

**Westwood Landowners' Association  
Special Meeting  
August 20, 2019 Meeting Minutes  
Magnolia, TX 77354**

**Special Meeting:** The Board of Directors of the Westwood Landowners' Association (WWLOA) convened in a meeting open to all Members of WWLOA at the Westwood LOA office at 7:00pm.

**Board of Directors**

**Present:** Pat Troy, President

Diana Maichetti, Treasurer

Mike Pidotella, Secretary

Toni Collins, Member-at-Large

**Absent:** Rob Pinell, Vice President

**Open Positions:** None

**Quorum was present**

**Call to Order:** President called the meeting to order at 7:14pm

- 1) The Board members introduced themselves.
- 2) President stated the following:
  - a) Tonight's meeting is basically a continuation of the previous special meeting held on July 30, 2019. That meeting was to hear the appeal of the Board's decision to deny the commercial building construction application for a Discount Tire store at FM 1488, Westwood North Drive and Weisinger Drive in section 3 of Westwood Subdivision, located in Montgomery County, Texas.
  - b) The July 30<sup>th</sup> meeting produced suggestions and ideas from Members that Mr. Leavelle said he would check into,
  - c) The Board voted to table the vote and to schedule this special meeting on this date and at this time in agreement with Mr. Leavelle and his council.
  - d) This rescheduling was to allow Mr. Leavelle time to investigate the options and ideas presented by the Members.
- 3) The President added:
  - a) There is one thing that I am required to do before I call on Mr. Leavelle to tell us what revisions if any that he is prepared to offer.
    - i) I must state for the record that on July 15, 2019, Mr. Leavelle expressly threatened Westwood Landowners' Association and the current Board of Directors and Mr. Rick Bridges as well, with litigation if the Board of Directors did not approve his

application. Because of this threat of litigation this Board has the right, as stated in our bylaws, to adjourn and reconvene in closed executive session for certain issues.

- 4) The President called on Mr. Leavelle for any statements that he would like to make.
- 5) Mr. Leavelle stated that his wife would speak. Mrs. Leavelle introduced herself and stated she was a co-owner of the property.
  - a) Mrs. Leavelle further stated that at the last meeting, it was noted that the county had approved an entrance and an exit off Westwood North Drive and TXDOT had approved an entrance off 1488. They were asked to contact the owner of the property next door, on 1488, to see if they could develop an entrance and exit that would enhance both properties. The Leavelle's contacted the property owner of the neighboring property (with the existing drive way). The owner of the neighboring property's response was no.
  - b) The Leavelle's contacted the Westwood Magnolia Parkway Improvement District (WMPID) as suggested at the last meeting. Mrs. Leavelle stated that WMPID explained the improvements they helped to accomplish on Egypt Lane and that improvements to 1488 were planned. Mrs. Leavelle further stated that WMPID felt that a company like Discount Tire, that generates sales tax, could work with WMPID, Westwood and the county to make improvements to Westwood North Drive.
  - c) Mrs. Leavelle stated that Westwood has flooding problems, drainage problems, ditches that need to be cleaned out and a lot of other issues and the only way you solve these problems is with money like property taxes and sales tax.
  - d) Mrs. Leavelle stated that Discount Tire is community oriented and has already told Westwood they are willing to work with them and will generate sales tax that would be an asset to Westwood.
  - e) Mrs. Leavelle stated that the Leavelle's are asking the Board to approve the Discount Tire store and realize that Discount Tire would be an asset to Westwood.
  - f) Mrs. Leavelle stated that there are only three options:
    - i) The Board approves the Discount Tire Store,
    - ii) The neighborhood and the Board buys the land at the price Discount Tire wants to pay, or
    - iii) Or legal recourse, which they do not want.
  - g) Mrs. Leavelle thanked the Board and the members for the opportunity.
- 6) The President noted that Westwood does not receive any sales tax.
  - a) Mrs. Leavelle stated that WMPID does and that Westwood could benefit from the sales tax.
- 7) The President asked the Leavelle's if there was anything else that they wanted to say.
- 8) Mr. Leavelle stated:
  - a) From his perspective they have wanted to sell the property for over 15 years.
  - b) They pay their dues (annual Maintenance fee) and taxes and they go up every year.

- c) They learned by coming to these meetings that there are a lot of fine people here that just want to live, be happy and enjoy what they have and that is all they want to do.
  - d) It hurts that you can buy a piece of property and not be able to do anything with it.
  - e) As Tom Grayson stated at the last meeting Westwood needs to start thinking about getting companies like Discount Tire in here so that you can get some money in here and get things done.
    - i) The President stated that Westwood would not get any money from Discount Tire like sales tax or property tax. Westwood only collects maintenance fees.
  - f) Westwood should work with the Westwood Magnolia Parkway Improvement District (WMPID) to get improvements on Westwood North Drive and 1488.
- 9) The President asked Mr. Leavelle if there was anything else that they wanted to add.
- 10) Mr. Leavelle said that they said their peace. Mrs. Leavelle added:
- a) She is a retired school teacher and loves kids.
  - b) She knows the school (daycare facility) is a concern and suggest people need to be creative and think outside the box with this thing. Like the right turn lane on Egypt Road, sidewalks on 1488 and widening Westwood North Drive. There are a lot of creative things you can do to improve that drive for everyone in the whole neighborhood.
    - i) The President stated that he did not disagree with her, but that would require a long postponement of this application and of this project until we resolve some of those issues. Westwood does not own Westwood North Drive. It does not matter how much money Westwood has.
    - ii) Mrs. Leavelle said that she is a positive thinker.
    - iii) The President said that he agrees with Mrs. Leavelle but we have to vote tonight unless the Leavelle's want to withdraw their application and give Westwood time to look into these things. He is not sure what the Leavelle's want the LOA to do.
    - iv) Mr. Leavelle state that they want Westwood to know about these ideas. Everybody brings up problems at these meetings. If you would reach out to those things that will help Westwood and the county you can get that help.
    - v) The President stated that he would be glad to do it but those things take time and we have this before us and this is the date and time we set to vote on the appeal. This Board will be more than willing to work with the Leavelle's but it would require that they withdraw their application for Discount Tire to allow time to work things out.
- 11) A member asked if there was anything to add about the request, made at the last meeting, to leave some of the natural barrier around the retention pond.
- a) Mr. Leavelle stated that the engineer for the project could not be here for tonight's meeting and mentioned that at the last meeting the project engineer went over the plans and showed the areas where they will create decorated areas on the lot.
  - b) The member stated that was some of the stuff you were supposed to go back and talk about to conceal the retention pond it was a big issue to a lot of people. Now when

they look out their door they are looking at woods. They do not want to look at a cyclone fence with a hole behind it.

- c) Mr. Leavelle stated that it is under consideration and they are trying to draw the plan. They thought they would have to go back and redraw everything that was done if 1488 had come through.
- d) The member stated that you went from not being able to do a driveway on 1488 to now you can put a driveway on 1488.
- e) Mr. Leavelle said that they have entrance way on 1488. They wanted to be able to widen that so they could get permission from the county to have both ingress and egress on 1488. Because they did not get any help from the person that owns the lot next to them, on the west side, for an easement with their driveway, they are not able to get the ingress and egress on 1488.
- f) Travis Smith, with Caldwell Companies, stated that he is working with the Leavelle's on the sale of their property and added that the first option was to pursue the right in /right out on 1488 but TXDOT would not approve it. Putting the entrance on the other side of the site would require flipping the site and putting the building against Westwood North Drive. Rather than having landscaping and an open view, the back of the building and all of the mechanicals would be in view. That was discussed with the ACC in it was thought to not be esthetically pleasing.

12) A member, owner of the daycare facility, stated that she was at the last meeting and her concern is the traffic coming out from her building, the busses and traffic at the light. At 7:30 in morning her and her parents were being videoed and her parents were upset about it. Travis Smith, with Caldwell Companies, stated that the video was of the site's location. The member stated that to her parents he was a stalker. The member further stated that he needs to see the traffic situation between 4:00pm and 6:30pm. Travis Smith, with Caldwell Companies, stated that they have that video as well.

13) The President commented that it was not on the agenda to have another Town Hall type meeting but he is more than happy to entertain remarks from members and to let the Leavelle's, the attorneys or Travis Smith respond.

14) A member sated that he feels for the owners of the property. He further stated that we need to vote on what we know today and not on what may happen in the future with respect to possible changes to the roads.

15) The President stated that during the July 30<sup>th</sup> appeal meeting we tabled the vote and set this date which was three weeks later. It was the Leavelle's choice to have three weeks. At that time the Board would have given the Leavelle's as long as they wanted to work something out that would be good for both the Leavelle's and the neighborhood. At this evening's meeting the Leavelle's were going to address the suggestions, comments and concerns presented by the members during the July 30<sup>th</sup> appeal meeting. The three weeks have gone by but there have been no plans presented that addressed the suggestions, comments and concerns presented by the members during the July 30<sup>th</sup> appeal meeting.

- 16) The President said that when we have a special meeting, we are required to follow the agenda that was sent out to the members. He noted that the Board will hear what members and the Leavelle's have to say.
- 17) Mr. Lavelle responded that the only thing they were going to check on was to see if they could get ingress and egress on 1488. They were not able to obtain cooperation with the owner of the lot next door.
- 18) The President commented that he thought there were other issues that the Leavelle's were going to look into as well. Several members interjected that there were other issues they believed the Leavelle's were going to address such as the fencing not being chain link, leave at least a 10 foot buffer of existing trees along the fence. The President added also, a 10 foot fence along the Weisinger side.
- 19) Travis Smith, with Caldwell Companies, stated that the plans call for the fencing requested by the Architectural Control Committee.
- 20) A member stated that a traffic study was not done and there should have been one performed. Traffic is bad now and it just going to get worse.
  - a) The President stated that to his knowledge they did not do a traffic study but Discount Tire did a study showing the expected number of cars per hour and submitted that as part of their application.
  - b) Travis Smith, with Caldwell Companies, confirmed that it was completed. He added that Discount Tire has one of the most consistent low volume traffic throughout the day compared to other retail uses.
- 21) A member asked if Discount Tire looked at purchasing the neighbor's, which would not grant an easement, lot to allow a driveway on 1488.
  - a) Mr. Leavelle stated that it would add too much to the total cost of the project and Discount Tire would not be able to recover the cost in terms of amortization and the owner of the lot does not want to sell to anybody.
- 22) A member stated that she has two small children that attend the daycare and she is a paramedic. She has personally needed to perform CPR on a child while on a school bus in this exact situation. When kids get off of a school bus, they are crossing the road and walking along both sides of the road. This will be putting the children at risk. She has seen people, including residents, not stopping for school busses in this neighborhood.
- 23) A member commented that at the last meeting the members were told that this was going to be a low volume store. He further stated that there is not company in the world that wants a low volume store; they want to be as buzzy as possible. The Leavelle's and discount tire are telling us what they think we want to hear. We were told there was going to be 43 parking spaces and 60 employees. If only one third of the employees are there, they will

take up half of the parking spaces. There is not going to be room for the truck to pull in to make deliveries. The truck will need to park on the side of the road or drive around the neighborhood to turn around because it won't be able to back up onto 1488.

- 24) A member commented about big trucks tearing up Tamina Rd.
- 25) A member questioned how an 18 wheeler could make the turn from 1488 on to Westwood North Drive without hitting the cars on Westwood North Drive that are coming out of the neighborhood. She also questioned where the workers will park during construction of the facility.
- a) Mrs. Leavelle commented that this why the people need to work with the Westwood Magnolia Parkway Improvement District (WIMPD). She added that Westwood North Drive needs to be widened, more lanes are needed and there are things that you can do to improve that who situation.
  - b) The President stated that the LOA would be glad to work with the county, TXDOT, WIMPD or anybody, but those things take time.
- 26) A member stated that no one has mentioned anything about the noise from the compressors and impact tools along with the cars honking when they go in and out of the stalls.
- 27) A member stated that this is a commercial property and we can't say we are not going to allow anybody to develop their property because the roads are overloaded and we will get more traffic. He further stated that if we deny everyone that wants to develop this property, we are going to end up being sued. The next one could end up being a nightclub, a bar or anything on that property. A daytime business that is running an air compressor indoors is no louder than his garage on a weekend. He stated that he does not see a problem with having the Discount Tire on this property.
- a) Another member stated that he agrees and we need to watch what business is developed there, Discount Tire will be good for the community. He went on to ask what happens if a strip center goes in and we cannot control what businesses rent the space since the LOA can only approve the building not the businesses that rent the space.
- 28) The President stated that we have heard from people that are in favor of having the Discount Tire located on the lots in question and people that are against it. The President then asked if there was anyone else that had something they would like to say.
- 29) A member that lives near the proposed Discount Tire site mentioned that he has a Discount Tire credit card and regularly goes to Discount Tire stores. He continued to state that it has been 3 weeks since the last meeting and no one has come over to ask what concerns he has.
- 30) A member asked if the vote could be delayed to see if solutions could be worked out for the concerns that people have.

- a) The President stated that the Board, and he believe the members of Westwood also, would have no problem postponing this until something else could be presented but that is not something that the Board can decide to do. That would be up to the Leavelle's.

31) The President announced that the Board will be adjourning and going into executive session. The President further stated that by law, if any decisions are made in executive session, we are required to state those decisions made when then Board returns and calls the meeting back to order.

32) A member commented on her understanding of the Boards, fiduciary responsibility to do what is best for everyone or what the majority of the people want unless advised by the LOA's attorney differently and asked if that was correct.

- a) The President stated that he is not qualified to answer legal questions because he is not a lawyer.

33) The President adjourned the meeting, at 8:20pm for the Board to go into executive session.

34) The Board returned from executive session and reconvened the meeting at 8:46pm.

35) The President stated that the Board will vote now.

- a) The President read the last sentence of section 7.04 from the bylaws, Quorum Required for Board Members:
  - i) All acts of the Board require the approval of at least three (3) Directors.
- b) The President added that one of the Directors could not be present because his work required that he be in Mexico this evening.
- c) The President stated that it will take three (3) Board members to overturn the denial.
- d) The President stated, On the matter now before the Board concerning the Discount Tire Store:
  - i) All of those in favor of upholding the decision of the Board and uphold the denial, vote by raising your hand.
    - (1) The President raised his hand.
    - (2) The Treasurer raised her hand
  - ii) All of those in favor overturning the denial vote by raising your hand.
    - (1) The Secretary raised his hand
    - (2) The Member-at-Large raised her hand
- e) The President stated that nothing has changed.
- f) A question was raised about calling the Board member that was in Mexico for his vote.
- g) The President stated Board members must be present at the meeting to vote.
- h) The President announced that the vote is two (2) to two (2) therefore no action can be taken. Because the application is denied and the Board cannot take an action, it remains denied.

36) Mr. Leavelle asked what happens now, is there any way to come back and get all five (5) members to vote.

37) The President informed Mr. Leavelle the application has gone to through the ACC process, it has gone to the board and was denied, he has had his appeal and the Board has voted. The Board does not have the required three (3) votes so we can't take an action.

38) The President stated that he would entertain a motion to adjourn.

39) The Secretary made a motion to adjourn, the Treasurer 2<sup>nd</sup> the motion. The motioned passed unanimously. The President adjourned the meeting at 8:52pm.