

## WEST LAKELAND TOWNSHIP

August 1, 2016

7:00 p.m.

St Lucas Church

Present: Chairman Dan Kylo, Supervisor Steven Ebner, Supervisor Dave Schultz; Carrie Seifert, Clerk; Mr. Scott McDonald, Township Attorney; Ms. Marsha Olson, Treasurer; Mr. Duane Stensland, Building Inspector; Mr. Dave Dupay, Planning Commission Chair

### **Public Hearing: To consider the adoption of amended Section 10 of the West Lakeland Code regarding Home Occupations**

Chairman Kylo called to order at 7:00 PM the public hearing to consider the adoption of the revised Section 10 of the West Lakeland Code. This section would replace the current section 10 relating to Home Occupation uses and amendments, and revision of Section 4.4.1 and 4.4.2 of the Town Code relating to allowed uses in the Single Family Estate district. Supervisor Ebner provided a summary of the proposed revision. The purpose of redrafting this section is to provide for more positive control of which uses would require a hearing and which would not, focusing on the business activity to differentiate between an allowed use, requirement for a certificate of compliance, or requirement for a public hearing. Factors that differentiate the uses are the amount of traffic, noise, activity, and other considerations that might impact the neighboring landowners. Current identified home occupations would be able to continue within the constraints of the current permit. Any new businesses or changes in activity with a current business would be subject to the requirements of the proposed ordinance. Chairman Kylo then opened the floor for public comment.

Mr. Vince Anderson, suggested there has been insufficient discussion of the revisions of this section, and for the justification for the need to allow home occupations in the SFE district at all. Mr. Anderson asked a number clarifying questions to the language, and suggested board consider the terminology of "shall" instead of "may". Chairman Kylo and Supervisor Ebner responded that the language of "may" was selected to allow the board the latitude to work with a landowner to find positive solutions. Mr. Anderson believes there are inconsistencies between this proposed section and other sections of the existing town code. Mr. Anderson noted that the revisions of Section 4 were not included in the published notice. Mr. McDonald noted that the revision to the notice did not make the deadline for publication by two hours, and after review it was determined that the substance of the hearing was addressed in the notice by the review of the amended section 10.

Ms. Cheryl Rock, indicated that she believed the language of "shall" to always provide for penalty, is a more fair way of implementing the ordinance. Mr. McDonald noted that with the language "may", the board is not required to force revocation with any violation, but is responsible for clearly delineating the rationale and findings with the facts supporting any decision. Revocation will be an option for the board with the proposed language.

Mr. Andrew Ulrich suggested that the definition of employee include independent contractors supporting the business. This comment generated a discussion of how best to manage persons on the site, and if travel or trip restrictions could provide the appropriate level of control.

Mr. Michael Mann asked about the rationale for grandfathering in all existing home occupations, and asked if there was concern with any uses in gross noncompliance. Chairman Kylo noted the board is not aware of any permit holder in violation, and that a violation of an existing permit would be grounds for revocation or review of the permit as a change in use.

Chairman Kylo closed the public hearing at 7:53 PM, and opened the meeting to discussion among the supervisors. Supervisor Schultz suggested the summary chart should more clearly indicate when a hearing is required, based upon the characteristics of the use. He also suggested that the definition of employee be reviewed to ensure that the language provides for the intent of the ordinance. Supervisor Schultz commented that the choice of "may" instead of "shall" allowed the board

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the latitude to address unforeseen circumstances. Supervisor Ebner noted that the board and planning commission have been working on this revision for almost two years, and the proposed language is far above the current language, providing more clarity and removing ambiguity. Supervisor Ebner noted that the comments from the last public hearing, and those comments submitted by Mr. Anderson, were considered with the latest revision.

Supervisor Schultz moved to extend the hearing to the next regular meeting, and direct the planning commission to review the definition of employee and the summary table, and moved to table any decision on the draft at this time. Seconded by Chairman Kylo, the motion carried.

### **Approval of the Minutes**

Supervisor Ebner moved to approve the minutes of the July 11, 2016 meeting, with minor corrections. Seconded by Supervisor Schultz, the motion carried.

### **Treasurer's Report**

Ms. Olson presented the treasurer's report for July 2011. The receipts of \$308,641 reflects the payment of property taxes. The report reflects \$60,955 in disbursements. Supervisor Ebner moved to approve the treasurer's report. Seconded by Supervisor Schultz, the motion carried.

### **Pay the Bills**

Supervisor Ebner moved to pay the invoices presented to the board by the treasurer. Seconded by Supervisor Schultz, the motion carried.

### **Public Comment**

Ms. Cheryl Rock asked about the Tiller Asphalt tours. She believes that the board should not have any role in orchestrating tours for the residents. It was put on the agenda because Chairman Kylo was asked by a resident who could not attend the first tour scheduled how it might be possible to attend more. It was suggested to publish contact information in the Township newsletter. Ms. Rock also voiced objection to the potential use of the land purchased by the Prairie Island Indian Tribe. No use has been requested to date.

Discussion followed on the potential of an open meeting with the tribal leadership as a way to introduce the tribe and begin to develop a relationship and start a dialog before any formal proposals are initiated. Chairman Kylo will contact the tribal council to determine an appropriate date for such an open meeting.

Mr. Jim Franklin noted the potential for the use the Prairie Island Indian Tribe could choose for this land classified as Federal Trust land could negatively impact the expectations he and his neighbors had for their land when they moved into the Township. Chairman Kylo noted that until there was a specific proposal, any discussion of potential use was just speculation. The township is researching the BIA process for inclusion in the Federal Trust Land, and the Township's possible direction and options.

Due to time constraints, Chairman Kylo closed the section for public comments.

### **Laurie and Russ Beebe, 12421 24<sup>th</sup> St N, Building Variance to Build an Accessory Structure in front of the Residence.**

Mr. Russ Beebe appeared before the board with a proposal to construct a detach garage closer to the street than the main residence. The concerns with building beside or behind the property are the location of the drainage swale, the steep contours on the lot, the wetlands, and the location of the

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septic and well. The request was referred to the planning commission and the clerk was directed to schedule a public hearing for the September meeting after completion of the application.

### **Review Township Ordinances to Comply with MNCIS System Requirements**

Mr. McDonald noted the review of the Ordinances to classify them to meet with the requirements of the MNCIS system revealed that there are sections of the ordinances that the board may want to modify to ensure that penalties are applied where appropriate. Supervisor Schultz asked if escalating penalties were possible under the MNCIS system. Mr. McDonald will look into this issue. The board directed the planning commission to review the recommendations for clarification and adjustments to penalties. It was suggested that any adjustments be reviewed and included when the ordinances were remodified to incorporate all approved amendments.

### **Lind Ordinance Violation**

Mr. McDonald noted that the complaint against Mr. Lind for violation of the home occupation permit was served. The response included a counter claim against the township, alleging the township acted arbitrarily. Mr. McDonald will provide the documentation to the clerk, who will determine if an insurance claim is appropriate.

### **Living Space for the Handicapped**

Mr. McDonald provided a memorandum defining the terms of a new law allowing for alternative living spaces for the handicapped which can allow for some actions over the current ordinances. The board will review the specifics at a future meeting.

### **Authorization of Repair and Maintenance for Storm Water Management**

There are a number of culverts identified in the inspection completed last fall that need repair or clean up. The estimate for the needed repair is \$7,000. Supervisor Ebner moved to authorize the expenditure of up to \$7,000 for maintenance and repair of the identified culverts, catch basin and spillway. Seconded by Supervisor Schultz, the motion carried.

### **Road Update**

The seal coat is completed for the season, and road sweeping is underway. Patching is also in progress. Manning Avenue rebuild is on schedule, and will be completed before the start of school.

### **Additional Business**

Mr. Dupay noted the township will need to begin to review an update to the comprehensive plan. He also has received a proposed contract for GIS web mapping services, which he distributed for review.

Supervisor Schultz reported on the current status of the runway expansion proposal at the Lake Elmo Airport. The proposal has appeared before the Technical Advisory Board and the Transportation Committee, and is scheduled to go before the full Met Council committee later in the month. The traffic study for 30<sup>th</sup> Street was completed in July, reflecting 1,500 cars per day.

With the resignation of the deputy clerk, there is a need for interim support until the position can be filled. Dan Motioned to approve Sue Agrimsom to be appointed as interim Deputy Clerk at a rate of \$12 per hour. Seconded by Supervisor Ebner, the motion carried.

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**Adjourn:**

Having no further business, Supervisor Ebner moved to adjourn the meeting. Seconded by Supervisor Schultz, the motion carried Chairman Kylo adjourned the meeting at 9:37 PM

Respectfully submitted,

A handwritten signature in black ink that reads "Elizabeth Vance". The signature is written in a cursive style and is positioned above the printed name and title.

Elizabeth Vance  
Recording Secretary