

West Lakeland Township

April 13, 2020

7:00 p.m.

Web Conference

Present: Chairman Dan Kylo, Supervisor Marian Appelt, Supervisor Dave Schultz; Carrie Seifert, Clerk; Jennifer Samec, Deputy Clerk; Ms. Marsha Olson, Treasurer; Viet-Hanh Winchell, Township Attorney; Mr. Mark Votava, Planning commission Chair; Mr. Ryan Stempski, Township Engineer

Call to Order:

Chairman Kylo called to order the meeting held via Zoom at 7:09 PM. Ms. Winchell defined the protocols for communication. By government order, the meeting was conducted remotely, with 20 participants including the board, staff and observing residents. Public comment was restricted for the meeting, with comments to be directed via email or phone.

Supervisor Marian Appelt moved to approve Resolution R 2020-5, to grant authority to conduct open meetings by telephone and/or web conferencing. Seconded by Supervisor Schultz, the motion carried unanimously.

Roll Call:

The chairman called for a roll call of the board of Supervisors. Chairman Kylo, Supervisor Appelt and Supervisor Schultz confirmed their presence. Roll was called by the clerk for all motions throughout the meeting.

Baytown/West Lakeland/MAC Proposed Settlement

At the request of the board, Mr. Stempski, the township engineer provided a summary of the proposed draft settlement at its current state. Chairman Kylo explained that the proposed expansion of the runway at the Lake Elmo Airport requires the realignment of 30th Street that runs through the MAC property. A number of designs for the road realignment were proposed, with an initial deadline of 12/31/2019 for a deadline to vacate the easements or MAC would proceed with condemnation. Attorney Dan Gregerson was retained by the township to review the condemnation proceedings. In his opinion, by state statute, MAC has the authority to condemn this section of road, and the probability of the Township to stop this process is low. After a number of meetings with the Township and MAC, the deadline for vacation has been moved to June 15, 2020. The current design has met industry design standards for the alignment that was chosen to avoid conflict with the runway expansion moving forward by MAC. A VBWD Permit and NPDES Construction Storm Water Permit has been obtained by MAC for Phase 1 of the project (realignment of 30th Street).

Chairman Kylo noted that his objective in meeting with MAC is to negotiate the best deal for the township, to provide a road that was built to acceptable standards, would provide for the whole road to last for decades and mitigate the negative impacts of the construction on the residents.

Mr. Stempski presented a summary of the current draft proposal. The last written offer was a payment of \$25,000 to West Lakeland Township and \$25,000 to Baytown to compensate for the vacation of the road easement. The draft settlement includes that payment. It also includes additional screening along Neal and at the intersection of Neal and 30th Street. There are three infiltration basins that take storm water from the realigned portion of 30th Street. The agreement documents that these three basins are the responsibility of MAC to own and maintain in perpetuity. If the road is accepted, West Lakeland Township and Baytown Township would enter into a written agreement to be responsible for the maintenance of the road and the outfall points to the filtration basins. MAC's contractors will be responsible for the repair to correct any damages they create to the road from construction during all phases of MAC's project. Initially, the repair from the realigned portion of 30th Street westerly toward Manning Avenue was proposed as a mill and overlay due to MAC's contractors use of this segment as a haul route. As part of the draft settlement, the road connecting to the rerouted section will be fully reconstructed and include 18 inches of sand base, 8 inches of aggregate base, and 6

West Lakeland Township

April 13, 2020

7:00 p.m.

Web Conference

inches of asphalt. MAC will pay for approximately 71% of the estimated \$685,300 total project cost, with the remainder shared between West Lakeland and Baytown. The road, including the newly rerouted section and the rebuilt section, would be a 9 ton road, according to MnDOT Standards.

Attorney Dan Gregerson noted that there is not a settlement agreement in place, but a draft that is under discussion and negotiation. The draft has been circulated for review. Discussions with legal staff and engineering staff will continue. The intent is that the final draft be brought forward for board consideration at the May 2020 regular meeting, including exhibits that will detail the landscape plan, roadway easement, maintenance agreement, etc.

Mr. Gregerson noted that if an agreement could not be reached, and MAC proceeded with condemnation, the chances of successfully challenging the action were slim. The last written offer for the value of the easement was \$50,000.

Supervisor Schultz noted that the initial appraisal was much lower than the current estimate of \$50,000, and asked if an independent appraisal would be of value. The township has the right to get an independent appraisal. Supervisor Schultz also asked about the impact of runoff from the runway on the road surface. Mr. Stempski responded that there are a number of water management control included in the road design, and does not see that there would be issues as long as the road is constructed to that design and that any future upstream MAC projects meet VBWD Standards.

Supervisor Appelt asked about the relative cost to maintain the rerouted section of road, as compared to other roads in the township because of the curve. Mr. Stempski responded that because of the curvature, more signs are required, centerline striping will need to be maintained, and more salt/sand applications might be required. Mr. Stempski noted that the filtration basins will assist in removing contaminants from the salt/sand treatment on the road. Chairman Kylo noted that the road currently drains into a holding pond or wetland, and the filtration basins represent better water management practices.

Supervisor Appelt asked about the agreement with Baytown to maintain cost sharing for road maintenance. Chairman Kylo noted that Baytown has indicated that they will continue to share the costs. The agreement will be in writing as part of the final draft settlement.

Supervisor Schultz noted that Valley Branch Watershed District, at the March 10, 2020 Manning Avenue Project kickoff meeting, wants to do a water quality and water transfer study to address water issues in this area in a more permanent fashion. Supervisor Schultz also noted that the April 9, 2020 informational session on the Airport realignment was that the grading for the runway and storm water management would be in 2021 and the final stages of construction would be in 2021 and 2022. He expressed concerns that water management controls for these future stages could be met.

Mr. Stempski noted that he was also present for these meetings and noted that West Lakeland is part of the committee to discuss these wetlands further, and would be able to provide input to the design as the project moves forward. He has confidence in the professional capabilities of the Valley Branch Watershed District and their technical staff. Mr. Stempski also noted that there is land available to provide for storm water mitigation. The optimal solution would have been to have complete designs for all stages, but Valley Branch agreed to authorize the work in phases. There are a number of tools available, and Valley Branch will issue permits only if the mitigation is complete.

Chairman Kylo noted that the details of Phase 2 and Phase 3 are not part of the decision currently in front of the Township. West Lakeland and Baytown township are facing a deadline of June 15, 2020 for the vacation of the easement or the condemnation of 30th Street. When asked if the date of June 15 could be moved again, Mr. Gregerson noted that the date is most likely firm. MAC has existing contracts to begin construction and is most likely facing deadlines that could impact funding.

West Lakeland Township

April 13, 2020

7:00 p.m.

Web Conference

Ms. Winchell noted that a public hearing would be required before the board could consider a vacation of the road easement.

Supervisor Schultz asked about data from the settlement plates placed in the roadway. Mr. Stempski noted that data has been pulled monthly, but there has been little activity over the winter. He should receive more data by end of the week.

Chairman Kylo expressed his opinion that the agreement under discussion provides the best possible solution for the entire roadway, including the rebuild of the haul route utilized by MAC. There is a huge risk that if condemned, the Township will receive little in compensation. His interest is to provide the best option for the township and the residents. Supervisor Schultz would like the information from the TEP meeting and the data from the settlement plates before proceeding.

Chairman Kylo asked for comments or concerns to be addressed to the clerk. Ms. Siefert will collate the questions and responses and the board proposed a special meeting on April 28, 2020 to discuss these concerns. Mr. Gregerson and Mr. Stempski will continue to communicate with MAC on the draft settlement.

Chairman Kylo moved to hold a public hearing to consider the vacation of the easement on this segment of 30th Street at the May regular meeting. No second was received.

Approval of the Minutes:

Chairman Kylo moved to approve the minutes of the March 2020 regular meeting with minor corrections. Seconded by Supervisor Appelt, the motion carried unanimously.

Chairman Kylo moved to approve the minutes of the 2020 Organizational Meeting held March 18, 2020 with minor corrections. Seconded by Supervisor Appelt, the motion carried unanimously.

Chairman Kylo moved to approve the minutes of the March 5, 2020 special meeting concerning the 3M PFAS Settlement. Seconded by Supervisor Appelt, the motion carried unanimously.

It was noted by the clerk that Mr. Eric Schutz omitted bringing one property forward, that of Terry Emerson, for review at the Local Board of Appeals and Equalization. Chairman Kylo will discuss with Mr. Schutz how best to provide for this property that was not part of the discussion at this meeting. Supervisor Schultz moved to approve the minutes of the Local Board of Appeals and Equalization. Seconded by Chairman Kylo, the motion carried.

Treasurer's Report

Ms. Olson presented the treasurer's report for March 2020, reflecting \$18,039 in receipts and \$41,288 in expenses. Chairman Kylo moved to approve the report and pay the invoices presented. Seconded by Supervisor Appelt, the motion carried unanimously. Checks will be held at the township office for signature outside the meeting.

Emerald Ash Borer:

Mr. Matt Schmidt, M&S Tree Service, noted there are approximately 500 ash trees in the Township right of way. Recently, there have been inspections for emerald ash borer in those trees. In the Wynstone area, there are 6 trees noticeably infected, but the area should have a more detailed inspection. In Waterford, there is no identifiably infected trees, but it is likely also present in that area. Mr. Schmidt explained how the infestation can be spread and can be controlled.

Supervisor Schultz asked that the township consider a shade tree pest ordinance, and if additional controls or definitions need to be added to maintain the trees in the township right of way.

Supervisor Schultz and Mr. Schmidt will do additional survey and propose a mitigation plan.

West Lakeland Township

April 13, 2020

7:00 p.m.

Web Conference

M&S Tree Removal Contract

Supervisor Schultz presented the contract for M&S Tree removal for 2020. The cost for removing brush increased over 2019. Chairman Kylo moved to approve a three year contract. Seconded by Supervisor Schultz, the motion carried unanimously.

Street Sweeping Contract:

Supervisor Schultz presented the contract for 2020 with Miller Excavating for street sweeping. The contract reflects a 2-4% increase from 2019. Supervisor Schultz moved to approve the contract with Miller Excavating for street sweeping for 2020. Seconded by Chairman Kylo, the motion carried.

Sign Resolutions

Resolution R-2020-3, regarding the variance approval for Mr. McLeod granted at the March 2020 regular meeting was presented for signature.

Resolution R-2020-4, regarding the interim use permit for a home occupation granted to Mr. Kiesling at the March 2020 regular meeting was presented for signature.

Additional Business

Supervisor Appelt raised a concern from a resident about a barking dog. The procedure for response was reviewed.

Mr. Votava noted the planning commission will be meeting via Zoom Meeting on Thursday, April 16, 2020. The agenda will include the request to rezone MnDoT property and the proposed shade tree pest ordinance.

Supervisor Schultz reported on the cost to install township identification signs. The cost for six signs is estimated at \$1,069 with another \$750 for installation. No action was taken at this time.

Adjourn:

Having no further business, Chairman Kylo moved to adjourn the meeting. Seconded by Supervisor Appelt, the motion carried unanimously. The meeting was adjourned at 11:37 PM.

Respectfully Submitted,



Elizabeth A. Vance
Secretary