the southwest corner of M-72 and US 31 owned by Coldwell Banker Schmidt. The building on the property is fire-damaged and will likely be removed soon. Vreeland reported that the property might be on the market soon, and that Paul Schmuckal from Schmuckal Oil, operators of the Shell station, had expressed interest. It is a small property but it does have access to Shores Beach Road, so it could be beneficial to the township or to Schmuckal Oil for providing access to one or both properties via the signalized intersection rather than just by curb cuts on US 31. Perhaps there is an opportunity for the township and Schmuckal Oil to cooperate. Vreeland and McDonough have spoken of the property and feel that it is not a good candidate for acquisition with a MNR Trust Fund grant, but it also might be a good addition to the park or location for the Hoxsie house.

Planning Commission Chair Jay Zollinger noted that there has been talk about a future roundabout at the M-72/US 31 intersection to solve traffic issues, and asked about the need to purchase more land for right-of-way at the intersection if this occurs. Vreeland offered the concept that roundabouts do not have to be centered on intersection areas, and that if there were to be a roundabout at this intersection in the future it might make sense to place it roughly centered on the existing Chase bank location and using the current section of Acme Road where the township hall is located as part of a roundabout. The bank and a house would have to relocate at a minimum, but it might be quite functional and have a lower impact on other existing developments at the intersection to do it that way.

Ms. Frye expressed disappointment in the whole process regarding this issue. She said that the AHS has spent thousands of hours on this issue, as evidenced by the timelines and quotes from meeting minutes. She wishes that the township and AHS could have worked together in a positive rather than adversarial way, and is disappointed that the township does not appear to her to value historical preservation or the opportunity to make its mark by being listed on the National Register. If the township is determined to move the house from its existing property the AHS would ask for the opportunity to relocate it. She stated that they have been offered the opportunity and some funding to move it to the VGT property. She would prefer that it remain in its native setting, but will ask to move it with sincere regret if necessary and with then use it as they wish to.

Steve Smith, principal in the VGT, confirmed that he has spoken with Ms. Frye and expressed interest in helping to figure out a place to move the house to along the main interior road of his development. It could be a small library or have some other civic use, and he personally would contribute financially. He noted that the VGT plans call for a potential township office building near the interior roundabout. If this is the house of the founder of Acme, he would think it worth putting some money into.

Kladder asked the township's Heritage Committee to go to Arcadia to review a building that had been preserved. It is now a museum and has been a great thing for their community, and moving and repurposing this building could form a great community nucleus. If placed in the VGT near homes, shopping and the TART it could really become a community center.

Jim Goss, 4105 Bay Valley Drive, also a principal in the VGT noted that the Andres house on the corner of M-72 and Lautner Road is directly adjacent to the Meijer store location. The

Andres property used to contain a barn that was donated by the VGT to Bob Garvey and has been beautifully restored. When the Andres property is sold and that historic farmhouse is vacated, he would like it to be moved to the interior of the VGT property to continue the historic preservation theme.

Mr. Smith talked a bit about working with Bob Garvey. When the barn changed hands, Bob offered a donation to a charitable cause of Mr. Smith's choice, and perhaps that cause could be the preservation of the Hoxsie House.

Takayama said that for over a year he has been trying to encourage a community vision for the shoreline district, and slowly there is progress. He has a vision for what the building could be; not just a historic building but one sited on a beautiful piece of land with great views and atmosphere. His first choice would be Bayside Park, but any great site could help the building become a real center for social activity. Bayside Park is still close enough to the original site to be on Hoxsie property; a short move would be less expensive, being put in the wooded site it would not block any views of the bay. It could be used for weddings and receptions and all sorts of events. It would be nice on the VGT property too, but perhaps not as attractive for social events. He feels it could generate way more money at Bayside Park than would be needed to keep it in great condition.

Kladder asked if there was general consensus that the building should be moved, whether to a place nearby or a little farther away. The Trust Fund could be informed of the Board's decision and that a variety of relocation options would be explored. He asked what financial or time commitments the township might want to make to the project. Wikle and Vreeland both urged consideration of a contribution of one or both.

McDonough recommended that the Trust Fund could be told that the township is committed to relocating the house and needs time to explore options. We could explain that we are at the outset of a placemaking project that might inform this decision. He worked for a conservancy in Kalamazoo where his office was in a historic building park. A number of old buildings were moved to a development together, and he could appreciate the idea of adding other community historic buildings. We would also explain that additional time would be needed for fundraising and logistics, and should perhaps be proposed as a potential several-year project. Olds agreed that tying the decision timeframe into the shoreline district placemaking process would be beneficial.

Motion by Takayama, support by Wikle to draft a letter of request to the DNR Trust Fund with a structured timeline to relocate the Hoxsie House.

McDonough does not recommend including specific dates, but to make the letter one based in a process outline. Wikle observed that for the first time it seems like many faces in the room have thoughtful or excited expressions.

Motion carried by a vote of 5 in favor (Kladder, Scott, Takayama, Wikle, Zarafonitis) and 2 opposed (Dunville, Hardin).

A recess was declared between 9:13 – 9:24 p.m.

3. **Orchard Shores Sanitary System:** Jocks provided a letter to Orchard Shores Association President Gordie LaPointe today in response to Mr. LaPointe's proposal from two weeks ago. He has spoken with the DEQ and the Health Department along with performing other research regarding potential turnover of the system by the township to the Orchard Shores Association for operation and maintenance. This would require agreements, deeds and bills of sale. Jocks has been particularly concerned with two issues: the DEQ's perspective about ongoing township liability for the system after such turnover, and whether Orchard Shores owes the township money for past system operation and maintenance and how much.

Jocks reported that Mr. LaPointe's proposal includes asking the township to accept MCL 324.3109 as adequate protection from liability for the system once transferred to the homeowners association and said that they would not request warranties or offer any indemnification. Jocks consulted with Kladder and Wikle about a reasonable response. It appears both parties are fairly close in terms of overall concept process. Jocks projected that the system transfer process could not be completed until August after an annual neighborhood association meeting is held, and noted that the township would have ongoing expenses and would continue to collect sewer fees in the meantime. He indicated the township would look at raising the rate for occupied properties to \$30/month and \$15/month for vacant properties at the April meeting for the interim and in case turnover does not ultimately occur. Jocks mentioned the township's current calculations that the neighborhood association currently owes the township \$4,086 for past operation and maintenance of the system not covered by past user fees and that any extraordinary circumstances, expenses and repairs would remain the responsibility of Orchard Shores in the interim. Their sanitary system is due for being pumped out this summer, and we would ask the DPW to delay this activity until after system turnover when the association could determine when and if to take this action. Jocks indicated that MCL 324.3109 is not sufficient indemnification for the township and that we continue to require that the association indemnify, defend and hold harmless the township for liabilities, costs, charges, claims, etc. arising from the system from transfer date and going forward. The township would also have to approve associated documents developed by the neighborhood association including a quitclaim deed, bill of sale, transfer agreement and amendments to the covenants and restrictions prior to completion of the transfer.

Wikle and Mr. LaPointe spoke today and feel that the neighborhood and the township are fairly close to an understanding in this matter. Kladder noted that Orchard Shores may not have had much time to review and respond to the documents, as these have been caught up in the general workflow crunch that entangled the VGT process. He invited Mr. LaPointe to comment on potential areas of agreement or disagreement.

Mr. LaPointe stated that he is the spokesman for the Orchard Shores Association. He noted that this issue has been under discussion for about 3 months but he just received Jocks' document mid-afternoon today. He has reviewed it along with several other development residents and association board members. He gave his account of the course of the process, which he has found "unpleasant" and longer than he expected.

He agreed with Jocks that the two key issues relate to liability and expenses. He understood the township to be asking to be removed from the DEQ construction permit for the sanitary system, and after research and discussion with the DEQ was told that a construction permit is only good for two years and cannot be changed. He was told that there is a statute that says that if the neighborhood owns and operates the system pursuant to a valid permit, the township will not have any liability or responsibility for the system unless it chooses to do so. He was also told that the township could transfer its discharge permit for the system to the neighborhood association. This permit needs to be renewed annually. His research indicates that no discharge permit was ever issued to this system. Mr. LaPointe also said that he had a written determination from the DEQ that at the projected daily discharge levels to the system no such permit is required at this time. Mr. LaPointe expressed confidence that liability concern-related issues can be successfully negotiated, and that the neighborhood will indemnify the township appropriately.

Mr. LaPointe stated that a close reading of the Orchard Shores covenants indicates that their neighborhood association does not need to be held to obtain 2/3 membership approval of needed amendments to the covenants. Article XII, which deals specifically with the sanitary system, requires the township's approval to any amendment of said article. This seems reasonable to Mr. LaPointe since the township would be affected as the current owner of the system.

Mr. LaPointe's plan is to rough out the concepts for the covenant amendments and other documents and then to provide them to an attorney for final polishing and formatting. He asked to know "exactly what the deal is" in terms of the township's proposed costs related to system transfer to the neighborhood so that he can approach the neighborhood members with the information when he asks them to approve the proposed covenant amendments and other documents. He stated that he would not be willing to wait until August to have the entire process completed, as he is looking forward to fishing and golfing. He also stated that as an experienced negotiator of contracts that he feels contracts should be left "loose" and open to interpretation.

Mr. LaPointe suggested that the system transfer should not be accompanied by any payment by either party to the other to cover past expenses. He stated that it would be reasonable to expect the association to pay for any expenses incurred between now and completion of turnover, but that he does not agree that the association currently owes the township approximately \$4,000. He asserted that the neighborhood association has thought that the township maintained an "escrow account" to cover costs of the system into which their user fees were paid. He asserted learning that from 1989 when the township assumed responsibility for the system until 2006 that the neighborhood user fees were paid into the township's sewer account rather than a segregated account for their system. At this point it appears that no detailed accounting was kept by anyone prior to 2006, and Mr. LaPointe challenged the idea of starting with a \$0 balance in 2006 and determining that there is a \$4,000 deficit between now and then without regard to amounts paid or expended before that date. He performed his own analysis, as he believes that neither \$0 nor \$4,000 is the correct figure for an amount the neighborhood might owe the township. He felt that there should be a \$3,000 positive balance for 2006-2009, so if he projected that back over the previous 16 years perhaps there should have been a \$9,000 surplus in the fund in 2006 assuming his calculations about amounts paid in and assertions that there were no significant repair expenses are correct. Rather than continuing to debate over a prolonged period, he proposes that all parties consider the financial aspect of the situation a wash.

Mr. LaPointe went on to propose a timeline for future exchange of documents between the township and the association that generally would provide about 5 days for each party to review documents and provide a response to the other between iterations.

Kladder stated that he undertook in 2009 to segregate the funds for the Orchard Shores system from the general sewer funds. He was able to obtain records back to 2006, and understands that older data may exist but be exceedingly difficult to find. He approached Mr. LaPointe with his figures in two meetings, and recalls that at both meetings Mr. LaPointe asserted that Kladder's calculations seem reasonable. Kladder thought that Mr. LaPointe was representing himself as an official and duly-designated representative of the association with authority to give such acceptance. Mr. LaPointe stated that if the township wants to go back through old records to develop a more detailed calculation he feels that the township should pay any expenses to do so rather than charging those costs to the association as has been suggested.

Jocks noted that Mr. LaPointe has complained about poor or slow response to his contacts with us. Jocks was told that Mr. LaPointe was represented by legal counsel, and Jocks has an ethical duty not to talk directly to an individual who has retained counsel about a matter. It took him a long time to get the attorney, Mr. Tremp, to respond to his requests for a meeting and/or permission to speak to Mr. LaPointe. The township has not dragged its feet, but has encountered legitimate difficulties in responding. He also felt that Mr. LaPointe's suggestion that documents be exchanged and approved in five-day time windows could not be effective, particularly without holding special Board meetings. He recommended that the Board not approve transfer of the system based only on amendments to the neighborhood covenants. It should be done based on an agreement setting forth the terms of the transaction and

indemnification. All the documents should be presented and considered as a complete set. This could be ready for consideration at the April Board meeting from Jocks' perspective, but Mr. LaPointe is unwilling to send anything to the neighborhood association members until it is complete and approved. He is unwilling to send anything to his neighbors for approval until after Board approval at an April meeting. He stated he could be prepared within 30 days after the Board meeting to be authorized to sign the documents. Mr. LaPointe also stated that he called Jocks directly on Wikle's advice and heard nothing back, even if it was just that Jocks couldn't talk to him for professional ethical reasons.

Takayama expressed that while Mr. LaPointe is complaining about the past recordkeeping for the system by the township and DPW, it does not appear that the neighborhood association keep close track of the funds over the years either. He expressed that all parties in financial situations have an equal responsibility to ensure that their best interests were represented and accurate records maintained.

Jocks proposed, in the interests of moving forward productively, that the Board ask Orchard Shores to provide proposed covenant amendments and a proposed detailed agreement for the township's review and deliberation. The matter of whether money should change hands and if so how much is for the Board to decide. If the documents are approved at the April meeting they can be sent to the Orchard Shores homeowners for approval, and as a final step if approved they would provide the final documents to close the deal. Until closure is reached system operation and normal operating expenses would be dealt with as they are currently, but any extraordinary expenses would be covered by the homeowners association.

Scott agreed with Jocks about moving the process forward. He can appreciate Mr. LaPointe's comments about the accounting being incomplete from 1989-2006. He would like to just resolve the situation.

Motion by Scott, support by Dunville to move forward regarding turnover of the Orchard Shores Sanitary system conditioned on provision of a proposed covenants amendment and detailed agreement by the homeowner's association, with no money changing hands for settlement of any balances related to the Orchard Shores operating account.

Motion amended by Scott, support by Dunville to amend the motion to specify that any future extraordinary system expenses be covered by the Orchard Shores homeowners association.

Kladder asked for documents from Orchard shores by March 23. Mr. LaPointe committed to delivering them by that date. Jocks stated two weeks ago that Mr. Tremp told him that he wasn't really representing Orchard Shores anymore and that Jocks could speak directly with Mr. LaPointe. He asked for and received confirmation of this fact. Mr. LaPointe stated he is only using an attorney to put his concepts into appropriate legal language.

Motion to amend the original motion adopted unanimously.

Amended motion adopted by unanimous roll call vote.

L. NEW BUSINESS:

- 1. Discuss Planner position:** Patrick Kilkeny has resigned his position effective this Friday, March 9. Kladder immediately began exploring potential options to fill the void. He has spoken to a variety of people about potential candidates and about potential for sharing an individual with other municipalities. The Personnel Committee met and explored the possibility of contracting for consulting services with a planning firm on either a short- or long-term basis.

Kilkenny stated that he has appreciated his time with the township and is not leaving due to any problem. He had an opportunity too good to pass up come his way. For the short-term having someone in place quickly seems prudent and using a contract planner from a larger firm for this purpose to keep upcoming major projects on track would be the easiest way to accomplish this. He feels there is a need in the township for at least a part-time planner in the long-run. There is also a significant amount of zoning work to be done that he feels should not be added to the Manager's busy schedule for a long period of time.

Kladder stated that he would like to bring a more detailed proposal for addressing these needs to the April Board meeting for consideration and action.

Scott has expressed concerns in the past about the pay offered for this position. It appears that what the township is offering is generating some awareness and interest. He would support hiring an in-house employee rather than a firm, because the township should have someone in the position who knows the township and its residents intimately, and has the township's interests first and foremost. He would prefer focusing efforts on finding a person rather than a firm to fill our needs.

Zarafonitis observed that even with hiring a firm, there is a point person who is assigned to each client and who gets to know the client very well. Contracting could be more expensive in the long run, but there wouldn't be employment fringe costs.

Jocks suggested that if an RFP is put out the need for an intimate relationship with a key person is critical. Such a relationship structure is fairly standard.

Motion by Dunville, support by Scott to have the staff and Supervisor prepare a strategy for filling the township's planning needs for approval at the April board meeting, with emphasis on finding an individual rather than a firm.

2. **Appoint interim Zoning Administrator: Motion by Zarafonitis, support by Hardin to appoint Sharon Vreeland as the Interim Zoning Administrator. Motion carried unanimously.**

M. PUBLIC COMMENT & OTHER BUSINESS THAT MAY COME BEFORE THE BOARD:

Gail Trill, 7174 Deepwater Point Rd., said that as a taxpayer she expects the Board to "not give away the farm." Orchard Shores should pay its full expenses, although she recognizes that being flexible in this case may promote a larger cause. She urges the township to double-check with the DEQ. Ms. Trill is used to paying a governmental unit for copies of any information she asks them to provide, and feels that Orchard Shores should be treated similarly. The association is asking the township to do them a favor on their timeline instead of the township's timeline, and the only thing they should be saying is a polite "thank you."

Mr. Smith urged the township to take a look at the costs for planning services to the township. The process for his development has been very expensive for him. He feels it would be best to have an in-house planner in this regard, and for processes to be handled as economically as possible. He thanked the Board for its work this evening.

Meeting adjourned at 10:46 p.m.