

## WEST LAKELAND TOWNSHIP

May 9, 2016

7:00 p.m.

Oak-Land Jr. High

Present: Chairman Dan Kyлло, Supervisor Steven Ebner, Supervisor Dave Schultz; Carrie Seifert, Clerk; Mary Rinkenberger, Deputy Clerk; Mr. Scott McDonald, Township Attorney; Ms. Marsha Olson, Treasurer,

### **Public Hearing – Renewal and Amendment of the Conditional Use Permit for Hardrives Inc., 15001 Hudson Road**

Chairman Kyлло called to order the public hearing to consider an application by Hardrives Inc. (Tower Asphalt) 15001 Hudson Road, for the 5 year renewal of its existing conditional use permit for production of hot mix, stockpiling of materials and related activity at 7:02 PM. They are also requesting an amendment to the conditional use permit to allow rock crushing on the north portion of their property for one week intervals, three times per year.

Mr. Kevin Gannon, Hardrives Inc., presented the proposal. The amendment is to crush raw materials imported to the site and then stockpiled as crushed material to be used at the current asphalt plant. The area selected for the crushing activity sits lower than the remainder of the site, and has 10 ft. high berms along the frontage road. Crushing is currently done outside the Township. Moving the location and adjusting the time frame would allow for about 25% more material to be crushed and stockpiled, about 9,000 to 15,000 tons more per year. The material being crushed is rock to dust fines or smaller material for the manufacture of asphalt. Tower Asphalt has operated on the site for 50 years, and Hardrives has owned the site for the past 7 years. In that time, there have been no noted complaints from neighbors or MPCA. Crushing on site would allow for a more efficient operation. The current permit does not specifically state that this section of the site would be used for crushing or storage. Truck volume would remain the same as currently experienced, with a change in the nature of the materials being transported.

Mr. Dave Dupay presented the planning commission review. The commission determined that this is an appropriate use for the property along the highway, and has sufficient screening for visual impact and noise.

Dr. Cynthia Peak McGalvin, 15340 Painter's Lane, spoke in opposition, noting concerns with potential adverse effects from asphalt plants, adverse impact on the aquifers, and potential loss of property value. Specific documentation will be provided to the town board in the coming weeks. She would like to see an environmental assessment completed, and a petition has been initiated to request such a review from the Minnesota Pollution Control Agency.

Mr. John McGalvin, 15340 Painter's Lane, asked about the time limits requested for the added crushing activity, and how it would impact dust and fumes. Mr. Gannon noted that the plant would operate three times per year, and would operate under a permit issued by the MPCA. The material would be watered down to minimize dust.

Ms. Cheryl Rock, 1295 Omaha Ave, spoke in opposition to the proposal because of potential damage to the environment, road quality, air quality and home value.

Chairman Kyлло noted that each of the mining operations in the township is required to renew their conditional use permit with the township and Washington County every five years. Mr. Matt Logan, 655 Novak Ave, and Mr. Jim Miller, 1161 ORyan Trail, asked of the climate of the township has changed sufficient such that the mining operations are no longer appropriate uses. Attorney Mr. McDonald noted that there needs to be a substantive reason to not renew an existing permit. To end mining in the township, the use would need to be condemned.

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Chairman Kylo closed the public hearing at 7:45 PM

### **Call to Order**

Chairman Kylo called to order the regular meeting of the West Lakeland Town Board at 7:45 PM.

### **Request for Renewal and Amendment of Conditional Use Permit for Hardrives Inc.**

Chairman Kylo noted the discussion regarding the impact of asphalt plants. The asphalt plant on this site has been in operation for a number of years, and meets the standards set by the MPCA permit process. The board trusts that the MPCA is maintaining appropriate safety standards. Chairman Kylo noted he believes that the asphalt plant and mining operations can be part of the West Lakeland Community when properly managed, and the board is committed to continue to monitor that activity. The roads used by Hardrives are designed to support this type and volume of traffic. He does see some concern with the hours of operation extending until 9 PM. He would like to see additional restrictions on the hours of operation for rock crushing to allow for limited potential noise in the evenings. Supervisor Ebner asked about the impact on truck traffic from the site. Mr. Gannon clarified that all material is imported into the site, whether as raw rock or crushed materials. There should be no substantive change in the volume of truck traffic. Supervisor Schultz noted that the site has been active since 1964 and the area is zoned for commercial business along the interstate, but does have concerns with hours of operation extending until 9 PM.

Chairman Kylo moved to approve the 5 year renewal of the conditional use permit for Hardrives Inc., with the amendment to allow for rock crushing as requested for three one week intervals per year, limiting the hours of operation for the crushing from 7 AM to 5 PM Monday through Friday, and to direct Mr. McDonald to prepare a resolution to document the approval. The motion was seconded by Supervisor Ebner. It would be incumbent on Hardrives to notify the township prior to commencing any rock crushing period. The motion carried.

### **Approval of the Minutes**

Supervisor Schultz moved to approve the minutes of the April 2016 regular meeting with minor corrections. Seconded by Supervisor Ebner, the motion carried.

Supervisor Ebner moved to approve the minutes from the special meeting of 4/4/2016 with minor corrections. Seconded by Supervisor Schultz, the motion carried.

Supervisor Schultz moved to approve the minutes of the organizational meeting held 3/16/2016 with minor corrections. Seconded by Supervisor Ebner, the motion carried.

Supervisor Schultz moved to approve the minutes of the Local Board of Appeals and Equalization. Seconded by Supervisor Ebner, the motion carried.

### **Treasurer's Report**

Ms. Olson presented the report for April 2016, reflecting \$93,176 in receipts and \$22,877 in assets. The report reflects \$1,601,394 in current assets. Supervisor Ebner moved to accept the report. Seconded by Supervisor Schultz, the motion carried.

### **Pay Invoices**

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Supervisor Schultz moved to pay the invoices presented for payment. Seconded by Supervisor Ebner the motion carried.

### **Request for Secondary Living Structure.**

Mr. Terry Marich, 1943, Nolan Ave, requested before the board to discuss the possibility of replacing the existing detach garage with a separate living structure for their adult handicapped son. It would be difficult to bring the house up to standards sufficient for his needs, and Mr. and Mrs. Marich would like to have him close enough to provide the level of needed care and still allow for a sense of independent living.

The board discussed if the request could be considered as variance. The board is sympathetic to the request, but the ordinance specifically does not allow a second home on a single lot, and does not allow a residence in an accessory structure. A change in zoning might also be required, as the lot is currently zoned as single family residential. It was suggested that the homeowner consider an alternative that attaches the handicapped dwelling to the existing house. If attached to the primary residence, this would fall within the definition of a single dwelling.

### **Washington County Housing and Redevelopment Authority**

Ms. Barbara Dacy, Executive Director of the Washington County Housing and Redevelopment Authority, presented a new effort on the part of the County to work with local municipalities in developing economic development programs. A strategic plan was completed in 2014 for a more formal program to support and attract economic development. The county wants to take a more specific approach to help communities fulfill their goal with regard to economic development, and work to build a stronger relationship with the business community. Chairman Kylo asked about the ability of the HRA to levy for funds, and the agency does have levy authority up to 0.81%. Ms. Dacy noted the rationale for all in the county to participate in the funding is that all residents will benefit as the tax base grows and job opportunities are increased. Supervisor Ebner moved to approve the draft resolution provided by Washington County supporting the action to confer economic development powers on the Washington County Housing and Redevelopment Authority. Seconded by Chairman Kylo, the motion carried.

### **Mike Caron, Director of Land Use Affairs for Tiller Corporation**

Mr. Caron approached Chairman Kylo to see if the board was interested in hosting a second informational meeting regarding the proposal for an asphalt plant at the Tiller pit. No decision has been made to move forward with the proposal at this time. The Tiller staff believes that there is still a need to clarify some misinformation. The board expressed the opinion that additional informational meetings should be hosted by Tiller.

### **Washington County Role in Land Use Issues and Official Control**

The board discussed the request of Washington County to transfer land use management and control from the County staff to the townships. Supervisor Schultz expressed concerns with the transfer of management and review of Major Subdivisions because of the limits of the Township in terms of staff time and experience. The Township relies on part time staff and volunteers. Mr. Dupay replied that he felt confident the Township is capable of the review, with the watershed authorities providing additional expertise in this area. Chairman Kylo noted that the comprehensive plan is also due to be updated,

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which correlates with the transfer of the zoning authority to the township. The cost estimate for the update of the comprehensive plan is at approximately \$10,000 to \$15,000.

Chairman Kylo moved to approve support of the transfer from Washington County land use issues and official controls, and to direct Mr. McDonald to draft a resolution or amend the draft resolution to document support of receiving authority for zoning and land use with the exception of gravel mining, shoreland, bluffland and septic. Supervisor Ebner seconded the motion. The motion passed with a nay vote from Supervisor Schultz.

### **Amended Section 10 of Town Code Regarding Home Occupation Uses**

Supervisor Ebner noted there were changes from the last draft, including a number of wording corrections, as prompted from the public hearing comments. Mr. McDonald noted that there needed to be standard on when additional vehicle storage can be allowed. The draft was tabled to allow for additional review in the definitions and standards

### **West Lakeland Data Practices Policy**

The board reviewed a draft of the data practices policy for West Lakeland. The board discussed how to address the need to balance public and protected information, and noted that the clerk may need to call for legal advice if uncertain how to proceed to meet the request. Supervisor Ebner moved to approve the draft Data Practices Policy for West Lakeland regarding data subjects, members of the public, and the public information request form. Seconded by Chairman Kylo, the motion carried.

### **Codification of West Lakeland Town Code for MNCIS Mandatory E Filing**

Washington County is requiring that all ordinance violations need to be filed electronically with the State MNCIS system. To comply, the town code needs to be entered into the MNCIS system. Mr. McDonald presented an estimate of 12-15 hours, approximately \$2,200, to complete that work. Chairman Kylo moved to authorize Mr. McDonald to coordinate for the work to be completed. Seconded by Supervisor Schultz, the motion carried.

### **Road Maintenance Activity**

Supervisor Schultz provided a summary of the work to be completed over the summer at 10<sup>th</sup> Street and Manning.

Bids were opened for the joint venture with Lake Elmo for seal coat, and came in lower than anticipated. The higher cost CRS2P emulsion can be used and stay within the budgeted amount for the work. Supervisor Schultz moved to authorize the board chairman to sign the contract for seal coat, after review by the City of Lake Elmo, for seal coat with CRS2P emulsified asphalt for \$58,000. Seconded by Supervisor Ebner, the motion carried. Work should begin mid-June.

Supervisor Schultz moved to sign a quote for street patching with RCM Specialties for \$56,252 for patching township roads as planned. Seconded by Chairman Kylo, the motion carried.

Supervisor Schultz moved to sign the quote for street patching in a joint venture with Baytown for 30<sup>th</sup> street with RCM Specialties, with a total project cost of \$20,825 and a township cost of \$10,412.50. Seconded by Supervisor Ebner, the motion carried.

Supervisor Schultz moved to authorize a contact for right of way and ditch mowing for township road with M&S Tree Removal at \$85 per hour, with two mowing periods in the spring and fall. Seconded by Chairman Kylo, the motion carried.

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Supervisor Schultz moved to authorize a contract with M&S Tree Removal for tree and brush removal for the coming year. Services are completed on an as-needed basis. Seconded by Supervisor Ebner, the motion carried.

### **Additional Business**

Mr. McDonald noted that the violation of the home occupation permit by Mr. Bob Lind is now in court litigation and his firm is actively gathering affidavits. A complaint should be processed by the next regular meeting.

Supervisor Schultz noted that the plan for the expansion to the Lake Elmo airport has been passed forward to the Met Council Transportation Committee.

Mr. McDonald presented the resolution documenting the approval of the 5 year renewal for Aggregate Industries conditional use permit as approved at the April regular meeting.

### **Adjourn**

Supervisor Ebner moved to adjourn the meeting. Seconded by Supervisor Schultz, the motion carried. The meeting was adjourned at 10:00 PM.

Respectfully submitted,



Elizabeth Vance  
Recording Secretary