

EUREKA PLANNING COMMISSION  
REGULAR MEETING  
April 6, 2009

Chair Sharon Buckley called the meeting to order at 7:03 p.m.

Commissioners present were Sharon Buckley, Vince Mako, Kenny Miller, and Ken Olstad. Town Clerk Nanett Sandstrom was not present. Audience members included Pat Mason, Shawn Dahl, Terry Swor, Kelly Brosseth, and Nancy Sauber.

**Approval of Agenda**

One item was added to the agenda under “Approval of Minutes.” Ken Olstad moved to approve the agenda as amended. Kenny Miller seconded the motion, which passed unanimously.

**A. Permit Requests**

1. **Kelly Aggregate** sign permit. Kenny Miller moved to recommend approval of the permit, Ken Olstad seconded the motion, and the motion passed unanimously.

**B. Land Use and Zoning Items**

1. Zoning ordinance text amendment application – Kelly Aggregate, Inc., represented by Kelly Brosseth of Kelly Aggregate, Shawn Dahl and Pat Mason of Ames Construction, and Terry Swor of American Engineering and Testing. (Kenny Miller recused himself from the discussion and sat in the audience, citing potential conflict of interest or potential appearance of conflict of interest.) Pat Mason of Ames stated that their goal was to be able to bring recycled road material from outside Eureka into the mine site and process it there. Terry Swor of American Engineering and Testing explained some benefits of allowing this: aggregate is relatively scarce in this area, it’s economical and “green” to bring trucks into the mine full rather than empty, and “LEED” points can be earned. Sharon Buckley asked whether there would be additional processing equipment for the recycled material, and the answer was that there would not. Sharon Buckley raised a concern of the potential for additional dust or other pollution, and Terry Sward answered that dust monitoring and abatement is, and would continue to be, covered in the CUP and the existing ordinance. Sharon Buckley asked what R.A.P. stood for (Recycled Aggregate Product). Vince Mako asked what “98% Proctor” meant, and Terry Sward explained that it’s a measure of “packability”, in this case referring to the pad on which piles of RAP would be kept. Supervisor Carrie Jennings clarified that an appropriate unit would be pounds per cubic foot (density), not pounds. Vince Mako commented about some 400 million tons of aggregate on the UMORE property in Rosemount. Terry Swor said that this estimate is recently defined, and discussions are open regarding the exploitation of this resource. Sharon Buckley recapped the relevant portion of Ordinance 5 regarding the text amendment process, and stated that the proposal has been presented properly. The public hearing was set for 7pm April 20, 2009, the earliest possible date consistent with public notice requirements.

2. CUP Application and Building Permit application – Northern Natural Gas – 22222 Highview Ave. (Kenny Miller rejoined the Planning Commission.) The applications were represented by Roger Tomberlin of Northern Natural Gas. Kenny Miller asked whether odorization will be changed, and Roger Tomberlin answered that it would not. Kenny Miller asked whether the operation would be unattended, and Roger Tomberlin answered that it would. Sharon Buckley read the CUP ordinance’s seven criteria and the application’s response to each (Ordinance 3 Chapter 2 Section 1.c.3). Sharon Buckley stated that we will have to write up Findings of Fact and proposed CUP conditions before the public hearing. Planning Commission members examined the drawings and the aerial photo submitted with the applications. The public hearing was scheduled for 8pm April 20, 2009.
3. Other land use and zoning issues: none were raised.

#### **C. Approval of Minutes**

1. Public Hearing Minutes – March 2, 2009. Kenny Miller moved to approve. Ken Olstad seconded. The motion passed unanimously.
2. Planning Commission Minutes – March 2, 2009. Sharon Buckley moved to approve. Ken Olstad seconded. The motion passed unanimously.
3. Special Planning Commission Meeting – March 3, 2009. Sharon Buckley moved to approve. Vince Mako seconded. The motion passed unanimously.
4. Public Hearing Minutes – March 19, 2009, Castle Rock Town Hall. Sharon Buckley moved to approve, Vince Mako seconded. Kenny Miller and Ken Olstad did not attend that meeting, so did not vote on the motion. Vince and Sharon voted aye.
5. Public Hearing Minutes – March 30, 2009. Kenny Miller stated that he would like us to have some time to read the minutes before considering whether to approve them. Ken Olstad suggested that we could take the time right then to read the minutes. Sharon Buckley suggested that we delay this until later in the meeting. The Planning Commission agreed.

#### **D. Other Business**

1. Board report and miscellaneous updates, by Sharon Buckley. Sharon received email from Scott Qualle proposing that he attend the June 1 and October 5 Planning Commission meetings in 2009. Kenny Miller said that the Commissioners should be prepared for these visits so that we are ready to raise our issues. The USNAS ordinance was approved by the Town Board. The updating of the permit application forms to meet the needs of the township and the inspector would be undertaken jointly by Scott Qualle and Nanett. The township web site’s FAQ page says or implies that permits are required only for projects expected to cost more than \$500. To Scott Qualle’s knowledge there is no such exemption in state code or statutes or in our ordinances.
2. Rural Collaborative Water Resources Management Ordinance. Sharon Buckley reviewed the written comments received since the public hearing: a letter from David Tonsager, 25700 Granite Path; a letter from Senator Pat Pariseau to Jerry Zimmer, 21931 Flagstaff Avenue, forwarded to the Planning Commission along with five hand-written questions and points by Mr. Zimmer. At this time Terri Petter hand-delivered a flyer to the members of the Planning Commission. Vince

- Mako asked whether the Planning Commission should move to neither recommend approval of the ordinance nor recommend against approval of the ordinance. Kenny Miller moved to recommend that the township not adopt the ordinance because the township's comp plan update does not yet have a surface water management plan. The motion died for lack of a second. Vince Mako stated that he would like the following points to be entered into the record: (1) The proposed ordinance never defines the term "easement" nor specifies a particular type of easement, and that this seems deliberate; (2) Anywhere Vince has found "easement" used in state statute, it is always voluntary or compensated, and in particular, for a conservation easement the landowner must agree; (3) Vince feels that an easement can't just be taken.
3. Commercial-Industrial Land Use Study. Sharon Buckley said that the township had received four responses to the RFQ before the deadline, from Thibault in Minnetonka, MFRA, SWB, and TKDA. Kenny Miller said we can't evaluate these tonight. Sharon Buckley agreed and stated that since she would be off the Planning Commission she would not participate in the selection of the consulting firm. Kenny Miller suggested that we wait until May when new Planning Commission members are in place. Sharon Buckley said she will find interview questions the township has used in the past and distribute them to members of the Planning Commission. Kenny Miller moved that the Planning Commission should evaluate the firms at the May meeting. Sharon Buckley seconded the motion. Vince Mako asked what we're looking for, and asked Sharon for her opinion at this time. Sharon said that she felt that TKDA had better skills related to team dynamics than did MFRA. The motion was approved unanimously.
  4. Ordinance updates. A special meeting was scheduled for April 22 at 7pm to review the final ordinance update proposal.
  5. Policy and Procedure Manual updates. Regarding the procedure for a planning commissioner surveying the site of a proposed agriculture building, Kenny Miller recommended that this happen before the Town Board meeting at which the permit request is to be considered. Sharon Buckley stated that we need specific verbiage for the manual on this point. Kenny Miller responded that he would write it and email it to the Planning Commission members. Nancy Sauber discussed with the Planning Commission some thoughts about whether it's really helpful to try to include brief guidelines about compliance with open meeting laws and about conflict of interest guidelines, since these are fairly well-defined in statute and not easy to summarize accurately. Nancy said that the existing reference to the MAT Town Government Manual is probably sufficient in most cases, and in cases where it is not, consultation with an attorney might be advised. Ken Olstad said that, to clarify guidance on which permit applications required Planning Commission review, he would list examples in each of the following categories: permits that are affected by zoning and therefore needed to be reviewed by the Planning Commission, permits that had structural impact but had no impact with respect to zoning and therefore did not need to be reviewed by the PC but did need plan review and project inspection by the building inspector, and permits that were not structurally significant such as re-roofing which needed no plan review only project inspection. Ken stated that he had not yet assembled

- these examples. Noting that not all members of the Planning Commission were using the same revision of the Policy and Procedures Manual, Kenny Miller stated that the PC needs a procedure to ensure that everyone had the current version of various documents, that once a year all old documents should be turned in and new sets issued. Vince Mako asked what the township is supposed to do in the way of enforcing the county's requirement for ISTS's to be pumped out? Sharon Buckley stated that she is working on this for the Comp Plan update.
6. Newsletter. Sharon Buckley stated that she is writing something about ballot initiatives.
  7. Training. No PC members had any news about training. Sharon Buckley encouraged members to consider training classes offered by Government Training Services (<http://www.mngts.org>), and recommended that each member obtain a copy of the manual from the Minnesota Association of Townships.

Sharon Buckley called a 15-minute recess to give Commissioners opportunity to read the March 30 Public Hearing minutes. The meeting was back in session at 9:30.

Sharon Buckley said that she had some corrections to the minutes, but nothing substantive, only copy-editing stuff such as punctuation. No other corrections were given. Sharon Buckley moved to approved the March 30 Public Hearing minutes with the copy-edits, and Kenny Miller seconded. The motion passed 3-0 with Ken Olstad abstaining since he was not present for the March 30 public hearing.

Kenny Miller moved to adjourn. Ken Olstad seconded. The meeting was adjourned.

Respectfully submitted,  
Ken Olstad