

WATSON TOWNSHIP

CLOSED SESSION

MINUTES

CONFIDENTIAL

AUGUST 2ND. 2023

Closed session: This closed session meeting under Exception to the Open Meetings Act. The exception being to consult with the public body's attorney regarding litigation.

Craig Noland updated the Planning Commission as to the ongoing status of the lawsuit and litigation between the Watson Township Planning Commission and NorthStar Aggregate, LLC.

The Status report included the history of the application from Northstar Aggregate, LLC and all of the work from the PC. He stated that the record was around 700 pages and that the court appreciated the magnitude of material of record. He stated that the PC did a thorough review of Fact Finding.

He believes that the Circuit Court and Honorable Judge Baker accepted the township's record and evidence to support her decision on the township's behalf.

NorthStar, LLC appealed Judge Baker's decision to the Appellate Court and their ruling was to remand this case back to the Circuit Court.

Deliberation: 2 primary issues:

1. Need
2. Very Serious Consequence

Discussion followed about how the PC concluded the definition of "need" and that the Appellate Court had a different focus for concluding that the PC erred in not recognizing NorthStar Aggregate- Matt Double's need.

The court identified the lack of supportive (expert) evidence to support the township's claims about "need," and "very serious consequences." Also, that the township's

documentation on the number, places, and amount of gravel pits within the township was not sufficient.

Mr. Noland addressed that he thought the court allowing for an “expanded record,” should not have been granted to NorthStar, LLC. The expanded record allowed for the Planning Commission’s decision to approve the Rierserma’s application for a Sand Gravel Mine to be entered into the record. Mr. Noland objected but the court granted the request.

He stated that it was not apples-to-apples with “need” being very different.

The Appellate Court offered a lengthy opinion and remanded it back to Judge Baker.

Mr. Noland asked the Commissioners for input, which included concerns that the record was not accurate: ex. The record states Hopkins Schools have no problem with the travel route, it should be Martin Schools; Ex: the travel route/road and intersection issues were never addressed or satisfied- that 12th St is a shared road with Martin & Watson and costs for maintenance/usage was a huge concern.

“Need” was discussed in length with a conclusion that the court was consistent with the definition but had a different focus; the PC was focused on the “need” of the community, availability of materials and the court focused on Mr. Double’s need;

The reference to the Metamora case was not equally weighted in their decision.

Risk Analysis:

1. A review of options and “next steps” included a status hearing with the Circuit Court as which point Mr. Noland will ask that Watson Township receive equal treatment to expand their record to include a hydro study and impact on Miller Creek and Miller lake; Traffic study; Property value impact- expert witnesses to be paid for by the defendant according to the ordinance that the application was held too.
2. Discussion about finding a compromise with the Township and what critical items must be considered if that route was chosen to pursue.
3. Setting precedence by taking a risk to the Michigan Supreme Court was also presented.
4. Taking a risk that the court will decide to accept the Appellate Court’s rule as standing and the township has no input on further decisions in regards to NorthStar, LLC.

Mr. Noland will give more feedback after the Circuit Court holds a status meeting to set up “next steps.”

Motion to close the Closed Meeting - 8:40pm

Motion: Jim Davis

2nd. Jay Roberts-Eveland

Submitted by: Jay Roberts-Eveland

August 2, 2023

This document is to remain confidential for ONE YEAR AND ONE DAY according to the regulations of the Open Meetings Act.