

EUREKA PLANNING COMMISSION  
REGULAR MEETING  
MAY 4, 2009

Vince Mako called the meeting to order at 7:03 p.m. Commissioners present were Cheryl Groves, Vince Mako, Kenny Miller, Ken Olstad, and Pete Storlie. Town Clerk, Nanett Sandstrom was present through the permit requests and land use and zoning portions of the meeting.

Audience members included Lee Dilley, Sue Hayes, Kirsten Pedersen, Supervisor Nancy Sauber, John Ackerman, Supervisor Jeff Otto, Sharon Buckley, Carol Cooper, Shawn Dahl, and Pat Mason.

### **Approval of Agenda**

There were four additions to the agenda. Kenny Miller moved to approve the agenda as amended. Vince Mako seconded the motion, which passed unanimously.

### **A. Election of New Officers**

Town Clerk Nanett Sandstrom counted ballots. Vince Mako was elected Chair, Ken Olstad was elected Vice Chair, and Cheryl Groves was elected Recorder.

### **B. Permit Requests**

#### **1. Mark & Susan Hayes, 8600 - 235<sup>th</sup> Street West: Residential Garage Addition**

Sue Hayes represented this application for a 576 sq. ft. attached garage addition to a single family residence. The wall height information was absent from the application. Sue stated the wall height will be 8', which was added to the application. This addition was then initialed and dated by Sue. No contractor information was on the application. Sue stated they did not know who the contractor would be at the time the permit application was submitted. The Hayes have since selected Tom Gray as the contractor. All set back requirements appeared to be correct according to the submitted drawing. The land is not in shoreland. Ken Olstad moved to recommend approval to the Town Board with the addition of the wall height information. Cheryl Groves seconded the motion, which passed unanimously.

### **C. Land Use and Zoning Issues**

#### **1. Leland Dilley, 714 Highland Ave W, Northfield, MN - Lot Split**

Leland Dilley represented the application to split one contiguous lot (Parcel C), PIN 130360001175, consisting of 125.73 acres into three lots in preparation of eventually selling the remaining acreage in Parcel C to an area farmer who did not want the residential credits. Proposed Parcel A, having 2.5 acres and 345.36' of road frontage; and Parcel B, having 5.945 acres and 200' of road frontage on Denmark Avenue located just north of the current Prairie Creek School property. Mr. Dilley's stated intent is to create two buildable lots by splitting Parcel A and B and clustering building rights. The Section number was missing from the Lot Split application. Section 36 was added and initialed by Mr. Dilley.

Kenny Miller moved to forward the lot split application to the Town Board for their consideration. Ken Olstad seconded the motion, which passed unanimously.

#### **2. Leland Dilley, 714 Highland Ave W, Northfield, MN - Building Right Cluster**

Leland Dilley represented the application to cluster one building site from the NW ¼ ¼ section to the NE ¼ ¼ section of parcel: NE ¼ of the SE ¼ of Section 36, Township 113, Range 20, Dakota County, Minnesota, PIN 130360001175. The NE ¼ ¼ would then have two building rights and there would be one remaining building right with the SW ¼ ¼ of this parcel. Discussion followed regarding the assignment of the building rights to specific parcels within the NE ¼ ¼ section. Kenny Miller stated the Commission's responsibility was to review the application and forward onto the Town Board for their consideration, not to assign the building rights to specific parcels.

Kenny Miller moved to accept the proposed building right cluster for consideration by the Town Board. Ken Olstad seconded the motion, which passed unanimously.

### **3. John Ackerman, 26455 Galaxie Avenue – Lot Split**

John Ackerman represented this lot split application. The house on John's property (Parcel C) sits close to his south property line. John purchased the adjacent property (Parcel B) with the intent of splitting off a 3 acre buffer parcel (Parcel C) to join with his property (Parcel A). He thought a boundary adjustment could make this change. The County Assessor informed him a Lot Split was required to make the 3 acres a permanent part of his property. John plans to incorporate the 3 acres with his homestead property. Parcel B is currently being advertised for sale. Vince Mako questioned the width of the road frontage of Parcel B being legal. Kenny Miller stated that it had been there for nearly 50 years.

Kenny Miller moved to accept the application and forward it to the Town Board for consideration. Pete Storlie seconded the motion, which passed unanimously.

## **D. Other Business**

Vince Mako moved to place the Text Amendment Mining Ordinance first under Other Business. Kenny Miller seconded the motion, which passed unanimously.

### **1. Text Amendment Mining Ordinance**

Complete minutes from the April 27, 2009, Public Hearing were not available. Nanett provided a copy of that portion of the minutes she had completed to Pete Storlie for review.

Vince provided the following synopsis. The Eureka Township mining ordinance allows for recycling of aggregate product with the limitation that recycled material must originate from within the township. Ames and Kelly have put forth a motion to amend the ordinance to allow recycled aggregate product from outside of Eureka Township since there really is not a call for recycling product from within the township. Recycling aggregate material is a good business and environmental practice. Other materials are allowed to be imported into the township to be recombined with aggregate material and exported; therefore, Ames and Kelly see allowing the ordinance amendment change to import recycled aggregate product (RAP) as logical.

Ken stated the current limit is 15 days per year of crushing aggregate product, and only 25 percent of the proposed annual total pit production may be comprised of imported product. Kenny noted the 25 percent applies only to other minerals not to recyclables. Ken commented that he thought anything we would realistically consider, would fix that 25 percent to apply to recyclable and not only to minerals as the ordinance currently states. Kenny asked as part of our ordinance update, if we need to wordsmith a different Chapter 7, Section 1 B Source of Materials, 1 & 2 into a consolidated source of materials that addresses both RAP crushing and the percentage of imported materials. Vince agreed. Kenny stated it would be less clumsy if it was one section with two distinct paragraphs. Trying to combine them would require a section that has the desired direction and isn't confusing. Vince summarized his understanding of the major issues from the Township's point of view as: 1) there is little specific benefit to the Township to make these changes other than to be a good citizen, and 2) it actually takes away some of our fund raising because only a certain amount is leaving the pit at a time and we do not make our 6 ½ cents per ton on RAP.

Kenny said that if we roll the RAP into the existing 25 percent import limit the township would not lose anything. Kenny read directly from the Mining Ordinance Chapter .2B Source of Mineral. If RAP text is included in the 15 day crushing limit or whatever we want to do there, we have not given up anything. Ken commented if the pit is currently bumping up against that 25 percent cap then Kenny is correct. However, if the pit is not and starts bringing recycled material in from outside the township there will be more truck traffic. Trucks will come in fully loaded and when they leave, the township will only receive 75 percent of the revenue.

Kenny noted the new gravel tax strikes down any home use fee the local governing units may apply to a pit, which makes our ordinance that requests an annual mining review permit fee questionable. Ken commented he was not sure this implied the township could not tax RAP, as it weighs just as much on our roads as natural material. Kenny commented he had a problem with the need to consider RAP as a revenue source as taxes on land the work is being done on has gone from a homestead ag use tax to industrial use in the County's perception. Taxes have at least quadrupled and in his personal experience increased by a factor of five on a permitted mine.

Vince noted the home use fees being eliminated and the increased taxes on permitted mine property does not have anything to do with the mining ordinance text amendment. Vince suggested the township check with the attorney and see what they say about charging a fee to export the RAP. Vince went on to say the Kelly pit, if they choose, could be grandfathered and there would be no other consideration, they could run under the current laws and ordinances.

Kenny stated that he would have to step away from this conversation because it gets into something that materially affects him and is a possible conflict of interest. Kenny commented that he felt we were going down the wrong path. He did not think we should be addressing fees, he thought we were trying to wordsmith the ordinance. Ken stated the fee discussion is relevant because we are being asked to consider lifting the limitation of allowing outside RAP. What is the impact of that? One of the impacts is revenue. Pete pointed out that if the township is going to charge a fee for revenue there should not be any other limitations such as days they can work or how much they can haul. It appears the revenue side is being put on to penalize the pit owners. Ken said that he did not look at it as penalty but as a means to recoup costs. Pete and Kenny asked what costs. Ken explained that whatever RAP that is hauled out of the pit is that much less mined product that goes out. If 25 percent of a load is RAP there is only tax revenue on 75 percent of the load. One of the costs to the public is wear and tear on the roads. Pete commented we would have to justify stating gravel trucks create more wear and tear on the roads than milk trucks, tree trucks, buses or all the additional traffic being diverted because of construction.

Pete asked if there was a set amount of gravel that comes out of a pit. The same amount of gravel will come out whether it comes out at 100 or 75 percent. Ken noted the permit is good for 22 years. Vince stated that all the gravel may not come out during the permit period depending on the demand.

Vince asked Jeff Otto if he had anything to add to this discussion. Jeff said that he did not have any more answers yet. Jeff stated that he had also read the State Statue regarding not putting another home fee on. It is not clear. State statute applies to aggregate being removed from the pit, not to recyclables. The question is, is there no home fee on the pit or on the material? Jeff thinks it is on the material. The township is trying to get that answer to understand whether this is reasonable and realistic or not.

Vince asked the Ames representative if they had any comments. He specifically asked if they had an opinion on the potential additional fee on RAP.

Shawn Dahl, Ames Representative, commented that every fee is a fee, they add up. Shawn stated that it would be fair to take into account what the operation will generate in additional dollars to the township that weren't available to the township in previous years. He believes that 22 years is not going to compromise or exhaust the 60 to 70 acres of minable area. If you cap it at 25 percent, that's a pretty small amount. Having said that, the township should either cap at 25 percent or tax, not both. Would a tax be imposed on all imported materials or only RAP? Shawn noted that they knew the ordinance when we came in. They are asking for this change in the ordinance because there is a need, it's the same equipment and they are setup, it fits into the operation. This is the norm in other mining operations in other municipalities. Permitting RAP is the right thing to do as it extends the life of gravel to all of us. If the township so chooses to charge a fee for repair and reconstruction of

roads that are in theory worn as a result of hauling this product, does that not potentially open the door for the County to say they think they should have another 6 ½ cents?

Ken responded that was a fair question. Ken went on to comment that his perspective is a little different. He is comparing it to the status quo and thinking, let's look at what we have today and look at the change we are asked to make and what is the direct impact of that. Trying to make it simple to do RAP because he believes it is the right thing to do but he wants to figure out what makes it fair and best for the township and community.

Vince suggested this be tabled and a working committee setup to consider changes to the ordinance. The committee would then have an opportunity to get additional feed back from Jeff Otto and investigate other options and take those into consideration before making a recommendation.

Committee members from the Planning Commission are Kenny Miller and Pete Storlie. Jeff Otto stated that the Board would need to take this up and discuss how to go forth.

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

#### 1. Planning Commission Public Hearing Minutes - Northern Natural Gas – April 27, 2009

Ken Olstad moved to accept minutes as corrected. Kenny Miller seconded. Vince Make voted aye. Cheryl Groves and Pete Storlie abstained as they were not Planning Commission members at that time.

*(Corrections: Typing error on top of page 3, second line. There are lights that can be "turned on" in place of "turner on".)*

#### 2. Planning Commission Minutes - April 6, 2009

Motion by Vince Mako to accept minutes as corrected. Kenny Miller seconded. Ken Olstad voted aye. Cheryl Groves and Pete Storlie abstained as they were not Planning Commission members at that time.

#### 3. Special Planning Meeting - April 20, 2009

Kenny Miller moved to accept minutes as presented. Ken Olstad seconded. Vince Mako voted aye. Cheryl Groves and Pete Storlie abstained as they were not Planning Commission members at that time.

### **D. Other Business**

#### 2. RFQ – Commercial/Industrial Study

The Planning Commission received proposals from six different companies for planning services to prepare a commercial industrial (C/I) land use study. Discussion followed on how to determine which companies should be brought in for an interview and then make recommendations to the Board to contract with. Cheryl Groves asked if there was a criteria for deciding who would be final candidates. The proposals ranged in cost from \$8600 to \$54,500. TKDA was the highest cost, which included two phases. However, Sharon Buckley had noted that TKDA had a good team work ethic. In addition, there was a question about one, possibly two, of the proposals being submitted after the due date. Discussion followed with the decision being made that if it was beneficial to the township to consider the late proposals, then we should do so. Cheryl commented there was quite a range of pricing and Ken noted there was quite a range of what was being delivered too.

Kenny commented that TKDA did a fine job in the past, but they have priced themselves out of our financial scope. Bill Weber of McCombs Frank Roos Associates, we have worked with in the past. Perhaps not always a 100 percent satisfied, but then we do know what kind of experience he brings to the table. Personally, Kenny has had some experience with NAC. That group has pretty good references. Kenny talked with Mike Sabota with Scott County. The people who worked with NAC seemed to be pretty happy with them and he did not hear anything negative. NAC has done very similar work to what we are asking of them, as has McCombs Frank Roos Associates.

Pete commented that his experience with Bill Weber on the CAC was that he got the discussion going. Not everyone agreed with Bill Weber and perhaps did not care for him because of it. Pete was comfortable working

with Bill Weber and would do so again. Pete said the CAC was a very diverse group and they floundered for the first two to three meetings, but eventually the group clicked and got where they needed to go.

Cheryl noted that having worked with McCombs we have an understanding of how they work, therefore, it would be worthwhile to interview some of the other companies that have a reasonable price package. Bottom line is we need to be fiscally responsible. If there is a reason to go with a more expensive group, we need to have very good reasons to do so. We can certainly go back and interview companies we initially set aside if we do not find candidates that meet our criteria. Do we know what that criteria is?

Ken stated that he was looking through all the proposals with the question of what our goals are. Kenny suggested we may want to have a preliminary meeting to identify our goals prior to interviewing the companies. Pete agreed that it would be important to have our goals established or an outline so we are all on the same page when conducting interviews.

Cheryl asked who makes up the C/I Task Force. Nancy Sauber said the Township newsletter said the task force would be made up of seven to eight citizens and two Board and two Planning Commission members. Jeff Otto said it is patterned after the CAC. The two Planning Commission members can act as alternates for each other, they are not both required to attend.

Kenny asked if the Task Force should be called before the planner is selected. Jeff Otto stated the Planning Commission is an advisory body, the Board hires the planner. The Board makes the ultimate decision because they are spending the money. The task force does not select the planner. Kenny asked how we set the goals to interview to if we do not select the task force first.

Nancy Sauber commented that in the past the Planning Commission interviewed the planner and recommended to the Board and the Board hired the planner. The same process was followed for the task force. Everyone on the Planning Commission submitted questions they thought the firm should be asked and did the same with the task force. The questions were discussed and a decision was made on which to use. The Planning Commission chair asked the question so they were consistent. Afterward everyone discussed the responses. In the case of the citizens, everyone was given a number order and they started compiling the list with the highest scores, scores ranged from 5 to 1.

Kenny commented that we have a very definite final objective for the task force and planner, do we want to hire a planner that can focus on what we want to do for the C/I? Nancy Sauber commented that we should keep in mind that what we are doing is a study. We are not guiding the study one way or the other. We want to collect data, look at all the ups and down, pluses and minuses, just thoroughly study it. Be really careful about "this is the direction we want to go". We don't know which direction we want to go, we want to study and see what makes the most sense for our township.

Ken commented that Nancy was envisioning something very similar to the CAC which loosely defined this kind of process. Jeff Otto stated that if we knew the answer we would not need to do the study, that's the bottom line. We have the vision as expressed in the Comp Plan that talked about a desire to do a commercial industrial task force so you have that as a starting point. The request for proposal written up by the board and approved by the board further identifies it. The proposal was deliberately kept flexible because we don't know what we might get into and to do the next step might cost \$50,000, and we are simply not going to do that. Some questions are how far can we go and what makes sense to do before we commit a lot of money that is not going to turn into usable fruit for us right away.

Nancy commented that we should also keep in mind the Dakota County Study that was done for the entire county and is available here. This study looked at what is already out their for C/I, how much is vacant and what they anticipate as the demand for the future. That's information that whoever is selected can look at. Jeff

commented that this is a controversial study as far as he is concerned that was done for the cities. It lumps all the rural townships together and identified a very minor amount of acreage that has already been blown by with Lakeville's annexation of 98 acres that was turned into C/I. That was nearly ten times the acreage this study forecast for rural townships for the next twenty years. The study did not deal with a situation like being around a transportation hub such as Airlake and Highway 74 represent. Interesting background information, but you need to understand the context. Nancy commented that whoever we select would need to determine if it accurately assessed the information.

Kenny commented that we might have a small issue with what we asked the planners to do. It appears they focused on a definite schedule and goals they attached a dollar figure to. It sounds like the Board wants a lot more open ended, examine the possibility and then focus on a goal. Jeff noted that we want the planner to come in and tell us what would be the best approach. Kenny responded, then you want the planner to do a study first and then present to the board. Jeff commented no, it would be based on their experience in doing this kind of thing for others and what they would recommend. We are a little open ended in the requirements. Kenny commented that a lot of the planner's time could be wasted with out more direction. Jeff stated that part of the evaluation is whether the proposal for their work plan makes sense.

Extensive discussion regarding a C/I survey of the entire township followed. The Planning Commission decided to take this up with the planner.

Kenny Miller noted that each proposal's project timeline have broken down how they expect to spend time with the township. If we are going to work to a dollar figure we are going to have to have a definite focus on what gets done by the Task Force to avoid burning up a lot of money arguing about nothing. Vince Mako, suggested the Task Force be given allocated time to use and conduct meetings without the planner in order to stay within the budget.

Pete Storlie suggested that the firm that is hired put together a scenario of what their firm believes is going to happen, present that to the group, along with the pros and cons. What do you see good or bad? Does not mean it is going to happen. This is from the planner's experience.

Members of the Planning Commission felt there was a need to put together a loose set of goals for the planner to come back with a proposal to give to the Task Force committee. Jeff Otto stated the documents from the various planners are supposed to be their proposals, their recommended work plan for how to approach this study. Kenny noted the proposals appeared to be very carefully structured because they are trying to minimize the dollars spent on our end. He suggested to get anything out of it let them come to us with plan proposals with various scenarios and let the C/I Task Force run with that. Let the planners put together their knowledge based guesses and give to us to work with on our own. Jeff said that if there wasn't already some of that in the proposals the companies were not very responsive. Pete said there really was not, the proposals appeared to be more what the companies could provide in planning services. Jeff suggested the interview process would be an opportunity to focus on this point.

Ken commented that the first commercial task force ended with a number of good questions that would be a good starting point. Pete noted that might be a good thing for the planners to have. Ken commented that some of the planning proposals did reference the previous commercial task force findings which where part of the RFQ, indicating they had read the RFQ.

Nancy stated the previous C/I is supposed to be the starting point. There are three pages of questions. This is supposed to build on what they already did. To her it is supposed to be a study that is an open question. One of the answers could be we don't want to do this. It's not, are we going to do this kind of C/I, this one or this one. It is, gather all the data, analyze the data with the help of a firm, and decide what makes the most sense. The starting point is supposed to be those questions from the previous C/I. Be careful about saying this is where we

are going. We don't know where we are going, that's why we are doing the study. It may very well end up that we don't end up having such a zone. We shouldn't go into this with the assumption that we will.

Kenny commented that he did not know that we should bring high paid professionals in until we know where we are going. Jeff Otto stated we do not have the knowledge to do some of this stuff. That's why we need expertise. The Township has not done a detailed study of locations. Nancy commented that is why they are coming, to help us get to where we want to go.

Jeff Otto put it in another context, if an interesting business walks in the door and says we'd like to have you zoned for us to put a plant or facility in, we are two to three years from being able to do that for them. Any company that has made a decision to expand or relocate won't give you three years, you'd be lucky to get three months. Nancy commented that we need this information and analysis in order to talk about where the township wants to go.

Pete noted that it is important to study a potential scenario, possibly some other township that has had a similar situation and the pros and cons. Vince commented that we want to know how to prepare for desirable new commercial real estate and how to control undesirable commercial real estate. Jeff Otto clarified "if we want" commercial real estate. Ken Olstad asked how do you evaluate for a given scenario whether it is desirable. Definite scenarios in potential locations with quantitative impacts of those scenarios such as forecasts of real impacts on our township in tax revenue, traffic, etc.

Ken suggested perhaps we want to do a survey to see who would want commercial industrial on their property even before we employ a planner. This might provide some interesting information as far as who would want C/I on their land. Discussion followed regarding previous surveys and how accurate and effective they were. Kenny suggested this might be better left to the planner to guide with the help of the task force. Pete made the point that C/I is not just determined by an individual property owners interest, it is also effected by what is happening just outside our township borders. The bus rapid transit coming south on Cedar for example is bound to have an effect along with the industrial park on our northern border.

After some discussion, the decision was made to conduct interviews on May 19, 2009 with May 20 being the alternate date. Allowing 45 minutes for each interview beginning at 7 p.m. Planning Commission member are to meet at 6:30 p.m. to discuss questions prior to interviews. They are to submit interview questions to Nanett by May 12 for her to combine, remove duplicates, and distribute. If you have additional questions, bring them with on the 19<sup>th</sup>..

Vince suggested we select two to three planning proposals and invite them for an interview. Ken commented that because we are dealing with taxpayers dollars we would have to have a pretty good reason not to interview the low bid. Based on the proposed fees, the Planning Commission chose the three lowest cost proposals to schedule interviews with. Vince will contact Yaggy Colby Associates, NAC, McCombs Frank Roos Associates to schedule interviews.

If anyone has survey questions , they are to bring them and we can discuss them on May 19. Also, put down suggestions for how the C/I Task Force should be organized. There have been some good ideas that can be formulated into a document for the task force and help ask questions. (Some of these were - staying within the budget, having an elected chair or facilitator, and the planner does not need to be at every meeting.)

The notice for applicants for the task force came out in the newsletter and was posted on the website. The newsletter told people to check the website. Therefore, we need to post additional information on the website. Vince will contact Nanett to post an update to the website. Deadline for applications is Thursday, May 28, 2009. Interested applicants will need to submit a letter stating why they are interested in serving on the task force.

Jeff Otto pointed out that two of the three people who were involved in handling questions from the consultants are not with us, Cory and Sharon. Two of the consultants that Jeff talked with asked what kind of ballpark we had for a budget, and he told them \$15,000 to \$20,000. Jeff said that as we look at numbers he encouraged us to be sure we were comparing apples to apples – this is a quality issue, it is not just about saving money.

Vince asked that we not address ordinance updates at this time and called for adjournment.

Kenny Miller moved to adjourn, Ken Olstad seconded. Unanimous

Meeting was adjourned at 10:00 p.m.

Respectfully submitted by Cheryl Groves, Recorder