

Board of Trustees Special Meeting
April 23, 2019
09195 Old U.S. N, Charlevoix. MI 49720

Call to Order: Supervisor Ron VanZee called the special meeting to order at 7:00 p.m.

Members Present: Julie Collard (Treasurer), Warren Nugent (Clerk), Ron VanZee (Supervisor), Matt Cunningham (Trustee), Bob Jess (Trustee)

Audience Members: Dee Janz, Gary Janz, Roy Griffiths, Paul Zardus

Also Present: Kristin Baranski (Deputy Clerk/Recording Secretary)

Pledge of Allegiance

Conflicts of Interest: Supervisor Van Zee asked if there are any conflicts of interest. It is acknowledged that Mr. Cunningham worked on this project (Hayes Township Park/Camp Sea-Gull). Supervisor Van Zee requests that Mr. Cunningham recuse himself from any discussion on the part of the project he worked on (fishing pier/boat launch). Supervisor VanZee feels strongly that Mr. Cunningham as an elected Trustee participates in all discussion/decisions (excluding areas of conflict). The Board of Trustees agreed. No other areas of conflict declared.

Review of Agenda: All agenda items related to Phase 1 construction at Hayes Township Park/Camp Sea-Gull will be moved to the beginning of meeting (items 1 and 2 will follow all park items). Mr. Nugent requested that item #4 be clarified to PROPOSED change order. Matt Cunningham, supported by Warren Nugent, to approve the agenda as amended.

Yea: Julie Collard, Warren Nugent, Matt Cunningham, Bob Jess, Ron VanZee

Nay: None Motion Carried

Public Comments: Public comments regarding Hayes Township Park/Camp Sea-Gull will be taken at end of meeting. No Public Comments. Public Comments closed at 7:04 p.m.

New Business:

Supervisor VanZee stated the purpose of this special meeting is to determine what stage the project is at, what is left (per the contract) to be completed, any anticipated change orders and to address safety concerns.

Jim Malowitz (Performance Engineering) referenced the summary report he supplied to the board members on January 15, 2019. Per said summary, the following items need to be completed per contract: asphalt, all asphalt related items (painted lines, gravel shoulder), final site restoration; walk railing installed in the sidewalk along the seawall, trash bin, kiosk, stop signs, accessibility signs. Per Mr. Malowitz the contract is 86.37% complete. The contingency is at 2.9% of the 5%. He expects the full 2% contingency will be available to use. Supervisor

VanZee asked Mr. Malowitz if he sees any additional items that may come up and become contingencies to which Mr. Malowitz responds "I see no other obvious things ". Mr. Malowitz also stated that "there may be a little bit of fat" in a few items that he is "going to reclaim".

Mr. Nugent asked for clarification regarding the railings in the project.

There was discussion about the width of the sidewalk. Supervisor VanZee reminded Mr. Malowitz that we (the township) are the customer and that per the contract that sidewalk is to be 5 feet wide, whether ADA compliant or not, shouldn't 'we' get a 5 foot sidewalk. Mr. Malowitz stated that MDC made a mistake on that portion of project and that they (he and MDC) worked out deal and it was agreed that the depth of cement would be increased 6 inches to hold railing and the 4 1/2 foot sidewalk was still ADA compliant. He has already spoken to Paul (grant contact) about it. Mr. Jess asked why Mr. Malowitz didn't come to the township for approval with 2% left in the contingency. Supervisor Van Zee clarified that there was still 2% contingency left and the township could have had the 5 foot wide sidewalks and the extra 6 inch depth if he had come to the township. Mr. Jess stated that he feels this is a repeat pattern on this project. Mr. Malowitz replied that it would have been hard for MDC to correct the problem at the time it was brought to his attention.

Supervisor VanZee began the discussion regarding the difference in elevation of the boat launch and stated that there is a discrepancy between the specifications and ~~Risk Assessment~~ **DEQ permit**. Safety concerns, potential change order, concerns about a trailer going over the edge of boat launch, taxpayers should not have to pay for the discrepancy, should have been caught by engineer.

Mr. Malowitz stated that it was the contractor who was sitting right next to Supervisor VanZee (Mr. Cunningham) who built it. Mr. Cunningham stated that they built it from the drawings. Mr. Malowitz replied that the permit was correct not the drawings. Supervisor VanZee states that he believes it is something that needs to be worked out between the engineer and the contractors. Mr. Malowitz states that a rail was needed either way and if it had been part of the bid the taxpayers would have had to pay for it anyway. Supervisor VanZee stated that he has sat there for 2 years on the board and he has never heard anyone come to the board and ask if any and all of the safety issues that were taken out of the contract should have been. Mr. Malowitz responded that it was necessary to remove items not required by grant because of budget. Supervisor VanZee states that the problem is when Phase 1 of the project, with the contract being stripped down to accommodate budget, the township is left with a park that cannot be used. He adds this board does their due diligence and will not allow people in park based upon what the risk assessor said. Mr. Malowitz responds that with the 2% contingency the safety issues can be resolved.

The Board and Mr. Malowitz then ~~have had~~ a discussion regarding budget. Mr. Nugent makes it clear that the township has the money to complete Phase 1 with no additional change orders; any change orders will bring the township very close having to use the reserves. Supervisor

VanZee explains that it is best for the township to get a second opinion regarding any additional work that needs to be completed (excluding items in Phase 1).

Supervisor VanZee and Mr. Malowitz discuss the accuracy of the slope of the road in the park. Supervisor VanZee states that he wants slope to be 14%, per specs, not the 17% he saw measured recently. Mr. Malowitz will look into it.

Electric and water to the host house was discussed. Per Supervisor VanZee states it was in the contract that water and electric would always be maintained throughout project. Due to the road redesign, the water and electric need to be moved and reconnected. Supervisor VanZee does not want the taxpayers paying for this. Mr. Malowitz did not have his paperwork in front of him and will look into.

Supervisor VanZee directs the discussion to the shale wall. Mr. Malowitz refers to the GEO tech report he has. Per Mr. Malowitz after 'pulling apart' wall with backhoe during construction, the first winter there will be debris that will come down and each winter after debris will decrease. Supervisor VanZee has concerns that the amount of cubic yards that were excavated is more than what contract states and the GEO tech report was when wall was partially excavated and is not accurate. Supervisor VanZee states that Mr. ~~McCann~~ **McCain** was concerned about wall after winter as well. Mr. Malowitz states that he is confident in wall but will not guarantee it. Several board members have concerns about wall that include: debris falling, wall not stable, liability risk from possible climbing. Mr. Malowitz suggested that the solution is to put up signs to discourage the public from being in places that are safety concerns. Supervisor VanZee is of the opinion that asphalt not be put down until the township has a second opinion on the stability of the wall. Mr. Malowitz does not feel that is necessary.

The discussion returns to the budget and the township financials. The board is adamant that budget and monies reserve discussions in past were not accurate and were skewed to support park project. Ms. Collard requests again clarification from Mr. Malowitz on contracts and invoices. Mr. Malowitz states he will have information, which the township attorney requested months ago, by the end of the week. Mr. Malowitz states again that he called Marlene ~~(Golovitch)~~ **(Golovich)** and she stated that all information regarding contracts, etc. are in files at township. Ms. Collard states that she does not believe it is appropriate to contact former board members regarding current issues

Based on the concerns from the risk assessment and the questions unanswered from Performance Engineering regarding contracts and invoices, The Township Board, as a whole, is uncomfortable with going forward with this project until additional information is available. Mr. Malowitz warns that if the township extends the contract again, there may be a penalty. The township board and Performance Engineering are at an impasse regarding what is safe for visitors as well as fiscally responsible and what is required to be completed to receive grant money. The board is concerned about providing the community a safe park.

Public Comments: Public comments included: additional engineering costs, request for specific answers from engineer that address what was removed from park plan, the recall was a direct result of the boat launch and not listening to what the residents wanted, signage vs a barrier, concern about only negotiating with one bidder, who is overseeing work at park and why the discrepancies, ground water/springs in wall, we need another engineering opinion and not another penny should be spent, let's not fall apart when we are so close, address issues on business side as well as public side. Public comments closed at 9:15 p.m.

Host House Status Review: Several items (electrical, inspection, water) need to be addressed to get host house ready for host family.

Bob Jess made a motion, supported by Julie Collard, to authorize Warren Nugent to schedule (check with McCain first) work to begin on host house issues as soon as available. A role call was taken.

Bob Jess- Yea, Matt Cunningham-Yea, Julie Collard-Yea, Warren Nugent-Yea, Ron VanZee-Yea
Nays: none

MOTION CARRIED

Budget Workshop: A budget workshop is scheduled for May 8th, 2019 at 7:00 p.m. at Hayes township hall.

Warren Nugent made a motion, supported by Bob Jess, to inform Performance Engineers, Inc. and MDC that the Board recommends not to go forward with paving until the township receives additional engineering proposals.

Yea: Bob Jess, Matt Cunningham, Julie Collard, Warren Nugent, Ron VanZee

Nay: None

MOTION CARRIED

Julie Collard made a motion, supported by Matt Cunningham, to adjourn the special meeting.

Yea: Bob Jess, Matt Cunningham, Julie Collard, Warren Nugent, Ron VanZee

Nay: None

MOTION CARRIED

Meeting adjourned at 9:34 p.m.

Respectfully Submitted, as amended,

Kristin Baranski
Deputy Clerk/Recording Secretary