

**Open Work Session  
Connelly Mill Land Donation  
December 4, 2018**

Mr. Weston Young, Deputy Director of Administration, came before Council and said he will present an update on the Connelly Mill Property. He said the first item he will talk about is insurance, and then he will follow up with the surface mining permit, and some other updates from there.

Mr. Young reported, they received insurance quotes, which he forwarded to Council, on November 7, 2018 from two of the larger companies that deal with pollution liability insurance, Beasley and XL. He said they requested quotes on three scenarios, all with ten-year terms as discussed in previous Work Sessions. He said scenario one was a \$5 million each loss limit, and a \$5 million total loss limit, scenario two was a \$5 million each loss and a \$10 million total loss, and scenario three was a \$10 million each loss limit with a \$10 million total loss limit. He said Beasley, ultimately, offers the lower pricing, however they had a condition that they would not cover contamination from abandoned materials, and that is sort of the purpose of why they went after this environmental insurance. He said they had their broker reach back out to Beasley about trying to rephrase that because their competitor did not have such conditions. He said XL, the other company, had a condition as well, but it was that they would not be liable if the County excavated the soil and put it as daily cover at the landfill, but they would then at some point have to go back and dig that soil out because of some issue with the soil. He said he guesses a situation where that would matter is if it were to go into a landfill the County did not control. He said they control the landfill it would be going to, and it is their landfill, so if there was a cost to move it around, which they do not anticipate whatsoever, it would be their folks doing it, not an outside entity. He said the conditions and the quotes were provided in the Council Brief Book, which he can answer questions on, but their proposal is to go with XL. He said they would do a one-time payment of \$105,000, and that would give a ten-year coverage, a total loss limit of \$5 million dollars, and a deductible of \$250,000. He said, lastly, in terms of timeframe, the XL application is mostly filled out, and they say it is a three-day turnaround, but they should not pay that cost if they are not going to have the property in hand, so they are waiting to see what Council, ultimately, decides.

Mr. Young asked if there are any questions on insurance, to which Mr. Holloway responded, they have talked before about the size of the land being 235 acres, but the part that is of interest is the northern part. He then asked if they separated this in the quote, and if Mr. Young told them they only wanted to do partial, to which Mr. Young responded, yes. He said the viewpoint from the two agencies, according to the broker, was that the larger forested area they were not as interested in covering had far less liability than the actual pits.

Mr. Young said he has an update on the surface mining permit. He reported, on Monday, November 19th, roughly two weeks ago, the Surface Mining County Exemption Permit was submitted to the State. He said, in doing some research on the County exemption, they are exempt from the surface mining Code Section 15-834, however, they need to have adopted "Reclamation standards applying to the activities and the standards that are approved by the Department." He explained, basically, they want to know what the County is doing, how they are mining, and then how they plan to leave the site when they are done, and the submittal should have been included in the Brief Book. He said they have heard back from the Soil Conservation District already, who had no comments, and the Soil Mining Division of the Maryland Department of Environment (MDE) has stated they usually request 30 days for review, so they are reviewing this, and they are scheduling a site visit with Solid Waste staff to see and discuss operations. He clarified, a site visit is part of this approval process, and they are looking at roughly two

weeks from now before they hear back. He said, again, this is an exemption permit, and they would not have to do the same level of detail that a private entity would, but they still need to show they are following standard operating and reclamation principles.

Mr. Young referred to his memo dated September 24, 2018 that is in the Brief Book, and said they talked about this in a previous Work Session, but, when they were putting together the application for surface mining, they got some estimated numbers from the pits, and some more accurate than his estimate. He said he had a conservative estimate of 1.3 million cubic yards of material, and that was used in that memo, specifically on page 2 and into page 3. He said the design and drawings as shown in the Brief Book show that they actually have closer to 2 million cubic yards of material from digging within the existing pit footprints, so they have significantly more material. He reported, that raises the estimated soil value from \$13 million dollars to \$20 million dollars, and it raises the estimated useful life or years of soil from 8.3 years to 12.8 years, which are all better for them in terms of operating. He said one other thing he wants to mention regarding the memo is that the soil needs section of the memo will need some revision as, with the Potts property off the table, they have approximately five years of soil remaining, so they are still in the need for soil.

Mr. Kilmer said, with the extra soil, part of the tradeoff is the value of the soil versus what the County would have to spend for it, and purchasing the dump trucks, he images, are a fixed cost no matter how much soil there is, and it would just be that fuel and staff costs would go up somewhat, to which Mr. Young responded, he calculated the total value, and buying the trucks, the staff, and the fuel costs to run that for 12.8 years is closer to \$7.5 million. He said he will touch on the \$7.5 million and the pollution liability more because there is one other element that has not been discussed previously.

Mr. Young said, in their previous discussions, the conversation has always been that this property was viewed as a donation to the County. He reported, the owners are requesting \$35,000, effectively reimbursing them for the studies they performed that helped show the site was clean, which completed the Phase II. He clarified, if Council recalls, they only did a limited Phase II. He explained, among other expenses, a document itemizing this request was received yesterday, and should have been provided to Council yesterday as well. He said, while their total figure exceeds \$35,000 in terms of what they have put into it, they are asking for \$35,000. He said, as a reminder, trying to put it all in perspective, the approximately 235-acre property appraises for a little over a million dollars, and has an estimated \$20 million dollars' worth of soil. He said, if they took the updated cost to mine over 12.8 years of \$7.5 million, as Councilman Kilmer mentioned, the pollution liability recommended at \$105,000, which he will gladly adjust if Council thinks a more restrictive policy is needed, and the requested \$35,000, it still gives a net value of over \$13 million dollars to the County. Mr. Cannon asked how many years that is for, to which Mr. Young responded, 12.8 years. He said, in essence, they still wish to pursue the acquisition of this property. He said the value makes sense, the soil makes sense, and the proximity to Henry Parker and future park uses, although that does not seem to be the priority, does make sense. He said they still have the intention of transferring the Program Open Space rights from the West Metro Core, and putting it on this property, effectively allowing them to part with an unused and generally unusable property, and put it back on the tax rolls. He said, with the surface mining exemption permit basically complete, and the environmental insurance policy lined up, they would request Council considers accepting this property, and with that, he will be glad to answer any other questions.

Mr. McCain said he needs to point out that his company actually did the appraisal on this, so he needs to make that known.

Mr. Cannon asked, with the insurance being \$100,000 for ten years, what is Mr. Young's opinion, and does he think they need this type of insurance, to which Mr. Young responded, it does not hurt. He said the price, he thinks, still falls within the benefit they have calculated, and he thinks it would address the concerns of others. He said, from the studying they have done, they think the risk is low, but, again, they are talking \$105,000 that could potentially save them significant dollars should they hit something. He explained, what they intend to do with the site, outside of digging, is going to be low impact, he imagines, with public input like what they are doing with Pirate's Wharf in trying to get citizens saying what they want to see with the rest of that property. He said it could be that they reform or reshape the pits, and get even more soil out of them, but that could be 12 years down the road. He said, again, he does not think it hurts, and he thinks, with the overall value, it makes sense to insure it in some form. Mr. McCain said he thinks it is a necessary evil with a property this size conducting mining operations that they are going to have to have a good policy to protect themselves, to which Mr. Young responded, their thought was that what they are digging is going to the landfill, and that is where they would send just about everything, unless it is radioactive or highly flammable, and then they would need some sort of mitigation.

Mr. Holloway thanked Mr. Young for going into this, and said he knows he instigated a lot of this, but he agrees they need to take this property, especially with Potts off the table now. He said they do a lot of things in this County, such as road work, and different things they can use the soil for. He said one thing he wanted to mention is that there is a lot of concern with the neighbors about traffic on this property, and people misusing the property. He then asked if there have been any thoughts of trying to fence this property. He said he knows they said the Sheriff's Department will respond, but it is kind of like somebody responding to a noise complaint in that, when they get there, they are gone, or the noise is not there anymore. He then asked if there were any stipulations from the insurance company that the pits had to be fenced, or anything like that, to which Mr. Young responded, they did not have any stipulations, but he thinks it needs to be seriously considered. He said, like their current active borrow pit, it is a construction site, and they do not want kids, or even adults around those sites if they are not familiar with it, and not certain that the water is 35 feet deep. Mr. Holloway said there will be equipment there too, to which Mr. Young responded, correct, and they want to protect their equipment as well. He said, as far as the Sheriff's Office, this property has been in the City of Salisbury, and, as deputies informed him, it was not until recently that the City had a four-wheel drive truck that could even get back there to deal with the complaints they were getting. He said they are going to work closely with the Sheriff's Office, and make sure they have adequate coverage. He said, for their current borrow pit, they have been using the Department of Natural Resources, and they have been a great asset in terms of helping them keep people off that site because they are operating at slightly different hours than the County is. He said he is sure it is going to be a learning experience, and they are going to have to adapt. He said, as he has been told by the owners of the property, they will put up a barrier, and there is always another way around it, so they will have to figure out the best way of being vigilant. Mr. McCain said he thinks that will get better once the property is being constantly used, the presence is there, and there are signs and gates up, to which Mr. Young responded, they tend to find that after one or two people are cited, word gets out pretty fast that they are not playing around.

Mr. Dodd asked if they are going to de-annex this property, to which Mr. Young responded, he does not think so. He said they have other County property that is in the City limits, so the intention is to keep it as is. Mr. Dodd asked if the City Police is still going to enforce the law on this property, to which Mr. Young responded, they have the full right to because it is in the City, but he thinks they are going to rely on the County deputies. Mr. Dodd asked if Mr. Young was referring to the Natural Resources Police, to

which Mr. Young responded, yes. Mr. Dodd said the last group that spoke to Council was talking about shooting, and possibly hunting, and he thinks it would be good if they patrol it.

Mr. Holloway thanked Mr. Young for his diligence in looking this up. He said this whole process was about protecting the citizens from here on out, and he thinks it is going to be a good move if they can get to the end of the journey.

Mr. Kilmer asked if this is incompatible with any sort of City code for them to do this, or anything like that, and are they going to suddenly find out that the City has an ordinance that would prevent this, to which Mr. Young responded, in speaking with Planning and Zoning, the City and County are exempt from zoning laws. He clarified, as long as it stays in the County's hands, what they are doing is okay. He said they have spoken with the City on several occasions about this property, even as a backup if something were to happen, and they were not able to get it. He said it is still beneficial from a park standpoint, and they own the trail system next to Henry Parker, so it could be an expansion of that as a backup plan.

Mr. Kilmer said he wants to echo what Mr. Holloway said, and he thinks he was the one most against this from the beginning, and Mr. Holloway maybe was second, but Mr. Young has done a lot to allay their concerns, and he thinks that things are heading in the right direction. He said he really appreciates all the work he has done, and, clearly, he has done a lot, and he appreciates that. Mr. Young said they will be glad to keep Council updated whenever they would like more information. He said, for those who have been out to the site, it is very beautiful, and he thinks if they get a chance, or want a chance, he can arrange that, and let them see some of the nicer aspects of it.

Mr. Dodd asked if there are going to be any problems with the shooting range, and do they have any stray bullets from that, to which Mr. Young responded, not to his knowledge, and they run a pretty good operation there. Mr. Dodd said he was reading the Hynes report that talked about led, so he was wondering how far the bullets went, to which Mr. Davis responded, they have barriers. Mr. Young added, they have barriers, and historically, talking to some of the older deputies, they used to not have barriers. He explained, they used to go through the trail shooting at popup targets, so there was activity outside what is currently protected, but not now. He said there were complaints by some of the citizen groups, he thinks Shadow Hills that is adjacent to the property, that there is shooting by individuals at night that are non-shooting range, non-police shots, and that goes back to being vigilant and enforcing. Mr. Dodd asked if those residents should call the Sheriff's Office if they hear anything, to which Mr. Young responded, correct.

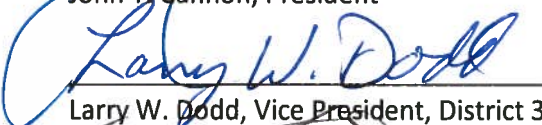
Mr. Cannon said Mr. Young has done a great job, as usual, and leaves very few questions unanswered. He said the reason they scheduled this tonight, knowing they are also going to have December 18<sup>th</sup> to make a decision, is because they wanted to make sure they had final assurances in place so that there would be no surprises come December 18<sup>th</sup>, and so that Council could pretty much recognize where they want to go with this project as a whole. He said the issues that came up, of course, and have been discussed tonight include insurance, environmental, the mining permit, and the \$35,000, so he would ask Council to make sure that if they have any other concerns regarding this, now is the time to bring it forward so they can vet it properly and allow Mr. Young the opportunity to explain anything else.


Mr. Holloway said he saw a letter that requested \$46,000 and not \$35,000, to which Mr. Young responded, as he tried to explain, their total did break \$46,000, but they are only asking for \$35,000. Mr. Holloway asked about the taxes, and whether those will be prorated as with a normal settlement when they go to settlement, to which Mr. Young responded, they should be prorated. He said part of their

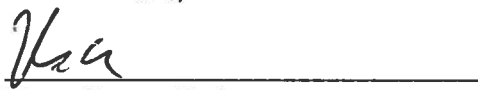
itemized request that totaled \$46,000 was some of the real estate taxes, so that will help cover some of those.

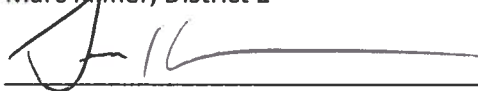
Mr. Cannon asked Mrs. Hurley if this will be on the Agenda for December 18, 2018, to which Mrs. Hurley responded, yes. There was no further discussion.

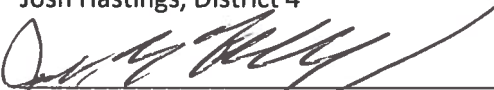
  
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