

East Bay Charter Township
1965 Three Mile Road North
Traverse City, MI 49686

Regular Board Meeting
Monday May 12, 2008

Call Meeting to Order: Chairman Lile called the meeting to order at 6:30 pm.

Pledge of Allegiance: was recited by all in attendance.

Roll Call: Board Members Present: Glen Lile, Beth Friend, Sue Courtade, Craig Goodrich, Dale McAllister (arrived at 6:47pm), Tracey Bartlett, and Butch Strait

Others Present: Anne Wendling, Recording Secretary; Jim Young, Township Attorney;

Twenty-three (23) members of the public were in attendance.

Review for Conflict of Interest: None

Correspondence: Provided in the Board Packets.

Additions to Agenda: Strait asked to remove the Ambulance bills from the Consent Calendar and move them to the Agenda. Goodrich seconded the motion. Lile stated that the Ambulance bills would be item number 10 on the Agenda. Motion carried

Consent Calendar:

- A. Board Minutes: April 14, 2008 Regular Board Meeting Minutes and April 29, 2008 Special Meeting Minutes were recommended for approval.
- B. General Fund: checks numbered 5626-5791 were paid in the amount of \$394,626.93. Check number 5252 was previously approved.
- C. Ambulance Fund: checks numbered 1811 – 1820 were paid in the amount of \$4,758.09.

- D. Receiving Fund: Checks numbered 1728-1738 in the amount of \$373,914.70 were paid.
- E. Payroll Fund: For the payroll dated 3/30/08 through 4/12/08 checks numbered 10565-10581, and automatic check deposits numbered 1000003070-3071, 3076, 3078, 3080-3081, 3093, 3095, and 3099 totaling \$13,404.43.
For the payroll dated 4/13/08 through 4/26/08 checks numbered 10582-10590 and automatic check deposits numbered 1000003106-3107, 3111-3115, 3117, 3119, 3121 and 3125 totaling \$11,584.88.

Payroll for the two periods totaled \$24,989.31.
- F. Payroll Taxes EFT Funds
For the payroll of 3/30/08 through 4/12/08 the transfer was \$5,038.83; for the payroll dated 4/13/08 through 4/26/2008 the transfer was \$3,441.05.

The total payroll amount for the two time periods combined was \$33,469.19.

Total amount paid: \$806,768.91
- G. Approval to accept the appointment of Mindy Walters to Planning Commission
- H. Approval to accept the proposed Computer Policy

Friend moved to approve the consent calendar for May 12, 2008 moving the approval of Ambulance Bills to #10 on the agenda. Bartlett seconded the motion and the motion carried unanimously.

Public Comment: None at this time

Reports: Supervisor: Report included in packets.
Clerk: Report included in packets.
Treasurer: Report included in packets.
Trustees: Goodrich stated that he had a meeting with the benefits

committee on May 20th. Friend stated that in Planning Commission news, the Lakes Overlay Ordinance draft and the Ordinance 109 redraft is being worked on. She said the commission may be looking at the temporary use of RV's on properties and that at the last meeting, two extensions were granted and a site plan review was tabled. She noted that the Tamarack Lodge phasing has changed and builders will be putting a garage up soon. The Three Mile Road expansion issue has been brought to the attention of the Planning Commission and Friend would like to see an ongoing relationship established with the road commission.

Sheriff Department: Deputy Rick Davidson reported there were 80 citations in April and a total of 549 complaints for the month of April.

Fire Department: Lt. Jeremy Metcalf from Grand Traverse Metro reported 26 calls total for April 2008 including six wildfires and structure fires. A new tanker truck will be in place in June at Station One. He thanked the public for its support of the pancake breakfast.

Engineer: Brian Sousa reported that he, Planner Jay Kilpatrick, and Supervisor Lile have met regarding Ordinance 109 and that they have come up with options to present to the Planning Commission. He is also working on a storm water review for the Northland Contractors Project on S. Airport Road. Sousa also reported that Wade Trim is on the short list of candidates for the engineer of record for Acme Township. Tim Truax then talked about the review of the Department of Public Works and stated that everything was in good shape, but there was a lack of maintenance records on much of the equipment.

County Commissioner: Margaret Underwood reported that County Commissioners had a meeting with the Grand Traverse County Road Commission and the GTCRC is looking into bonding money to take care of area roads. The GTCRC has plans to complete the paving of Hammond Road all the way to Keystone Road. She also brought a copy of the 2007 Grand Traverse County Apportionment Report.

Township Attorney: No report at this time.

New Business:

1. *Brownfield Plan – T.C. Bear Company*

Scott Howard, Attorney for the Brownfield Redevelopment Authority spoke to board members regarding the Brownfield Plan encompassing part of Mitchell Creek and the Traverse City Bear Company at Three Mile Road and US 31.

Board Members asked many questions including:

- Bartlett asked about a new law regarding Brownfield approvals coming in January. Howard said the process would change in regards to who held the public hearing.
- Lile wanted to know who owned Mitchell Creek Inn when the restrictive covenant was signed. Mitchell Creek Inn signed a restrictive covenant for the property stating they wouldn't use their property in a certain way – i.e. drinking water.
- Lile asked if a restrictive covenant was not signed, would the gas or oil company have been forced to clean up the property? Howard said they would have had to get a different option for a covenant.
- Friend asked if there was any contamination when the Bear Company started building. Howard explained that anything above "Residential Criteria" for water is considered a facility. No developer brought a plan for the land, so the state considered it a facility until it was developed by someone. Mitchell Creek and the adjacent properties still have contamination, but the TC Bear Company is clean now since they paid for clean up. Howard stated that the EPA grant can be used for assessment of a facility.
- Friend asked who develops a plan if the site is recommended for remediation? Howard said that a Brownfield Redevelopment Authority consultant does the plan. Howard said it could be more than the estimated \$178,000 or it could be less.
- Friend asked what happened to the \$178,000? Howard said that the monies would either go back into the taxing jurisdiction or get replanned.
- Friend asked if any of the \$178,000 would go into a Brownfield Remediation fund? Howard answered that yes it would and that the \$178,000 was for up-front funds to clean up and assessment of the site would be taken care of through the EPA grant. He stated

that the EPA assessed the property, then remediation would be funded through a revolving fund and replenished through tax capture.

- Friend asked if the fund continued to capture additional funds after everything was paid for and Howard answered that according to state statute, Brownfield can capture for up to five years.
- Courtade asked about tax reassessment by sale of property – what does it do to tax recapture? Howard said that the original base dollar is looked at and the facility property would get back on the tax rolls faster.
- Friend asked about the tax value of the other properties in the facility since there is a road right-of-way included and property owned by the GTCRC. She said that it is highly unlikely that the properties will be developed. Jean Derenzy said that the Brownfield Plan really focused on community issues and that there was contaminated groundwater in that area. Derenzy said that an EPA assessment would help to determine how far the contamination has spread.
- Lile commented that the MDEQ knew in 2002 the contamination was there – what change occurred since 2002 and why should the township worry now? Howard said in 2008, the State of Michigan may not think the small contamination a big deal but the board and residents of the community should be concerned because we live in the community.
- Lile stated that the Township Special Assessment is not a tax and cannot be captured for this purpose; it can only be used for emergency services because that is what the township citizens voted for. Lile said that any Brownfield tax capture could not include that special assessment tax, but historically, the state has not differentiated between the two. Lile asked Township Attorney Young what his recommendation would be on the Brownfield matter. Young said that he is satisfied with the legality of the technical issues, but still feels that this resolution pushes the statutory intent of a Brownfield. A Brownfield Redevelopment is usually used for abandoned properties that have been contaminated and he has overall concerns with the spirit of the Brownfield Plan intent in this case. Scott Howard said he shares the township's concerns regarding the special assessment dollars.
- Friend asked about using the EPA funds and if contamination is found, then approve a Brownfield Plan. Howard said that if the resolution was not passed, the TC Bear could not be included in the Brownfield Plan. Friend asked if whether the EPA grant could be

used all over the county and Howard said that the funds could be used all over the county, and this particular development may not be high on the list. Howard says that the township benefits because there will be a Brownfield project already in the works and that looks better to gain EPA funds.

- Lile asked if the board voted for the plan without using special assessment taxes, but the state said that those special assessment taxes had to be used, what would happen? Derenzy said that then the vote was null and void and she stated that a majority of taxes came from the county.

Strait moved to adopt the resolution entitled “East Bay Township’s Findings and Concurrence for Mitchell Creek/Three Mile Road Brownfield Plan” with all supporting documents as shown in #1 of the East Bay Township Board agenda packet for May 12, 2008 and the last meeting’s packet dated April 14, 2008 provided that if the TC Bear Company has already removed contamination with remedial equipment, then any reference to reimbursing TC Bear Company and the costs of removal shall be deleted; the wording of item 1 b ii of the resolution shall be deleted; and further, that this approval is contingent upon the county Brownfield Redevelopment Authority agreeing that East Bay Township’s special assessment for emergency services shall not be captured. Goodrich seconded the motion. Upon a roll call vote, with Friend dissenting, the motion carried 6-1.

2. Resolution Approving Process to Acquire New Sewage Treatment Capacity

Chris Buday presented the board with a draft of a Resolution Approving Process to Acquire New Sewage Treatment Capacity. Buday explained that factors such as growth are studied and that a good baseline is given for the preparation of bids for the next wastewater treatment facility. Lile asked if a new plan was needed if the township were to hit 90% capacity. Buday answered that given that type of volume, which the township is not close to at the present time, a new facility would need to be planned. Buday stated that these studies are fairly accurate in foreseeing twenty years in the future for the township sewer capacity. He reiterated that this draft was simply a planning tool – phase one – and that this process should take about 1.5 years to complete. He will look for formal approval of the plan next month.

3. Metro Lease Agreement Station #9

Chief Pat Parker presented board members with a Lease Agreement Draft for Station #9 in which East Bay Township Leases and Metro Fire Department rents

back the premises. The lease is \$1.00 in exchange for paying all utilities on the station. Strait said that the ambulance or police department is not mentioned in the document. Parker stated that it was his intent that both can be housed in Station #9 and that an addendum can be drawn up which includes that language.

Friend made a motion to approve the Lease Agreement based on the fact that an addendum will be added to allow police and ambulance to be housed in Station #9. Courtade seconded the motion and the motion carried unanimously. Parker then discussed the highlights of his 2007 Annual Report and stated that in 2007, there were 2,935 calls and 121 fires.

4. *Centre Ice Tax Tribunal Appeal*

Township Attorney Young said that though this matter was discussed at the last meeting, no decision was made in regards to attorney representation. Young also said that usually, a court of appeals decision is final; that matter could go to the Michigan Supreme Court, but in this case that would be unlikely. The Michigan Township Association has to contribute monies for appeals and County Commissioner Underwood stated that in the past, municipalities have gone to the County for appeals monies. Goodrich made a motion to use original firm of Running, Wise and Ford for the Centre Ice Tax Tribunal Appeal. McAllister supported the motion and upon a roll call vote with Goodrich, Friend, McAllister and Strait voting yes and Courtade, Lile and Bartlett voting no, the motion passed 4-3.

5. *Cherry Capital Cable Council, Distribution of Funds*

Joe VanderMeulen filled in board members on the new Land Information Access Association (LIAA) and what benefits it would bring to the township and the entire community. VanderMeulen would like the board to carry over excess CCCC funds to LIAA. Lile asked if LIAA would supply cameras and equipment if East Bay Township joined in the contract and VanderMeulen answered that it was their intent to do so. VanderMeulen said that LIAA is now asking the city and townships to continue to collect the .30 fee and give it to LIAA and in turn, LIAA would purchase and install equipment. VanderMeulen stated that he would like to get contract between LIAA and East Bay Township done for next month's approval. Goodrich made a motion to table any decision regarding CCCC monies until next month. Strait seconded the motion and the motion carried unanimously.

6. *Per Diem Policy*

Resolution #2008-07 would recognize the attendance of board members at other

meetings outside of their statutory duties and hours that they would be paid for. Adding language at the end of Strait moved to approve Resolution #2008-07 with the addition of the following language at the end of the first paragraph: “. . . and when the elected officials are not representative of East Bay Township.” Goodrich seconded the motion and the motion carried unanimously.

7. *Compactor Transfer Station Update*

Lile said that he has asked Township Attorney Wendling to ask the State of Michigan if it would be willing to sell the land to the township and not hold the township liable for any contamination. Price would be a consideration and there may be a possibility of joining with other townships to purchase the land. Friend stated that she would like to see alternatives to the plan and a cost analysis of each plan before making any decisions. Strait asked why the State is not renewing our permit. He contacted that the local DEQ representative Mr. Lamien to ask him why the Township permit is not going to be renewed. He did not receive an answer.

8. *TCAPS Tax Collection Reimbursement Agreement*

Bartlett reported that she received a letter from Paul Soma, CEO of TCAPS requesting a reduction on the per parcel fee being charged to TCAPS for the collection of summer property taxes. TCAPS is requesting that the rate be reduced from \$3.72 per parcel to \$2.50 per parcel. Strait moved to retain the rate at \$3.72. Courtade seconded the motion and with Friend voting no and all others voting yes, the motion carried 6-1.

9. *Payroll Recommendation*

Courtade stated that she found a payroll accrual error as she was getting ready for the audit. For the pay period ending on January 11, 2008, all days were paid at the new 2008 wage increase rate resulting in overpayments of \$293.15. This is the way the payroll company processed payroll, but, Courtade would like direction from the board to verify their intent. Strait made a motion and Goodrich seconded to leave the pay alone and not charge the employees for the payroll difference for 6 days earned in December. The motion carried unanimously.

10. *Ambulance Bills*

Strait questioned why attorney fees were included in the ambulance bills and was told it was fees for preparation of the new Authority and that payment had to come from Emergency Services Special Assessment. Strait made a motion to approve the fire fund bills and Goodrich seconded the motion. The motion carried unanimously.

Public Comment: One gentleman commented on the LIAA issue and the *condition of* Holiday Road lawsuit. Another person spoke regarding the balance sheet, LIAA, payment for classes taken by elected officials and compensation of Township staff in the audience.

Adjournment: Chairman Lile adjourned the meeting at 9:39pm.

Submitted by:

Anne E. Wendling, Recording Secretary Date

Susanne M. Courtade, Clerk Date

Glen Lile, Supervisor Date