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A Weekly Wrap Up of All Things Addison!

April 13, 2018

Council Updates

Addison Settles Wind Turbine Lawsuit

Following an Executive Session during the February 27 City Council Meeting, the Council authorized City Manager Wes Pierson to settle the two-year-old wind turbine lawsuit with Landmark Structures, L.P., Freese and Nichols, Inc., and Urban Green Energy pursuant to the terms discussed in Executive Session (those terms are summarized in the bullet points below). As part of that settlement, which was signed on April 11, 2018, all parties agree to the following:

- Landmark and Freese and Nichols will pay the Town a total of \$800,000.00 in cash (\$550,000 from Landmark Structures and \$250,000 from Freese and Nichols, Inc.); and
- Landmark will remove the wind turbines and make any necessary repairs to the roof of the water tower at no cost to the Town.

The total cost for the wind turbine project in 2012 was \$1,263,973. \$472,400 was funded through a federal energy conservation grant through the State Energy Conservation Office (SECO), which Addison is not required to return. The remaining \$791,573 was funded through the certificates of obligation (COs) that were approved by Council in 2008 to cover a broad range of Town projects. The issuance of this debt was not specifically for this project, but the funds were eligible to be spent on projects related to Addison's Utility Fund. The final payment on this 2008 debt issuance was made in February 2018.

PROJECT BACKGROUND

In February 2012 Landmark Structures installed a wind energy system on the Surveyor Water Tower at 4000 Arapaho Road. The goal of the system was not only to generate enough wind energy to power the water tower learning center and some street lights along Arapaho Road, but also to position Addison as a model for cities around the country in the use of affordable alternative energy sources. Landmark contracted with Urban Green Energy (UGE) to manufacture and install the wind energy system; Freese and Nichols served as the Town's project manager.

After the turbines were installed in 2012, the system functioned for only three months before an entire wind turbine fell from the top of the water tower to the ground. The system was retrofitted, but a few months later, in a second incident, a blade broke free, pierced the roof of a nearby building, and landed in the conference room of a local business. At the Town's request Landmark and its partners on the project rebuilt the turbines, but once again a blade separated from a turbine, causing damage to other parts of the turbine system. No one was hurt in any of the incidents, but the Town decided to secure the turbines in a non-operating state in 2014 due to the potential safety concerns. In the Summer/Fall of 2015, after three failures and extensive discussions with Landmark that failed to resolve the issues, the Town of Addison instituted suit against Landmark Structures and UGE alleging causes of action for breach of contract, breach of warranty, negligence and fraudulent inducement. Freese and Nichols was added to the suit in 2016.

After two failed mediation attempts and numerous legal actions, a trial date was set for March 5, 2018 in the 44th District Court of Dallas County. Leading up to the trial, the defendants filed several motions, including motions to dismiss the case (Summary Judgment), exclude Addison's expert witnesses, and spoliation. On February 25, 2018 Judge Bonnie Lee Goldstein denied Landmark's motion for Summary Judgment and allowed all of Addison's claims to proceed to trial. Judge Goldstein also denied Landmark's motion to exclude Addison's experts.

On February 27, Landmark Structures and Freese and Nichols approached the Town with what the Council believed to be a good-faith settlement offer. The combined financial offer not only exceeded the local investment in the project, but it also included the removal of the wind turbines and any necessary repairs to the roof of the water tower at no cost to the Town.

When Addison filed this lawsuit, the understanding and intention was to recover legal fees. In early 2018, Addison's attorneys informed Council that the Defendants were arguing that several recent state court opinions successfully challenged the long-held practice in the state of Texas that attorney's fees in a breach of contract suit against a partnership or limited liability partnership are recoverable. [Chapter 38 of the Texas Civil Practice and Remedies Code \("Chapter 38"\)](#), states that "a person may recover reasonable attorney's fees from an individual or corporation, in addition to the amount of a valid claim and costs" for a breach of contract. However, about the same time Addison's case was being filed, the definition of "corporation" was being challenged to exclude limited liability companies and partnerships. In September 2015, a Houston Court of Appeal's decision became final, holding that the literal language of Chapter 38 did not allow recovery of attorney's fees against a partnership or limited partnership. The Dallas Court of Appeals followed suit in December 2016. The Dallas Court of Appeals opinion is binding for cases in Dallas County.

In an effort to be good stewards of taxpayer dollars and to avoid incurring additional lawsuit expenses, including attorneys fees, expert witness fees and materials testing fees, that already topped \$496,000, Council directed City Manager Pierson to settle the lawsuit in accordance with the terms discussed in Executive Session. The recent delays associated with finalizing the settlement agreement were associated with a disagreement between the Town and Landmark on the scope of the removal of the wind turbines from the water tower. We are currently waiting on a signature from Freese and Nichols and will share the settlement agreement when its fully executed.

At its April 24 meeting, the Addison City Council is scheduled to ratify the agreement signed by City Manager Pierson on April 11, 2018. Town staff is currently researching the possible ways to use the money the Town is receiving in the settlement.

Council Provides Direction on Farmers Branch Creek Dispute

At the April 10 City Council Meeting, Council approved a motion directing outside Council and staff to pursue mediation with the City of Farmers Branch on the Farmers Branch Creek dispute. Addison City

Manager Wes Pierson has extended that offer to Farmers Branch who is expected to discuss it in their Council Meeting next week. To get more information about the Farmers Branch dispute, click [here](#).

New Office Building Slated for Corner of Edwin Lewis and Quorum



At the April 10 City Council Meeting, an ordinance was approved to change the zoning on the vacant parcel of land directly to the east of the Springhill Suites by Marriott, at the southeast corner of Edwin Lewis Drive and Quorum Drive, to allow the development of a one story, single tenant, office building.

Western International, a Dallas-based developer, owner and manager of Marriott and Hilton franchised hotels, intends to develop the site for their corporate headquarters.

Council Revises Spruill Park Naming and Recognition Policy

At a [March 27 Work Session](#), Council discussed revising a naming and recognition policy for city-owned improvements at Spruill Dog Park that was adopted in February 2017. As part of the policy, naming elements are limited to the dog's name, an individual or family name, or a dog-centric business name.

Dog-centric is defined as a business that accommodates dogs or dog owners and/or provides supplies, services, and care for dogs. During the April 10 Council Meeting, Council approved a resolution removing the phrase "dog-centric" so that all businesses would be eligible to donate to the Park.

Public Safety

Congratulations, Lieutenant Pietsch!

On Tuesday, April 10, the Addison Police Department gained a new Lieutenant. Lieutenant Pietsch has been serving the Addison community for ten years. Mayor Joe Chow, Mayor Pro Tempore Ivan Hughes, Deputy Mayor Pro Tempore Jim Duffy, and Council Members Al Angell, Tom Braun, and Lori Ward joined Police Chief Paul Spencer, Town staff and the newly promoted Lieutenant's family members at the promotion ceremony. Congratulations, Lieutenant Pietsch!

Around Town

Belt Line Road Overlay Work Begins April 15



The Belt Line Road Overlay milling portion of the project will begin at 7pm on Sunday, April 15. Milling operations will start at the westernmost intersection of Belt Line Road and Marsh Lane, then proceed east to the Dallas North Tollway. All the existing asphalt will be removed so the Town can inspect the concrete subgrade. Concrete repairs will be made and the asphalt and pavement markings will then be replaced. TexasBit, the Town's contractor, anticipates the milling effort to take three weeks, depending on weather conditions and other factors. The entire project is slated to take four months to complete.

Town staff will be providing regular updates on the status of this project via the following mediums:

- **TEXT ALERTS:** Opt-in by texting “**BeltLine**” (no space) to **888-777** (word is not case sensitive)
- **EMAIL UPDATES:** Register at bit.ly/BLRUpdates (link IS case sensitive)
- **WEBSITE:** Visit www.Addisontexas.net
- **SOCIAL MEDIA:** Follow **Town of Addison** on [Facebook](#) or [Twitter](#)

If you would like to speak with a Town representative regarding the Belt Line Road Overlay Project, please contact Streets and Stormwater Manager Todd Weinheimer at 972.450.2841 or email him at tweinheimer@addisontx.gov.

Town Meeting on April 16



The annual Spring Town Meeting will take place at 7pm on April 16 at the Addison Conference Centre. Hope to see you there!

Just a Few More Opportunities Left to Provide Feedback For the Parks, Recreation and Open Space Master Plan

There are just a few more opportunities remaining for you to provide feedback on the Parks, Recreation and Open Space Master Plan. The Parks and Recreation Department will be hosting three more intercepts, on-site events where staff "intercepts" residents, over the next week at area parks to gather residents' opinions. At each intercept, park users will be shown four boards like the one above and asked to provide feedback. The following is a schedule of the planned intercepts:

April 16 - Town Meeting (6pm - 9pm)

April 18 - Town Park (3pm - 4:30pm)

April 21 - Beckert Park (noon - 5pm)

If you can't join us at the park, please take a few minutes to complete our short [online survey](#). Everyone who participates will be registered to win special event ticket packages and Active Addison swag! The survey will close in a few weeks. If you have any questions, please contact Janna Tidwell at jtidwell@addisontx.gov or 972.450.2869.

Expect Road Closures For MS Walk on April 14



Expect some road closures and alternate entrances around Addison Circle on Saturday, April 14 during Walk MS. Road closures will begin at 6am and re-open by 11am. Get the full list of closures/ alternate routes [here](#).

Successful Volunteer Project with the National Life Group



On April 6, National Life Group employees and ten Addison Advocate volunteers came out to both Beckert and Addison Circle Parks to help the Parks Department pull up the tulip bulbs for new plantings. This is the second time the National Life staff helped us on Park projects, and they have already signed up for another sodding project at Spruill Park in May. We are so grateful to have great community partners!

Addison Circle Art Festival



Come out to Beckert Park on Saturday, April 21 from noon to 4pm for the 2018 Addison Circle Art Festival. Catch over 40 artists' works on display, a balloon artist, a DJ, fine art and jewelry, live painting demonstration by Christina Yielding from 2pm - 4pm, and more! The event is free to the public. For more information, visit the Addison Circle Restaurants and Retailers Shopping Center Facebook page [here](#).



Saturday, April 14
Walk MS
 8:30am
 Addison Circle Park
 4950 Addison Circle Drive
[Register Here](#)

Monday, April 16
Spring Town Meeting
 7pm
 Addison Conference Centre
 15650 Addison Road

Important Links and Numbers

Town Hall:
[972.450.7000](tel:972.450.7000)

Sign up for [Addison Alerts](#)

Non-emergency Police Dispatch:
[972.450.7156](tel:972.450.7156)

[List of Restaurants](#)

Missed Trash:
[972.392.9300](tel:972.392.9300)

Athletic Club:
[972.450.7048](tel:972.450.7048)

[Pay a utility bill](#)

[Volunteer](#)

[Addison News Blog](#)

[Watch City Council Meetings](#)

[Community Crime Map](#)

[Addison's PEG Channel](#)

(channel 99 for AT&T subscribers, channel 16 for Spectrum subscribers)

[Register your Security Alarm](#)

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