

June 1, 2010 Greenfield Shores First Order of Determination

Pursuant to Notice duly given in accordance with the provisions of Act 246 of the Public Acts of Michigan of 1931, as amended, a first order of determination hearing by the Board of County Road Commissioners of Kalamazoo County was held at the Pavilion Township Hall located at 7510 East Q Avenue, Scotts Michigan 49088 on Tuesday, June 1, 2010. Commissioner McCauley called the meeting to order at 7:00 p.m.

Present: Kent L. McCauley, Kenneth R. Oscarson, Daniel J. Moyle
Absent: Dennis J. Berkebile, Jeffrie M. Maddox

Also attending: Managing Director Joanna I. Johnson, Chief Engineer Tom Hohm, Pavilion Township Supervisor Pat White, Pavilion Township Trustee Gregory Thomas and 25 citizens.

Commissioner McCauley announced the purpose of the first order of determination hearing was for the purpose of giving all persons interested an opportunity to appear before the Commission and give their reasons for or against a proposed highway improvement project submitted to the Commission by landowners in the Township of, Kalamazoo County, Michigan, and for other purposes as spelled out in the Notice. The proposed project of Greenfield Shores Drive from QR Avenue to 3,530 feet north of QR Avenue Special Assessment.

Commissioner McCauley reviewed the special assessment district includes 71 benefit units are adjacent to Greenfield Shores Drive. One of the benefit units is Smiley Drive. That unit is to be assessed to the eight parcel owners on Smiley Drive. The total estimated cost of the project is \$105,492.50 with individual assessments of \$1,485.81 which can be spread over 3 years.

Commissioner McCauley opened the public hearing at 7:05pm.

Mr. Jay Kreidler at 8186 Greenfield Shores questioned the benefit units. Chief Engineer Hohm reviewed the parcel map and the benefit units included. Township Supervisor White also reviewed the benefit unit structure by the township.

Attorney James W. Porter, P.C. reviewed objections on behalf of Donald and Katherine Barnes at 8188 Greenfield Shores and presented the Board the following letter dated June 1, 2010;

Re: Objections to Validity of Proposed Greenfield Shores Drive Road Special Assessment District by Donald and Katherine Barnes.

Gentlemen:

I represent Donald and Katherine Barnes of 8188 Greenfield Shores, owners of Lot 48, Greenfield Shores Subdivision. The purpose of this letter to object to the validity of the proposed Greenfield Shores Drive Road Special Assessment District as a result of the following:

1. The petition is not valid in that it does not contain signatures of the owners of 51% of the lineal footage of lands fronting or touching upon the highway at issue, in that, the lands of Steve Smith have been arbitrarily excluded from the determination of lineal road frontage.
2. The Road Commission in this case has failed to apportion any of the cost of the improvement to the Township at large, which it is required to do, pursuant to Section 10 of Act 246.
3. There are mathematical errors in the computation of road frontage, including the amount of road frontage allocated to the property owners at 8188 Greenfield Shores in that property owners' road frontage is actually 45 feet, and yet 52.5 feet is indicated on the present petition map submitted to the Kalamazoo County Road Commission.

4. The proposed assessments in this case are not properly apportioned, in that the proposed assessments are based on a per-parcel basis, and yet the parcels all vary in width, some of which have three times the frontage of the property owners at 8188 Greenfield Shores.
5. The proposed assessments for the road improvement are not properly apportioned in that they failed to apportion any of the cost to other benefitted properties which abut the road, to-wit: the property owned by Steve Smith, thereby placing an unfair burden upon parcels so assessed, including Lot No. 48.
6. The proposed assessment exceeds the proportional increase in the value of real estate of the property owners.
7. The Road Commission should consider accepting a portion of the cost of the improvement from its County roads funds, since this improvement is being made to a public road.

Therefore, we request that the petition process be reinitiated incorporating all the benefitted properties, or that the Greenfield Shores Drive Road Special Assessment district be declared invalid, null and void.

A resident of Smiley Drive stated he was not concerned if Greenfield Shores Drive was a gravel road.

Ms. Marie Leaver of 8140 Greenfield Shores stated concerns about water issues.

Attorney Porter stated that the F.O.I.A. requests did not note 71 benefit units, as the information received stated 68 benefit units. Chief Engineer Hohm reviewed the parcel map and the benefit units included. Township Supervisor White stated the change had taken place after inquiries and further review, however the district did not change and the additional parcels are within the district. Chief Engineer Hohm explained the district did not change and the cost of the project is not increasing the petition remains valid based on the number of signatures.

Township Supervisor White and Commissioner McCauley stated the dwindling resources of both the Township and the Road Commission.

Residents inquired as to why an asphalt paving project was necessary for the complete road when only areas are in poor condition. Managing Director Johnson stated the costs of hot mix asphalt (HMA) wedging would not be cost effective based on mobilization and volume. Commissioner McCauley stated an estimated cost of HMA wedging versus an overlay project from recent bids.

Residents inquired why a chip seal would not be appropriate. Managing Director Johnson stated based on the condition of the roadway that would not be a cost effective treatment. It would not be the right fix and the right time and would be waste of money. Chip seal is a preventative maintenance process and Greenfield Shores is beyond maintenance. Commissioner Oscarson explained that based on the age of the roadway, it has lost its pavement life and therefore a chip seal would not be an effective treatment.

A resident stated that this project is necessary and that the cost of the project is appropriate. He stated that if the roadway continues to deteriorate then there could be damage to the residents' vehicles as a result of a rough road.

A resident asked about the timeline of the proposed construction schedule. The answer was that there would be several days of preparation work and that paving and shoulders would be complete in 2 to 3 days, with the total project taking about a week to complete.

A resident asked about the next steps. Managing Director Johnson stated the final order of determination would be held at the KCRC June 22nd Board meeting. The project would then be bid for 2 – 3 weeks.

Residents also expressed concerns with parking along the roadway. Township Supervisor White stated he would follow up with the County Sheriff.

Managing Director Johnson stated we are here in response to the petition, and this was a grass roots effort request by the residents.

Commissioner McCauley asked if there were any further comments to come before the Board. He stated the Board has the authority to adjust the project cost within 10 percent of the project estimate and to establish an equitable apportionment. The public hearing closed at 8:02pm

Upon, motion duly made by Commissioner Moyle, supported by Commissioner Oscarson and unanimously carried, it was moved to adopt the following resolution:

WHEREAS, as resolution-petition was duly filed with this Commissioner under the provisions of Act 246 of the Public Acts of Michigan 1931, as amended, on by Landowners in the Township of Pavilion, Kalamazoo County, Michigan, requesting certain highway improvements over the following described area:

Greenfield Shores Drive from QR Avenue to 3530 feet north of QR Avenue, Hot Mix Asphalt Overlay

And,

WHEREAS, this Commission, on May 11, 2010 made its first Order of Determination, pursuant to the provisions of said Act, scheduling this date for a public hearing on said project for the purpose specified in the Notice of this public meeting, which said Notice has been duly given, and the said public meeting was duly held on 1, the day of June 2010, at 7:00pm at the Township Hall of Pavilion Township located at 7510 East Q Avenue, Scotts Michigan 49088

NOW, THEREFORE, BE IT HEREBY RESOLVED, that a special assessment district be established covering the following described area;

Greenfield Shores Drive from QR Avenue to 3530 feet north of QR Avenue, Hot Mix Asphalt Overlay

And,

that the assessment shall be spread over three (3) equal installments and that the apportionment of percentage of costs and be in the project file. The special assessment district includes 71 benefit units are adjacent to Greenfield Shores Drive. One of the benefit units is Smiley Drive. That unit is to be assessed to the eight parcel owners on Smiley Drive. The total estimated cost of the project is \$105,492.50 with individual assessments of \$1,485.81 which can be spread over 3 years.

Aye: McCauley, Oscarson, Moyle

Upon motion duly made, supported and unanimously carried, the meeting was closed.

The meeting adjourned at 8:15 p.m.