

Green Lake Township Regular Board Meeting/Public Hearing
June 12, 2017

Called to order: Called to order at 6:03 p.m. by Supervisor Radtke.

Roll call: West, McDonald, Schroeter, Bieganowski, Biondo, Kramer, Radtke present.

Pledge:

Approval of Agenda: Moved Bieganowski, Second Radtke to approve the agenda as presented. Carried.

Consent Agenda: Moved West, Second Schroeter to approve the consent agenda as amended with the removal of treasurer report. Carried.

Reports:

Andy Marek: Grand Traverse County Road Commission:

Mr. Marek reported been working on cleaning up there policies and minor housekeeping. Bluff Road has been petitioned as a natural beauty road so they want to develop a policy for it. There will be a town hall meeting later in June to discuss this matter. A policy will be developed after that. Barlow there was an issue with the Federal Government, they were not sure if they had the funds for the project. The road commission had to make a decision on whether they were going to pay for it in advance and hope the Federal Government came back and were able to reimburse for the project. CRA informed them a week later they had been approved to receive the funds. Parks and Rec Committee has been working with Civic Center Company, as they are doing some construction where the Arby's use to be, for a construction easement. They will be walking the property with utility companies to make sure everything is done correctly. Keystone and Brimley property for sale. The county received an offer for less than \$300,000.00. Parks and Recs Committee made a motion to take that property back from the county as the committee does not want to sell for that amount of money. They would prefer T Bays have the opportunity to purchase it as they need to expand the parking area. Feels the property needs to be protected.

William Mouser: Grand Traverse County Road Commission: Mr. Mouser reported they are currently working on the 2017/2018 road project list.

Reports Continued:

Mike Stinson & David Cutway: Green Lake Township Emergency Services: Chief Stinson and Chief Cutway reviewed reports presented to the board members and answered questions. The crew will now be working each of the concerts at Interlochen Arts Academy. Have had very positive feedback. We have stand by worker's working the concert and duty crew that is working at the station. We now have crew members come in as back up to cover the station when the main duty crew is called out on a run. Mr. Marek reported he attended Grant Township meeting, the fire chiefs from Buckley and Blair reported they were very happy with the mutual aid response from Green Lake Township. He also stated he attended the concert and it was nice to see our ambulance back working the concerts.

Pat Thompson: Interlochen Public Library: Mrs. Thompson reported they had a successful event held at Talbots to help raise money for the new library, there will be a book sale on June 23, 2017 and June 24, 2017. Summer reading program will run from June 21, 2017 through July 26, 2017 entitled Build a Better World. Hoping the library lease is approved soon.

Public Comment:

Patrick McDonald: Reported the Green Lake Township Planning Commission will be holding two (2) public hearings. The first will be on short term rentals on June 26, 2017 and the other will be on medical marijuana ordinance on July 24, 2017. Guy Vanderveer, 10389 Wildwood Road, Interlochen, Michigan asked the board about zoning. Issues with junk in his neighborhood. Supervisor Radtke reported the Zoning Administrator is currently working on trouble areas in that neighborhood.

Correspondence:

Clerk Kramer discussed correspondence from MTA regarding Principles of Governance. The board asked that this be placed on the July 10, 2017 agenda.

Postponed Business: None

New Business:

Approval to Hire Five Candidates for Green Lake Township Services:

Chief Cutway presented the board with a list of five candidates (Matt Durand, Ian Durand, Jeff Lenten, Richard Cebula and Kassandra Konsella) he would like to hire. The hiring is addressed separately from the township hiring policy as it is governed under public act 33 of 1951. Three are already fire fighter/emt or paramedic and two need complete training. Moved Biondo, Second Bieganowski to hire the five candidates listed (Exhibit A) as presented. Roll call vote: Schroeter – Yes, Biondo – Yes, McDonald – Yes, Bieganowski – Yes, Kramer – Yes, West – Yes, Radtke – Yes. Carried.

New Rescue Boat for Green Lake Township Emergency Services:

Chief Cutway presented the board with quotes to purchase either an 18' or 21' boat to replace the rescue boat we had while we were in Grand Traverse Rural Fire. We have over 12 lakes and we have over 40 miles of shoreline in our township that we cover. After discussion, it was agreed to bring this back to the June 19, 2017 budget meeting for consideration. Chief Cutway received two sets of bids. We currently have mustang suits but they cannot be used for deep water rescue. Moved West, Second Kramer to place new rescue boat purchase on the agenda for June 19, 2017 meeting. Carried.

TNT Fireworks Temporary Use Permit: Moved Kramer, Second West to approve the temporary use permit for TNT Fireworks as presented. Carried. Kramer would like to have copies available of the fireworks ordinance to be handed out to all purchasers.

Library Cleaning Company Approval: The board was discussed email received from Renee Kelchak from the Interlochen Public Library informing the board they are in the process of hiring a new cleaning company. The new company is more expensive than the previous company. Mrs. Kelchak has requested the board to consider reimbursing them \$140.00 a month to go towards the cleaning. The total amount for the year would be \$1,680.00. Moved Biondo, Second McDonald to approve request from Renee Kelchak to reimburse the library \$140.00 a month for cleaning fees to Lisa Carmean for a period of 12 months. Carried.

Exhibit A

Five Candidates to be hired for Green Lake Township Emergency Services

**Matt Durand
Ian Durand
Jeff Lenten
Richard Cebula
Kassandra Konsella**

New Business Continued:

DDA Budget Request: The board reviewed a 2017/2018 budget request from the DDA. Question on the \$30,000.00 loan from the township. It was a one- time loan to the DDA of \$34,000.00 and to date, the DDA has paid back \$4,000.00. The DDA currently has \$15,000.00 in the account not including the money the township loaned the DDA. Treasurer Schroeter was concerned with wage request of \$9,000.00 as it won't take long before the money is gone. Following discussion, the board agreed this matter should be brought to the June 19, 2017 meeting. Moved Kramer, Second Schroeter to postpone DDA Budget request until the June 19, 2017 meeting. Carried.

Treasurer Report: Trustee West had questions on the accounts payable register. Check to Swogger, Bruce and Millar for \$3,775.00, Bio Care Incorporated for \$4,915.00 and HSA for William Muha \$2,700.00. Moved West, Second Schroeter to approve the treasurer report and bills as presented. Roll call vote: West – Yes, McDonald – Yes, Schroeter – Yes, Bieganowski – Yes, Biondo – Yes, Kramer – Yes, Radtke – Yes. Carried.

Open Public Hearing for Interlochen Center for the Arts:

Moved West, Second Schroeter to open the public hearing for Interlochen Center for the Arts at 7:06 p.m. Carried.

Discussion:

Dusty Christianson of Mansfield and Associates reviewed the site and facilities master plan request from Interlochen Center for the Arts. The amendments will be a part of our zoning ordinance and will be similar to the Gateway Overlay District for the core campus area. Audience had no comments.

Close Public Hearing for Interlochen Center for the Arts:

Moved Biondo, Second Bieganowski to close the public hearing for Interlochen Center for the Arts at 7:34 p.m. Carried.

Moved Radtke, Second Schroeter to place action on the Interlochen Center for the Arts public hearing on the July 10, 2017 meeting agenda. Carried.

New Business Continued:

Open Budget Public Hearing: Moved Radtke, Second Schroeter to open the Budget Public Hearing at 7:38 p.m. Carried.

Discussion:

Currently the Township Fund balance is 105%. It is recommended fund balance should be 18% to 23% which Green Lake Township is. You should have three months operations money on hand without any income coming in.

Close Budget Public Hearing: Moved West, Second McDonald to close the Budget Public Hearing at 7:49 p.m. Carried.

Resolution #06122017.1 Appropriate Budgeted Funds: Moved Radtke, Second Schroeter to adopt resolution #06122017.1 as presented. Roll call vote: Schroeter – Yes, Biondo – Yes, McDonald – Yes, Bieganowski – Yes, Kramer – Yes, West – Yes, Radtke – Yes. Carried.

Resolution #06122017.2 Township Board Meeting Schedule: Moved Biondo, Second West to adopt resolution #06122017.2 Township Board Meeting Schedule for 2017/2018 as presented. Roll call vote: Biondo – Yes, West – Yes, Kramer – Yes, Bieganowski – Yes, Schroeter – Yes, McDonald – Yes, Radtke – Yes. Carried.

Resolution #06122017.3 Depository Resolution: Moved Schroeter, Second McDonald to adopt resolution #06122017.3 Depository Resolution as presented. Roll call vote: West – Yes, McDonald – Yes, Schroeter – Yes, Bieganowski – Yes, Biondo – Yes, Kramer – Yes, Radtke – Yes. Carried.

Resolution #06122017.4 Investment Resolution: Moved Bieganowski, Second West to adopt resolution #06122017.4 Investment Resolution as presented correcting date at the bottom from June 13, 2016 to June 12, 2017. Roll call vote: Schroeter – Yes, Biondo – Yes, McDonald – Yes, Bieganowski – Yes, Kramer – Yes, West – Yes, Radtke – Yes. Carried.

Resolution #06122017.5 Resolution General Appropriation Act: Moved Kramer, Second Schroeter to adopt resolution #06122107.5 Resolution General Appropriation Act as presented correcting date in Section 5 from 2015-2016 to 2017-2018. Roll call vote: Biondo – Yes, West – Yes, Kramer – Yes, Bieganowski – Yes, Schroeter – Yes, McDonald – Yes, Radtke – Yes. Carried.

New Business Continued:

Six minutes recess. Reconvene at 7:55 p.m.
7:55 p.m. back to order.

Salaries/Wages: Moved McDonald, Second West to postpone salaries and wages decision until the June 19, 2017 meeting. Carried.

Action on Public Hearing: Moved Radtke, Second Bieganowski to postpone action on the public hearing to adopt fiscal budget for 2017/2018 until the June 19, 2017 meeting. Carried.

Old Business:

Library Lease: Supervisor Radtke presented the board members with an updated version of the library lease. Discussed and reviewed. Moved Biondo, Second Schroeter to allow the Supervisor to enter into a lease agreement with the Interlochen Public Library according to Ward Kuhn comments and recommendations dated June 8, 2017. (Exhibit B) Roll call vote: West – Yes, McDonald – Yes, Schroeter – Yes, Bieganowski – Yes, Biondo – Yes, Kramer – Yes, Radtke – Yes. Carried.

Fire Recovery Ordinance & Recovery of Additional Charges Authorization: Moved Bieganowski, Second Biondo to postpone action on this matter until the July 10, 2017 board meeting. Carried.

Emergency Services Policy Addendums: Moved Kramer, Second Biondo to postpone until the June 19, 2017 meeting. Carried.

Short Term Rentals Follow Up:

Gordie Youker, 4868 Lakeview Drive, Interlochen, Michigan stated he was confused on how the decision is going to be made on this matter and who will draft the ordinance. Very confusing issue with the decisions the State of Michigan are considering or acting on.

Medical Marijuana Ordinance Follow Up:

Steve Ezell, 2037 M-137, Interlochen, Michigan just wanted to say he is available if anyone would like more information.

Marvin Radtke

From: Ward Kuhn <rekuhn@krlawtc.com>
Sent: Thursday, June 08, 2017 2:29 PM
To: Marvin Radtke
Subject: FW: Library Lease
Attachments: Proposed Lease Changes 6-5-17.docx

Marv,

Here is the latest from Mr. Figura regarding the library lease. Most of it looks okay to me but I do have the following comments:

1. Paragraph 19 goes beyond the usual warranty of quiet enjoyment. Particularly 19(a)(ii) alludes to the township "otherwise" interfering with the library's operation. I have no idea what this may be referring to unless it is intending to make the townships efforts to enforce its rights under the lease a potential breach of the lease. Beyond the terms of paragraph 5, I don't see a need for any additional provisions relating to quiet enjoyment.
2. I think both sides need to have liability insurance in place with the other side as an additional insured. If the insurance coverage is adequate (\$1,00,000.00) I see no reason for anything more than the usual indemnity provision protecting the landlord.

Indemnity. Library agrees to indemnify and hold harmless the Township from any and all claims, demands or liabilities of whatsoever kind or nature which in any way arise out of Library's use and occupancy of the Premises, whether or not such claims, demands or liabilities arose in part from the negligence of Township but not where any such claim, demand or liability arises from the sole negligence of Township. The liability of Library to indemnify Township as herein set forth shall not extend to any matter against which Township shall be effectively protected by insurance; provided, however, that if such liability shall exceed the amount of the effective and collectible insurance in question, the said liability of Library shall apply to such excess.

I'll be out of the office until Wednesday next week. Let me know if you have any questions.

Ward Kuhn

R. Edward Kuhn
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From: Dick Figura [mailto:rfigura@figuralaw.com]
Sent: Monday, June 05, 2017 3:38 PM
To: Ward Kuhn
Cc: Timothy Figura; Traci
Subject: Library Lease

Ward,

As I reviewed the proposed changes I sent you last week, I notice that when I tried to use your suggested text for the Indemnification provision, I used an earlier draft you had prepared rather than the one you sent to me on May 25. I have rewritten the indemnification provision in our proposed changes accordingly, and have highlighted the new text in yellow.

I still provided a mutual indemnification provision for the reasons stated, though the Township's indemnification obligation is limited to the activities pursuant to those sections of the lease whereby it acquired certain rights to use the premises for its own purposes. That seems only fair.

When can we talk about this? Can we plan in doing it tomorrow?

Dick

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Of counsel to Simen, Figura & Parker, PLC, Flint, MI

Proposed Changes to Green Lake Township and Interlochen Public Library lease

Paragraph 2.a. We would like changed to read as follows:

a. **Use.** The leased land shall be used solely for the purposes of building and operating a public library as authorized in MCL 397.201 et seq. LIBRARY and TOWNSHIP shall participate in the design process for the construction of the library, which design will be completed prior to the entry and execution of this agreement. It is anticipated that the library building will consist of approximately 10,000 sq.ft. and shall be aesthetically consistent with the existing structures and uses in the Interlochen area. **While the Library has, pursuant to MCL 397.205, exclusive control of the construction of any library building and the supervision, care and custody of the library buildings and grounds, nevertheless to the extent permitted by law LIBRARY and TOWNSHIP shall reach a mutual agreement on the design of the library building and grounds before LIBRARY finalizes said design.**

If the LIBRARY and the TOWNSHIP are unable to mutually agree on a design, either party may invoke the alternative dispute resolution procedures set forth in Paragraph 39, below.

Paragraph 25. We would like changed to read as follows:

25. **Improvements/ Alterations.** While the Library has, pursuant to MCL 397.205, exclusive control of the construction of any library building and the supervision, care and custody of the library buildings and grounds, nevertheless to the extent permitted by law the LIBRARY and the TOWNSHIP agree that no improvements, structures, or installations shall be constructed on the Premises, and the Premises may not be altered, except by mutual agreement of the LIBRARY and TOWNSHIP, and further that the LIBRARY shall not make any structural or architectural design alterations to approved improvements, structures, or installations on the Premises except by mutual agreement of the LIBRARY and TOWNSHIP. TOWNSHIP may have plans reviewed by TOWNSHIP's engineer prior to approval. Such review will be at LIBRARY's cost. This provision shall not relieve LIBRARY of any maintenance obligation under this Lease. TOWNSHIP shall not be obligated by this Lease to make or assume any expense for any improvements or alterations to the Premises.

If the LIBRARY and the TOWNSHIP are unable to mutually agree on a design, either party may invoke the alternative dispute resolution procedures set forth in Paragraph 39, below.

Paragraph 26. We would like changed to read as follows:

26. **Development.** LESSEE shall develop the Premises in accordance with the Project Scope of Work attached hereto as **Exhibit B: Project Scope of Work**, and the floor plans attached hereto as **Exhibit C: Floor Plans**, to the extent applicable to such development. **While the Library has, pursuant to MCL 397.205, exclusive control of the construction of any library building and the supervision, care and custody of the library buildings and grounds, nevertheless to the extent permitted by law the LIBRARY and the TOWNSHIP agree that changes to**

LIBRARY's development of the Premises as set forth herein shall in each instance be subject to TOWNSHIP and LIBRARY's mutual agreement.

If the LIBRARY and the TOWNSHIP are unable to mutually agree on a design, either party may invoke the alternative dispute resolution procedures set forth in Paragraph 39, below.

I don't know if the last draft of the lease has the following Section 19. If not, we want it included, especially since the Township has some definite responsibilities regarding the premises.

19. Breach of Township and Remedies.

- a. Breach. TOWNSHIP shall be in breach and default of this Lease if any of the following occurs:
 - i. TOWNSHIP engages in any action which infringes upon the LIBRARY's right to quiet enjoyment guaranteed to it under paragraph 5, and fails to cure same within thirty (30) days following written notice thereof from the LIBRARY;
 - ii. TOWNSHIP otherwise interferes with the LIBRARY's lawful use of the Premises as a public library serving the LIBRARY's public constituency, and fails to cure same within thirty (30) days following written notice thereof from the LIBRARY
- b. Remedies. Upon TOWNSHIP's default, LIBRARY may, at its option, give TOWNSHIP, or any person claiming rights through TOWNSHIP, a written notice of the breach, and if said breach is not cured within thirty (30) days LIBRARY:
 - i. May withhold from TOWNSHIP any of the rights and benefits accruing to the TOWNSHIP herein until the breach is cured; and/or
 - ii. May, subject to the provisions of paragraph 39, below, bring suit in the appropriate court to enforce the LIBRARY's rights herein;
 - iii. May be entitled to any actual and provable damages sustained by the LIBRARY as a direct result of the TOWNSHIP's breach as may be allowed under Michigan law.
- c. Waiver. Any waiver by LIBRARY of a breach or default by TOWNSHIP shall not constitute a waiver of any other breach or default. No waiver shall be valid and binding unless in writing and executed by LIBRARY. LIBRARY'S delay or failure to enforce a right or remedy shall not be a waiver of that or any other right or remedy under this Lease. The enforcement of a particular right or remedy for a breach or default shall not waive any other right or remedy for the same breach or default, or for any other or later breach or default.

We would like section 20 to read as follows. I am using your indemnification text but making it applicable to both parties. That seems eminently fair since the township has certain rights to use the premises for its purposes – not something found in a typical ground lease. As I think about it, what the Township has proposed is more like a lease and sublease, or lease-leaseback, situation.

20. Indemnification & Hold Harmless.

- a. Library agrees to indemnify and hold harmless the Township from any and all claims, demands or liabilities of whatsoever kind or nature which in any way arise out of Library's use and occupancy of the Premises, whether or not such claims, demands or liabilities arose in part from the negligence of Township but not where any such claim, demand or liability arises

from the sole negligence of Township. The liability of Library to indemnify Township as herein set forth shall not extend to any matter against which Township shall be effectively protected by insurance; provided, however, that if such liability shall exceed the amount of the effective and collectible insurance in question, the said liability of Library shall apply to such excess.

b. TOWNSHIP agrees to indemnify and hold harmless the LIBRARY from any and all claims, demands or liabilities of whatsoever kind or nature which in any way arise out of Township's use and occupancy of the Premises pursuant to Paragraph 6.c and/or Paragraph 10, whether or not such claims, demands or liabilities arose in part from the negligence of LIBRARY but not where any such claim, demand or liability arises from the sole negligence of LIBRARY. The liability of TOWNSHIP to indemnify LIBRARY as herein set forth shall not extend to any matter against which LIBRARY shall be effectively protected by insurance; provided, however, that if such liability shall exceed the amount of the effective and collectible insurance in question, the said liability of TOWNSHIP shall apply to such excess.

Old Business Continued:

Medical Marijuana Ordinance Follow Up:

Andy Marek, 2875 E. Railroad Avenue, Interlochen, Michigan hopes we can keep the two dispensaries we currently have as both are very discrete and professional. He hopes the board will support keeping them.

Misty Cassell, 2875 E. Railroad Avenue, Interlochen, Michigan attended the meeting to see what progress has been made.

Trustee West said she would like to hear what the residents want to have in their community.

Questions & Public Comment: None

Adjournment: Moved Bieganowski, Second McDonald to adjourn at 8:39 p.m.
Carried.

Respectfully submitted,



Judith L. Kramer

Green Lake Township Clerk