

EUREKA TOWNSHIP

DAKOTA COUNTY
STATE OF MINNESOTA

PLANNING COMMISSION MEETING OF MARCH 5, 2019

I. Call to Order

The Eureka Township Planning Commission meeting was called to order at 7:00 p.m. by Chair Ralph Fredlund.

Members Present: Ralph Fredlund (Chair)
Bill Funk (Vice Chair)
Allen Novacek (Commissioner)
Randy Wood (Commissioner)
Julie Larson (Commissioner)

Others Present: Tim Murphy (Town Board liaison)
Ranee Solis (Town Clerk)
Butch Hansen (Town Board Vice Chair)

II. Approval of the Agenda

The following changes were requested to be made to the agenda:

1. Ralph Fredlund: Add under New Business, item B. Review Annual Meeting slides.
2. Ralph Fredlund: Add under Minutes Approval, item B. February 5, 2019 cancelled meeting.
3. Allen Novacek: Remove item A. Discuss Resolution 2015-03 from the agenda for the reason that the Town Board has already dealt with it completely with a unanimous vote and the Planning Commission has not been directed to do anything with it. Chair Fredlund disagreed and stated the item will remain on the agenda. Commissioners Larson, Wood and Funk agreed with the decision. Commissioner Novacek asked for the record to reflect that he will not take part in the discussion.

Motion: Commissioner Wood moved to approve the agenda as amended, seconded by Vice Chair Funk.

Motion carried 4-1, with Commissioner Novacek opposed

III. Citizen Inquiry

(None)

IV. Permit Requests

(None)

V. Land Use

(None)

VI. Town Board Liaison Report – (Chair Tim Murphy)

Chair Murphy provided a summary of the February 11, 2019 Town Board meeting:

- Reviewed the 2018 monthly budget final report.
- Reviewed the Year End report to the State.
- Reviewed the 2020 proposed budget.
- Heard three public comments:
 1. Nancy Sauber spoke about Resolution 2015-03.
 2. Beth Eilers spoke about an emergency Town Board meeting.
 3. Kathleen Kauffman spoke about the ballot situation with the March election.
- Deputy Reiners reported several snow mobile accidents and that the semi parked on Highview is being monitored.
- Bryce Otte – road contractor – was asked to break his billing into separate categories and places a temporary sign on Denmark stating Single Lane Road.
- Ralph Fredlund provided the Planning Commission update stating that the February 5, 2019 meeting was canceled due to the snow storm.
- Approved the annual IUP reviews for Friedges, Dakota Aggregates: Storlie Pit, Dakota Aggregates: Brosseth Pit and Vermillion River Aggregates. Sibley Aggregates was tabled until the March Town Board meeting.
- Newsletter was discussed with Jody Arman-Jones.
- Approved Resolution 58 to place a 5-ton road restriction sign on 225th.
- Discussed the Building Inspector Services contract, four changes were agreed upon and Supervisors Ceminsky and Palmquist were assigned to review the amended contract. A Special Meeting was scheduled for February 21, 2019 to review the amended contract.
- Chub Lake insurance company update – the attorney recommended accepting the property damage release subject to removal of the word indemnify, and issuing a deadline of February 19, 2019.
- Approved Resolution 2019-01 appointing election judges.
- Approved RFP's for deputy clerk and ordinance book codification.
- Approved meeting minutes.
- Held a closed session to discuss a Town Board member.

VII. Old Business

(None)

VIII. New Business

A. Discuss Resolution 2015-03

Motion: Commissioner Larson moved to include the provided interpretation in the minutes as submitted by Ralph Fredlund, seconded by Commissioner Wood.

Motion carried 4-0, with Commissioner Novacek abstaining

Motion: Commissioner Larson moved to move the interpretation and Resolution 2015-03 on to the Township attorney for his interpretation, seconded by Commissioner Wood.

Motion carried 4-0, with Commissioner Novacek abstaining

Supervisor Hansen stated that the Planning Commission should forward this to the Town Board as opposed to sending it to the attorney. Commissioner Fredlund stated his understanding was that the Clerk had the authority to send it to the attorney.

Chair Fredlund requested the Clerk to send it on to the Township attorney with a copy of Resolution 2015-03 requesting a response before the Town Board meeting next week. Chair Fredlund also requested the Clerk to add this to the Town Board March agenda under Old Business.

B. Planning Commission Annual Meeting slides

Commissioner Larson requested a permit spreadsheet showing closed permits. The Clerk offered to email the Treasurer's spreadsheet to each commissioner.

Commissioner Funk questioned whether there should be a slide about commercial development to which Chair Fredlund responded that it is not a Planning Commission item.

IX. Minutes Approval

A. Minutes of the January 2, 2019 Planning Commission Meeting

Commissioner Larson requested that a copy of the attendance sign-in sheet be included with the draft minutes.

Motion: Chair Fredlund moved to approve the minutes as amended, seconded by Commissioner Larson.

Motion carried 4-0, with Commissioner Wood abstaining

B. Minutes of the February 5, 2019 Planning Commission Meeting

Motion: Chair Fredlund moved to approve the notice of cancellation of the February 5, 2019 meeting, seconded by Commissioner Larson.

Motion carried 5-0

X. Deputy Clerk Issues

(None)

XI. Adjournment

Motion: Commissioner Novacek moved to adjourn the meeting, seconded by Commissioner Larson.

Meeting adjourned at 7:17 p.m.

Respectfully submitted,

Ranee Solis

Ranee Solis, Clerk

Minutes Officially Approved on: April 2, 2019
Date

By: 
Planning Commission Chair

DISCUSSION OF RESOLUTION 2015-03

Prepared by Ralph Fredlund

At the January 14, 2019, Eureka Town Board meeting the Board passed a motion to interpret Resolution 2015-03 to allow mining operations to store mulch by interpreting mulch to be a form of topsoil in the definitions section of the mining ordinance. Because it appeared the Ames Pit and Scotts Miracle-Gro would be the primary beneficiaries of this change the Board asked the Town Attorney to check whether the Country Stone settlement prohibited Scotts from storing mulch offsite at mining operations in the township. In addition, the Planning Commission was asked to research how this interpretation fit in with the recent attempt to pass a text amendment to expand storage at the mining operations.

Resolution 2015-03 was adopted in order to enact language that allowed ready-mix concrete plants as an accessory use for any party holding a level 3 mineral extraction permit. The current ordinance language reflects the language enacted by Resolution 2015-03 and was used in the process of reviewing the expanded storage options recently proposed but not enacted after overwhelming public opposition at the public hearing for it.

The January 14, 2019, motion to include mulch does not address the fact that an operator may import offsite minerals onto the subject property only for the purpose of mixing with minerals from the subject property.... (Ordinance 6, Chapter 7, Section 1(B)2. Language is still in effect that the storage, stockpiling, sale and mixing of materials that have been excavated offsite are **strictly prohibited** [emphasis added] except for the mixing of materials as provided in Chapter 7, Section 1(B). (Ordinance 6, Chapter 7, Section 1(K). This language is clearly stated in Resolution 2015-03.

In addition. Resolution 2015-03 does not apply to the Pre-existing Mineral Extraction Facilities determined in Ordinance 6, Chapter 13. This includes the Ames Pit. Chapter 13 has similar language as above in Section 2(H)2 allowing importing materials only for mixing with product from the pit; and Section 2(I) strictly prohibits storage and stockpiling of materials excavated offsite, except as allowed in Section 2(H).

Therefore, my conclusion is that intermittent storage of bagged mulch, as desired by Dan Ames (notwithstanding the Country Stone Settlement aspect), is still not allowed under the revised interpretation of Resolution 2015-03, unless it is for the purpose of mixing with materials from his pit. This is consistent with the previous Board action that denied the request to expand storage at the mining facilities.

RESOLUTION NO. 2015- 03

TOWN OF EUREKA, COUNTY OF DAKOTA, STATE OF MINNESOTA

RESOLUTION

WHEREAS, on March 9, 2015 the town board of Eureka did conduct a hearing regarding an application by Eureka Sand and Gravel to amend Ordinance 6, known as The Township of Eureka Mineral Extraction Ordinance for the purpose of allowing ready mix concrete plants as an accessory use for the any party holding a level 3 mineral extraction permit; and

WHEREAS, after closing public testimony a Motion was made and seconded to adopt resolution amending Ordinance 6 to allow for ready mix concrete plants as an allowable accessory use for level 3 permit holders.

NOW, THEREFORE, BE IT RESOLVED, that Town Ordinance 6 is hereby amended as follows:

1. Chapter 3, Ordinance 6 – Accessory Uses, shall be amended to read as follows:

Accessory Uses. Uses of a mineral extraction facility that are incidental to mining and are not included as an authorized principal. Accessory uses might include the manufacture, storage and sale of products made from minerals on the premises, and storage and sale of minerals and top soils not extracted on the premises. In the case of level 3 permits, ready mix concrete plants are an allowable accessory use.

2. Section 1, Chapter 6, shall be amended by adding the following language:

Any change involving structural alteration, enlargement, intensification of use, or similar changes not specifically permitted by the interim use permit issued, shall require and amended interim use permit and all procedures shall apply as if a new permit was being issued.

If an amendment does not include any change involving structural alterations, enlargement, intensification of use, or similar changes of primary use(s), the applicant may amend the originally filed supporting documentation including a Registered Engineers Findings stating whether an amended EAW/EIS is required.

Upon approval of an amended interim use permit, the Development Agreement shall also be amended to reflect the amended permit.

The Zoning Administrator shall maintain a record of all interim use permits including information on the use, location, and conditions imposed by the Planning Commission and Town Board, time limits, review dates, and such other information as may be appropriate.

3. Paragraph 2 of subsection B, Section 1, Chapter 7 of the Ordinance shall be amended to read as follows:

The Operator may import off-site minerals onto the subject property for the purpose of mixing with minerals from the subject property provided the imported minerals on an annual basis do not exceed 25% of the minerals extracted from the subject property on an annual basis. Accessory uses may not exceed 25% off-site materials used in conjunction with each specified accessory use; therefore off-site minerals may not be aggregated to a single accessory use, allowing a specific accessory use to exceed 25% of off-site minerals used in conjunction with the specific accessory use.

4. Subsection K of Section 1, Chapter 7 of the Ordinance shall be amended to read as follows:

Accessory uses must be identified in the permit. Accessory uses not identified in the permit are not allowed. The accessory uses of a concrete block production plant or ready-mix concrete production plant (Level 3 permits allow dry ready-mix concrete production plants as an accessory use) or asphalt production plant, shall be strictly prohibited. A concrete recycling plant and an asphalt recycling plant are also prohibited, except as stated in Chapter 7, section 1(B). The storage, stockpiling, sale and mixing of materials that have been excavated off-site are strictly prohibited, except for the mixing of materials as provided in Chapter 7, Section 1(B). Accessory uses will terminate when the principal use terminates. Accessory uses may not collectively account for more than 50% of the total mine operations based upon the volume of minerals extracted from the subject property, so that primary uses account for greater than 50% of the total mine operation as measured by volume.

5. The following shall be added to Subsection X, Section 1, Chapter 7 of the Ordinance:

Dry Ready-Mix Production Plants. *Off-site material (excluding aggregates) used in the production of ready-mix must be contained in an enclosed containment except during loading, unloading or conveying, to prevent the spread of off-site ready-mix materials via wind or other conveyance.*

Adopted: March 9, 2015


Cory Behrendt, Vice Town Chair

The motion for the adoption of the foregoing Resolution was made by Supervisor Budenski and seconded by Supervisor Behrendt and upon vote being taken thereon, the following voted in favor thereof: Supervisor _____ and Supervisor _____; and the following voted against same: Supervisor Cemenrsky. Whereupon said resolution was declared duly passed and adopted.

EUREKA TOWNSHIP

Dakota County, Minnesota



Planning Commission Meeting

Attendance

Tuesday, March 5, 2019

7:00 PM

Printed Name

Address

Brian Ahern
Joyce Arman-Jones
Murray Auber
Duane Auer

625 235th St W
6905 255th St. W.
9445 225th St. W. CLKV.
JEANUS AHH, CLKV