

COUNCIL OF TRAPPE MINUTES

JUNE 9, 2010

7:30 P.M.

TRAPPE TOWN OFFICE

A special meeting of the Council of Trappe was called to order by President Robert Croswell at 7:30 p.m. The meeting was opened with the Pledge of Allegiance. President Croswell stated that Commissioner Fegel has another obligation and Commissioner Dorbin is ill and unable to attend the meeting, however, Commissioners Chase, and Potter were in attendance. President Croswell hoped there wasn't confusion about what the meeting was about. He stated he would ask the Town Attorney, Brynja Booth, to make further explanations after his introduction.

President Croswell gave a brief introduction on the purpose of the meeting. The Town of Trappe and the developer of the Lakeside project signed a Developer's Rights and Responsibilities Agreement (DRRA) which has been in place for some years. Periodically we get together and mutually decide and exchange assurances that we have each upheld our end of the bargain, and sign assurance statements. During the previous year we had discussed, with the developer, how we wanted to serve the development with waste water and are exploring the idea of upgrading/enlarging our existing wastewater treatment plant (wwtp) instead of building another plant. We have surrendered the construction permit for that wwtp and are actively pursuing the requirements including an engineering study to determine the best way to accommodate the developer's wwtp needs on our site. Commissioner Croswell asked Brynja to come up with a way to memorialize that agreement - that they are not unhappy that we surrendered the permit, and we are not unhappy that they aren't going to build a new wwtp over there. So, we have this process tonight. We are not opening the DRRA tonight, this does not address that, and none of the terms are changing tonight. President Croswell turned to Town Attorney, Brynja Booth, to continue the explanation of the DRRA.

Mrs. Booth stated most of the folks here know that the town and developer entered into a DRRA in 2006 and under that agreement under Section 13 every other year the town is required to undertake a review. The petitioners submit a report with key information like housing units developed – in this case none, infrastructure, status of participation in the public infrastructure financing, and any other information we want to discuss under the DRRA. We've had a couple of those meetings, and at the conclusion we typically give each other an estoppel certificate making sure everything is in order. That's all we are here for today. On May 11th Ryan Showalter, attorney for the developer, submitted a good faith compliance review report to Mrs.

Booth who provided it to the Council and incorporated some of the understanding with respect to the wwtp as requested by the Council. Those were the only additions to the report.

President Crowell asked Ryan Showalter if he would like to add anything. Mr. Showalter stated that for the new commissioners, and the public, the reason for this process was negotiated and created in the DRRA is - it's expected that when the project commences construction there will be a lot of activity in different places, and in different phases. It was thought it would be helpful for the Council, Developer and the Public to have periodic updates. This almost seems like a pro-forma waste of time since at this time with the housing market we don't have a lot to report. We are complying with the DRRA and have submitted the report. Hopefully the next time we have one of these it will be much longer and we will have more to report.

President Crowell asked if anyone had a question for either attorney. Laird Wise directed a question to Mr. Showalter-Have you identified any builders who are interested in the project? That would trigger when things would start. Mr. Showalter-we are actively working on that.

President Crowell interjected that is off topic, and not why we are here tonight. The developers will make an informal public presentation when they have something to show us. They are willing to do that. We are not quite at that point. Tonight is to prove the formality of their report. President Crowell asked for definition of the estoppel certificate. Mrs. Booth stated that this is a one page documentation where the town certifies to the developer that there has been no breach of the agreement, and the developer certifies to the town that there has been no breach of the agreement. It recognizes that there will be a time when the DRRA needs to be renegotiated as we progress thru that process in terms of using the existing wwtp. Mr. Wise raised a concern about the recent TMDL changes, and coming EPA mandates. This could limit some of the things you want to do. Mrs. Booth stated this isn't the right time to discuss that, however, we have an existing discharge permit and we are operating within those parameters. At the time required we will upgrade the plant to an enhanced nutrient removal (ENR) because this is a land operation on the Trappe East side we won't be under the TMDL for land application as this will not be a point source discharge. There is a discharge permit for that side.

Mr. Wise asked if the original site identified as land application has been changed. Is it still the Baynard property? Mrs. Booth says it has not been changed. Mr. Showalter stated it is part of what was, and is still known as the Fox Hall property. The spray irrigation is at the east end of Backtown property. Mr. Wise insisted that a contract had been negotiated with a different owner. Mr. Showalter stated that the spray irrigation disposal permit is only on the Fox Hall property. There is no other contract currently or proposed on the Baynard property. The petitioner Trappe East Business Holdings Trust owns the entire project site with one exception. Mr. Wise asked if the EPA may require more stringent regulations for land application. Mr. Showalter stated that

the town holds a permit to discharge on that property whether the EPA comes up with more or less stringent requirements the project will comply and meet them. President Croswell redirected the meeting back to the subject at hand, and stated we are looking at where we stand today regarding our obligations with the current DRRA the way that it is written. You are premature and are looking forward to the future. At some point in time if EPA or MDE changes the rules both parties will have to deal with that. This requirement looks backwards. Have we complied- have they complied with the agreement.

Mr. McHale asked did I understand you to say that the developer has an obligation to build a wwtp on the other side of Route 50-that is still in the current DRRA? To the extent that you agree to negotiate a modification to this plant-is that a process of future public hearing? Mrs. Booth stated any amendment of the DRRA would be a public process. President Croswell stated nothing has changed in the DRRA, and the developer acknowledges that we are looking into the options of modifying our existing plant. At the point the engineering studies are done then we would have to negotiate it at that point down the road.

Mr. Showalter asked to add one thing to the record. Last year there was one change to the DRRA. The Town approved an assignment agreement. The original DRRA was between 7 to 9 LLC's and individuals. The property was acquired by one entity Trappe East Buildings Trust. So the obligations of all the underlying entities were assigned to Trappe East Buildings Trust.

Mr. Michael Sullivan asked in the existing DRRA is it clear whose financial responsibility the expansion or upgrade will be? Or is that a subject of negotiation? Mrs. Booth stated that the document states in numerous places it is their, the developers, responsibility.

President Croswell asked Mrs. Booth to read the resolution 6-2010 aloud for the record. Mrs. Booth also read the Estoppel Certificate.

Commissioner Chase made a motion to adopt Resolution 6-2010. Commissioner Potter seconded the motion. No discussion on the motion.

Vote:

Dorbin - Potter – Y Croswell – Y Chase – Y Fegel –

President Croswell stated the resolution will be posted on the website shortly or those wishing a copy can see the Clerk and purchase a copy. During the year I have been in office it has been a pleasure working with the developer. They have been very cooperative, and open to our suggestions. We are looking forward to moving this forward.

Meeting adjourned at 7:56 p.m.

Respectfully submitted

Joedy Cecil, Town Clerk

Accepted by,

Robert H. Crosswell, President

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COPY