

Members Present: President Joe Krapohl, Vice President Jim Washington, Secretary Bill Lucas, Commissioners Jeff Wright, Cloyce Dickerson, Mike Keeler and Archie Bailey, Patrick Gleason

Members Absent: Ted Henry, Ron Winters

Staff Present: Amy McMillan, Director; Ron Walker, Deputy Director; Leisa Gagne, Finance Officer; Nancy Edwards, Program Specialist, Hilda McShane, Marketing Specialist; Deborah Wilkes, Secretary

Others Present: Brian Barkey, Legal Counsel; Joe Madore, Richfield Twp. Supervisor; Julie Brandon, Holloway Lake Association

Call to Order. President Krapohl presided over the meeting and called meeting to order at 10:26 a.m. (Press conference was held at 10:00, delaying the start of the public meeting)

1) Opportunity for the public to address the commission. President Krapohl asked if there is anyone wishing to address the Commission. Per commission rules each person shall have three minutes in which to address the commissioners. No one addressed the commission.

2) Consent Agenda. Discussion: President Krapohl asked if any commissioners wished to remove any items from the consent agenda. No items were removed.

Action Taken:

Motion by Commissioner Lucas

Supported by Commissioner Washington

Motion and support for approval of consent agenda items A-D as listed.

Roll Call

Yeas: Bailey, Dickerson, Gleason, Keeler, Krapohl, Lucas, Washington, Wright

Nays: None

Absent: Commissioner Henry and Winters are absent

MOTION CARRIED 8-0

4) Report from Legal Counsel

a. Petition Request A request for written permission to set up a table to collect signatures for a recall of the governor has come to the Parks office. Park rules say you cannot hang signs or conduct any type of commercial activity on park property without written permission. It is a legal right (First Amendment) to do that type of activity and legal counsel is working on that issue and permission wording.

Commissioner Keeler: Is there any chance this group would not be allowed to have petitions in the parks and can we control where they are?

Mr. Barkey: No, the first amendment allows for this. As long as we can control traffic, etc.

Ms. McMillan: We have had petitions in the parks before. There is a difference between political and a private for-profit petition. Brian is preparing a template for us to use. We will identify areas where they can be.

Commissioner Wright: Have we denied one in the past?

Ms. McMillan: Someone was asked to leave in Linden County Park. They called the office and were told we would review the rules and they all understand.

Commissioner Keeler: So a permit is required? How long to get a permit?

Ms. McMillan: It is written permission, not a permit and we would be able to get that back to them within 48 hours during business hours.

b. Landfill. Legal Counsel presented his report on the Richfield Landfill. Report is attached. Discussion and questions followed:

Commissioner Gleason: Was there a time table put into the conditions of the CAP?

Mr. Barkey: It was not written in stone but it was based on the Richfield Township Master Plan, which said the sewer extension was slated for connection to the landfill by 2013.

Commissioner Gleason: The way you (Mr. Barkey) worded that, it sounds like it is the Township's responsibility.

Mr. Barkey: It turns out it is a township sewer, not a county sewer and the only way that can be done, the only people who can initiate that is the township. The landfill was supposed to truck until the sewer line is availability. The five year plan will be revisited by the DNR because it is pretty clear the sewer will not be available by 2013 or 2014. The DNR sees the volume, which is greater than anticipated, so great that the capacity of the 2008 cell is nearly used up. The DNR expects an application for a new cell, probably within a month.

Commissioner Wright: To get the permit for the last cell, the landfill promised to make these fixes; they said they needed the permit to generate revenue from the new cell to pay for the fixes. They generated the revenue, but didn't make the fixes. That is the same scenario they are going to use again when requesting another new cell. This is the third time this approach has been taken. He doesn't believe, based on the current documents regarding violations, they are not even handling the leachate in the proper manner currently and he has zero trust in them.

Commissioner Gleason: Regarding the County seeking an injunction to get this (CAP) enforced. When you allow a developer to come in the developers would have to meet the conditions of the township and pay for things, such as water and sewer lines, and as the residents tap into the services the developer would recover their money and he looks at the fact that it was all contingent on the fact that they had a temporary situation set up until the sewer line is built. Somehow he gets the impression that it is the township's responsibility and he doesn't see it like that. How can the DEQ say that they would allow the landfill to come in and then expect the residents of that township to provide the sewer system? He thinks the County needs to intervene to legally get some enforcement.

Mr. Barkey: The public and environmental interest is supposed to be addressed by the DNR. There is a serious question whether the county or the residents has standing. We all have an interest in the reservoir.

Arrangements were made in 2008 that this was an event that they contemplated would take place, (sewer construction). The cost were estimated, the landfill's share of that cost was estimated and there was some discussion of finalizing that in a written document that people have referred to and he has been trying to put his hands on that document. There is a legal matter, given who has jurisdiction over the sewer. The entity that has to initiate the process of the sewer is the township.

Commissioner Keeler: At what point would the standing go to someone else if the DEQ doesn't have the staff or money to enforce or follow through on this?

Mr. Bailey: It is a funding question and he doesn't have the answer. If the DEQ doesn't have the power, it may give us the standing. The DEQ pays a lot of attention when the kind of situation arises, when the cells are filled and there are problems that haven't been corrected on the old cells. They are watching it closely and it suggests we are headed for the same scenario as 2008.

Commissioner Bailey: What is the parks role in this?

Mr. Barkey: He is very happy the township has brought this to us now. Legal counsel thinks we have a role to play, not a legal role, but in 2008 we went to the public hearings after the process was 1-2 years into the process, and we made extremely good arguments, none of which worked at that point. The CAP was granted exactly as proposed and went to court to become a consent judgment. If we are getting involved in these discussions, now is the time to do that. He would like to get more insight on the financial arrangements made in 2008, why the sanitary sewer is not being constructed, and find out the role we can play, whether legal or political.

The good part about sewer, although it is a lot more expensive now than the on-site processing; once it is in, the cost of operation and maintenance goes significantly down so the risk of the landfill stopping its operations is much, much different because you don't have the cost of an ongoing expense of on-site processing. There are financial assurances in place in the 2008 CAP, payments are going to start in January and the more time goes by the more payments are made, but if the landfill is not there, they fold, then they are not there to make payments. The DEQ recognizes that it was not funded; the financial assurances were not there. They called it a CAP not a Remedial Action Plan because the plan did not include financial requirements. We are lined up for the same scenario again; it is so similar it is eerie.

Commissioner Bailey: Is it appropriate to say that it is a possibility when these financial pressures are put on organizations they just fold? It has happened with other business.

Commissioner Wright: The state only cares about getting the money for the financial assurances. As of January 1 they will start getting money from the landfill to fund. The state wants a new cell to be granted so the stream of cash can continue to come to the State. Mr. Bailey is probably referring to Berlin and Farro landfill closing. The leachate coming from this landfill is much different than that of Berlin and Farro. That was heavy industrial leachate, this is household.

Who has legal standing the County or Parks? From his perspective, this agreement in 2007, 2008 was made, you have to remember this is before the economy had not fallen off the cliff, the township had possible new construction, and housing when those agreements were made the township fully had planned on building the sewer system with the help of the landfill. It boils down to the township not having the financial where-with-all to follow through with what they verbally, or possibly it is documented, said they would do.

Mr. Barkey: The County Board has better argument than the Parks.

Commissioner Keeler: According to the lawyers for the landfill, in a *Flint Journal* article today, he said the on-site processing was not going to happen. He didn't say they would continue trucking though.

Commissioner Wright: The state will allow it to be treated on-site. The technology is there to treat it onsite. The real concern is when they finally fill the area, and they leave, who will operate and maintain this treatment plant when they are gone. It will need to be maintained for tens of years. Some sort of fund would need to be set up. As you can see, even though they are making their profit, there are no funds set aside for a long term custodial care to this site.

Mr. Barkey: These issues will be addressed if they apply for a new cell. Right now he doesn't know if a new CAP is being considered. The last CAP addressed it in 2008; they analyzed the expense of the public sewer and maintaining that for 30 years vs. the on-site.

Commissioner Wright said up front it is cheaper to build the on-site if they don't plan on being there very much longer. The County board needs to be more involved. The county board probably has more ability to influence than the parks board.

President Krapohl: We need to be very proactive.

Mr. Barkey: With regard to "Standing". Legal standing is whether you have the legal right to file a lawsuit. As members of the public and as a parks board we have standing to call legislators and appear in public hearings.

Commissioner Keeler: At this point, nobody has confidence in what they (the landfill) are saying. Someone needs to step in and make the courts enforce what they said they would do.

Mr. Bailey: He isn't making an argument for the landfill, but they had nothing to do with whether Richfield Township initiated this sewer or not. That was out of their (the landfill's) hands, they had no right to do that. If I were them, that is the argument I would make. They had an arrangement in 2008 and it has not proceeded as expected. The state of Michigan and this landfill have been in court over this for 17 years.

5) Director's Report.

A. Park Activities Brand initiative for the got good response. The Warrior Dash is going very well. Memorial Day was insanely busy in the parks. All beaches and Walleye Pike Boat Launch, at some point during the day, were closed due to being at capacity. We expect to see more of that during the summer. Water conditions have been pristine. We are making progress on making up some revenue from the poor early weather conditions. School Days end at Crossroads this week. The fireworks at Bluebell Beach have been rescheduled for the Sunday before Labor Day.

6) New Business. President Krapohl noted that we have two new people at the front desk. Tammy and Melissa are now at the front desk.

7) Opportunity for Commissioners to address the Commission. Commissioner Keeler said For-Mar was closed on Memorial Day, but Richfield and all the rest of the parks were open. Why is For-Mar closed on a holiday, it's a park, doesn't it just require a park ranger to open the gate at 8 and close it at dusk. There are six Monday holidays that it will be closed. The Friends of For-Mar have asked that it be open and he said he would ask again.

Ms. McMillan: No, it has always closed on Monday and Tuesdays. Budgets caused us to close it. It is a nature preserve and arboretum with indoor facilities there. The bad side of the closing is it restricts access, but the good side is, with it being a nature park, the park gets a break from heavy use. She would be happy to discuss it during budget sub-committee or as new business.

President Krapohl said the original decision to close was made as a result of during budgetary issues so it would be appropriate to discuss that in the sub-committee meeting.

8) Opportunity for the public to address the commission. Joe Madore, Richfield Township Supervisor: Could Mr. Barkey find out what the status of the slurry wall completion is at?

The master plan from 2005 has been adjusted with regard to the sewer line. He doesn't remember anything in writing about who would cover what portion of the cost. No matter what, the intention was that even if the township paid for the sewer up front, the landfill was going to pay for it. The township was a backstop only. There was no way the township would pay for it for the landfill's benefit.

As far as the perpetual care fund for the landfill, there is one set up for funds now, but if they decide to process on-site another one would need to be set up. The state is getting some clean up done since the landfill re-opened. If it never would have been re-opened nothing would have been done to clean up the old landfill. The state kind of thinks they have the landfill on the hook for cleaning up and it doesn't have to come out of state money. As far as when he learned it may be leaning toward on-site treatment, he went to the Holloway Lake Association in March or April, and the Parks, before it could advance any further so you would have ample time to dig into it before it (an application for a permit by the landfill) might pop up in August.

9) Adjournment. President Krapohl made a motion to adjourn the meeting at 11:13 with no objections.