

Lansing Township Board Special Meeting

November 20, 2019

Members Present: Duane Mortensen, Gary Braaten, Lynn Allas, Mark Ratigan, Kris Allas

Chairman Mortensen opened the Special Meeting at 5:00 p.m. with the Pledge of Allegiance.

Introduction of Attorney Troy Gilchrist, Attorney Michael Drysdale for SKB.

Attorney Troy Gilchrist presented the points of tonight's hearing: set up a meeting, host fee agreement, road agreement, letter to MPCA for modifications, Resolution to enter an agreement.

SKB presentation: included the requests for the history of permitting site, 1996 drawn up by Dick Wehner, 32.5 acres. 2002 SKB purchased and had 2<sup>nd</sup> drawings with 32.5 acres and 36' elevation. PCA didn't issue a permit. 2007 PCA didn't issue a permit, 2011 PCA not change the capacity, cut top of land on drawing. Wenck 2016 shows 32.5 acres originally, is actually only 30 acres, smaller footprint – above water tanks. Last drawing, Vonco Veit to be built up out there.

Perry Byam: What is the slope?

Attorney Gilchrist: regardless, SKB has to comply anyway.

Attorney Drysdale: township objected according to zoning ordinance, diminishing doctrine, not allowed to go beyond boundaries – contrary view. Host Agreement: this is formalizing road maintenance, 243<sup>rd</sup> to the landfill, ultimate role is the township. Key features – payments start, rate per ton, attorney fees: landfill will pay from January 2, 2019. No granting of any rights for 50 acres, obligate township future requests, all contingent on MCPA, pay accrued 1/2019 to 30 days forward. Nothing for landfill in future, prohibits mixed.

Bill Stegemann: in the 2012 Minutes, there is a conflict of interest for Gary and decisions of SKB.

Attorney Gilchrist: no, there is no conflict of interest now.

Lynn Allas: not enough time to read the emails and documents.

Attorney Gilchrist: discussion regarding backdating and accrue host fee to 1/1/2019.

Lynn Allas: the money wasn't decided on, \$.25 is not enough.

Duane Mortensen: reviewing the host fee, \$.25 is \$35,000.

Attorney Drysdale: Either party has the opportunity to revisit its term.

Duane Mortensen: is the host fee negotiable in a few years?

Lynn Allas: leave the vote to our people, \$35,000 isn't a lot of money, and the problems that are going to occur doesn't matter what County or City of Austin gets, we need more money and clearer.

Perry Byam: is it adjusted for inflation? Over a period of 10 years, getting less every year.

Attorney Drysdale: base rate is higher than the County, incremental change, and back dated to January 1.

Attorney Gilchrist: does not have to enter into the agreement, the landfill will always be there.

Attorney Drysdale: legal issue – do we have a right to expand?

Lynn Allas: its' about fairness, we need more.

Attorney Gilchrist: do you have a # in mind?

Lynn Allas: \$.40

Attorney Drysdale: the offer is presently what it is.

Duane Mortensen: 2019 host fees

Bill Ryther: the Board made a deal on compacted yardage, what comes across the scale plus \$.05, take the money and run.

Ida Larson: The ordinance in place that prohibits the expansion.

Attorney Gilchrist: landfill is not use – non conforming, can continue to operate with certain restrictions, legal disagreement – SKB elevation is. Has a right.

Ida Larson: Is there room for height expansion?

Jeff (SKB): 16' more.

Attorney Gilchrist: that's the disagreement, non conformities, can not expand but SKB non conformity rights are not the same as on maps originally made. This is viewed as a settlement.

Attorney Drysdale: current permit does not, MPCA does not want to grant a lot under the non conforming use.

Duane Mortensen: 16' higher?

Jeff (SKB): original drawing goes to a peak, our drawing has a flatter top.

Julie Hechimivich: liners and layers, a lot more pressure for 16'.

Jeff (SKB): PCA will look at that.

Attorney Drysdale: this was originally designed.

Bill Stegemann: according to Troy's email, the final elevation is 1362 – 65' increase, they are asking for 3 million feet

Attorney Gilchrist: you can send a letter to PCA from the township, locking them into their current permit. Is the town's original position. Do we argue with the Court? Can we reach thru these agreements?

Mark Ratigan: Is this going to change the ordinance?

Attorney Gilchrist: the obligation of the township and withdraw the objection.

Gary Braaten: redo the ordinance?

Attorney Gilchrist: basis of letter was withdrawing the objection. This agreement does not, and they have to comply – County is not in the sequence, MPCA approves it.

Perry Byam: we should change our ordinance for this and this? Are we in a trap, and broke the precedence.

Attorney Gilchrist: this will not have a snoball or recurring, they have the right to go to their ultimate design capacity excluded the 50 acre site.

Attorney Drysdale: this document does not.

Jeff (SKB): highest point

Perry Byam: if you want changes here, so change them.

Bill Stegemann: Mark Ratigan, get the email? Troy sent Section 15.1E, expansions of conforming.

Attorney Gilchrist: diminishing argument, town's position has been locked in.

Bill Stegemann: so we should undermine our town's ordinance?

Attorney Gilchrist: they have the right to expand to their ultimate.

Bill Stegemann: Why can't the Board take the chance?

Attorney Gilchrist: the Board has to make the decision.

Bill Stegemann: to Troy – how long and rate would it take to play the Courts out?

Attorney Gilchrist: if a lawsuit – submit it to insurance, they would appoint a defense attorney, would be some costs, ultimately it would be a big blow to the town – any damages? Not typical.

Duane Mortensen: any questions?

Bill Stegemann: lets reflect on previous months, take the money, ordinance prohibits it, if you agree. Can have a conditional use permit? Under these documents townships have no, I say to vote no. They should bring an amendment to the ordinance.

Attorney Gilchrist: does not undermine ordinance – law cuts thru the ordinance. Lawsuit – if judge decides they get to expand – seek to amend ordinance.

Duane Mortensen: could do in the future.

Attorney Gilchrist: get it done.

Duane Mortensen: we have a missing board member – Steve

Attorney Gilchrist: it's okay to vote.

Dave Wiggins – division president. 2016 – approval for final PCA – original design was approved. PCA no attention of getting to the current design at that point. Should we be a good neighbor: and no other business pays a royalty – let's make it better and work it out. We don't want to fight with anyone, we fixed the road, neighbors are accommodating – in the scenario, we are asking for what we do and our original design and thought we would have conversations. We just want to continue.

Perry Byam: do you know how bad it stinks, like a sewer.

Bill Stegemann: to Mr Wiggins – PCA have the original design with the current permit?

Attorney Drysdale: current permit has had the ultimate design all along.

Dave Wiggins: we want \$.20 and you want \$.30, meet you in the middle \$.25.

Jeff (SKB): initial proposal paying accrued from 1/2019 and attorneys fees.

Gary Braaten: no dollar host fee.

Lynn Allas: \$.30 was stated.

Dave Wiggins: Host Fee – State Statute – mutual agreement, taking construction and demolition, bear in mind, giving you double.

Bill Ryther: discuss it and put it to bed.

Perry Byam: nothing gets put to bed.

Ida Larson: Is the Board trying to make money for the township? Or look over the situations, is it the job of the Board to make money?

Attorney Gilchrist: communities do.

Dan Vermilyea: job of any elected official is to be fiscally responsible.

Gary Braaten: Steve Torgerson called and had a funeral, he would like a vote for all Board members.

Lynn Allas: no vote, can it wait until December?

Attorney Drysdale: would like a vote, but lawsuit won't start.

Attorney Gilchrist: Resolution, wait until next month?

Willard: what if 2 of you have the flu? Next month, we are not prepared to have a retro pay continue, space is proposed to last 10 years – both sides.

Mark Ratigan: What amount for 1 year?

Jeff (SKB): 140,000 tons.

Willard: we don't want to come back time after time.

Lynn Allas: made the motion to take a vote and ask for more money from \$.25 to \$.37 host fee.

Motion failed

Bill Stegemann: we are running into the Public Hearing before 7 p.m.

Willard: offer we are willing to agreement.

Attorney Gilchrist: \$.25 per ton, qualified waste and unreimbursed attorney fees – back to the first of the year.

Mark Ratigan made the motion for \$.35 host fee, Lynn Allas seconded.

Roll Call: Mark Ratigan: Yes

Gary Braaten: Yes

Duane Mortensen: Yes

Lynn Allas: Yes

Lynn Allas made the motion to table to next Board meeting, December 18, 2019 at 7:00 p.m., Mark Ratigan seconded. Motion passed.

Gary Braaten made the motion to adjourn at 6:44 p.m., Lynn Allas seconded. Motion passed.

Respectfully submitted,

Kristine M. Allas, Clerk