

EUREKA PLANNING COMMISSION
JOINT PUBLIC HEARING
MARCH 19, 2009

This public hearing was jointly held by the communities of Eureka Township, Empire Township, Castle Rock Township, Hampton Township, the City of Coates, and the City of Hampton at the Castle Rock Town Hall. Planner Dean Johnson of Resource Strategies Corporation, Mark Zabel, Director of the Vermillion River Watershed Joint Powers Organization (VRWJPO), Dakota County Commissioner Joe Harris, and State Senator Pat Pariseau were in attendance. The Eureka Planning Commissioners in attendance were Sharon Buckley, Vince Mako, and Nancy Sauber. Eureka Supervisors in attendance were Jeff Otto and Carrie Jennings. A number of other Eureka residents as well as residents from other communities listed above were in attendance. Please see attached attendance sign-in sheet.

As facilitator, Dean Johnson called the hearing to order at 7:06 p.m. Dean acknowledged the communities in attendance and explained the procedure for the evening. He went through the "Key Provisions and Pending Revisions Summary" of the Ordinance that was available as a handout to the audience. (See attached.) The final draft of the proposed ordinance is pending.

Those people who had signed the speaker list were given the opportunity to ask questions that were relevant to the draft ordinance. This was to be distinct from the public testimony portion of the hearing.

Gary Piphon, Castle Rock: Are we still able to maintain ditches without going through a permitting process?

Mark Zabel: Yes. Resurfacing roads and maintaining ditches are okay.

Jerry Zimmer, Eureka: How did the water system get so critical in these last two years while hundreds and hundreds of years before this, it was okay? What's the urgency?

Dean Johnson: The local level of government has requirements to adopt many standards from different levels of government. The Surface Water Management Act was passed by the Legislature in the 1980's to deal with this issue.

Jerry Zimmer: I have been here for the past sixty years. I have never seen a typhoon, just some unseasonable rains. What has the JPO in a tizzy?

Dean Johnson: This is about water quality as much as about water quantity. The water quality is impacted as much by urban activity as ag activity. We've seen the changes in our communities. Rules of this magnitude have become necessary.

Andy Zimmer, Eureka: I would like clarification of what is a subdivision.

Dean Johnson: Any division is a subdivision. Any divisions that retain Green Acres *potential* or Ag Preserves *potential* are not impacted by the buffers. The Ordinance proposal says that if the zoning is 1 per 40 and no more than two lots are created, they would not be impacted by the buffers. We are recommending that the buffers would not apply, but the setbacks do. Quality of water makes a difference. Right now, all

townships have shoreland setbacks, but a number of waterways are not in shoreland areas. Non-ag has to meet the minimum, not the average, setbacks.

Andy Zimmer: If a wetland is identified, will buffers be applied even if there is no subdivision of land?

Dean Johnson: No. Under the Wetland Conservation Act (WCA), there is a requirement that if an activity potentially affects wetland, a wetland delineation must be made. That is so because if the activity is affecting a wetland, there is a need to do any replacement that is required.

Jerad Sachs, Empire: How did the cities of Lakeville, Farmington, and Hastings handle this, because they are also in the Watershed.

Mark Zabel: Apple Valley is still working on it. Farmington has its ordinance. Cities are in the same position as the townships regarding this.

Jerad Sachs: So they are also “rubber stamping” this?

Mark Zabel: They have to meet the Standards also. They can be more restrictive.

Jerad Sachs: What happens to the cleaning out of ditches?

Mark Zabel: The communities have to comply with the ditch law. The maintenance issue is a ditch authority issue.

Jerad Sachs: There is clustering in some communities. Is this affected?

Dean Johnson: That is part of a discussion that is going on. There is State law as to what becomes a plat. If the language is to go on a case-by-case basis, then perhaps the majority would not be impacted, but clustering has not been resolved yet.

Carol Cooper, Eureka: Number 10 [on the list of Key Provisions and Pending Revisions Summary] does not accurately reflect the ordinance language. You are appealing to the JPO to make the language broader, but this is not decided yet? Is this right?

Dean Johnson: The JPO has trouble with a quarter-quarter being divided into two lots and having them both still exempt from the buffers. This is still out as far as a decision.

Carol Cooper: So the JPO has not approved this?

Dean Johnson: There is no sign-off at this time.

Carol Cooper: When will the townships have the final draft ordinance?

Dean Johnson: By the end of the month.

Carol Cooper: Will this be made public?

Dean Johnson: Yes.

Carol Cooper: How?

Dean Johnson: If you request it, I can get you a copy.

Carol Cooper: Number 16 [Key Provisions again] says something about clarifications regarding the Community Engineer and the Community Building Official. What is that?

Dean Johnson: We may go back and clarify. We haven’t determined this yet. The JPO wants to be sure that this part is clear. I am not convinced further clarification is needed, but am happy to comply.

Carol Cooper: What about the next part [still under number 16] about plan submittal requirements?

Dean Johnson: The JPO has a series of requirements for the submittal. If there is a mandatory referral, the JPO says it might make sense if the plan submittal requirements are all the same as what they want. We will be doing some clarification.

Carol Cooper: It says that the land disturber is responsible for all turbidity testing. When would that occur and how much money will it cost?

Dean Johnson: There is a particular standard about this that says if this is so, then this must happen. The land disturber is responsible for the turbidity testing. It could be done through the Community Engineer.

Carol Cooper: Could you give an example of how this might come up?

Dean Johnson: This is a clarification of who is responsible. The oversight of the testing could be by the Community Engineer or through the JPO. If it is triggered, it is the applicant's responsibility.

Carol Cooper: What might the applicant be wanting to do that would trigger this?

Mark Zabel: If there were to be a discharge of water that includes sediment or turbidity from one site to another, it could affect downstream areas.

Carol Cooper: Could that be when there is construction or building?

Mark Zabel: Yes.

Carol Cooper: In the fourth-from-the-bottom bullet point [again under number 16] this sounds like a variance to the conservation easement. Is it a variance?

Dean Johnson: There are families that are dividing property and creating parcels and putting them into trusts. They may not do anything with the land for ten years or more. They do not know if they will retain ag status. This recommendation would allow the community to enter into a covenant or development agreement with these families that would say that when the land is disposed, *then* the buffers would come into effect, not at the time of the subdivision. I am recommending this to try to create flexibility. The buffers would apply when the property is sold, and it would be "Buyer Beware."

Carol Cooper: Why would you need it?

Dean Johnson: Because the trigger is when the property is divided, but it may not be sold for a number of years.

Carol Cooper: If the property is sold, there would be a number of splits, so why would you need a covenant?

Dean Johnson: So anyone buying the property in the future would know. There was an example of a larger property being divided into 17-acre lots. The mother wanted the land divided, but the kids do not know what they will do with the properties. There would be no building permits available if it is 1 per 40 zoning. The deed restriction would be recorded at the County that there is no building permit on the property. This could allow for flexibility through the covenant.

Carol Cooper: Given the insufficient data, how much confidence is there that the ordinance provisions will be effective in improving the water quality?

Mark Zabel: The Rules and Standards went through an open public process over a couple of years. Engineers and hydrologists had input as to what would provide protection. These measures were drawn up and approved by that group that went through the public process.

Carol Cooper: If they are shown to be ineffective, would they be removed?

Mark Zabel: They are meant to be protective. If the water quality would degrade, then the Minnesota Pollution Control Agency (MPCA) would identify this through the Total

Maximum Daily Load (TMDL) process. The Rules and Regulations would be made more restrictive to improve water quality.

Carol Cooper: Are you saying that if they don't do the job, you will keep it all and add more?

Mark Zabel: It is believed that these measures will be protective. If not, then it will be required to be more restrictive.

Carol Cooper: If the cause [of the water degrading] cannot be identified, would there be a change?

Mark Zabel: Yes, it will change if it is not effective.

Carol Cooper: If the buffers do not protect the water quality, will the covenants be dissolved?

Mark Zabel: Buffers are nationally recognized as being effective. In order to have a truly effective buffer, it would have to be completely variable. Nobody would accept that. What has been put forward is a reasonable compromise.

Carol Cooper: Did the people participating take the landowners rights into consideration?

Mark Zabel: This is the balance.

Carol Cooper: I did not see any mention of "property rights." Did they consider this?

Mark Zabel: Yes.

Carol Cooper: Who owns the property easement?

Mark Zabel: The city or the township.

Question from the floor: Do we still have to pay taxes on it?

Mark Zabel: Easements are a well-known practice. There are other situations when easements are done. There is nothing to say that it may not be offered to purchase an easement.

Carol Cooper: How would it be decided which would be purchased?

Mark Zabel: A new program could be developed.

Carol Cooper: Who will draft the easement?

Dean Johnson: The property owner will. He could restrict public access, and make the easement just for water quality. It is the responsibility of the property owner.

Carol Cooper: How much does the property owner have to pay to split property into two lots?

Dean Johnson: There is a cost in any split. If there is an easement attached, there is an additional cost. I don't have an example of cost.

Carol Cooper: There is no definition of wetlands. The land owner is stuck with the cost of delineation.

Dean Johnson: Since 1991, the Wetland Conservation Act has been in place. Any land disturbance affecting a wetland requires wetland delineation. That is in place regardless of this Ordinance requirement today. We have no projects in our plan. There is no budget for capital improvements. It doesn't reference that specific information for the cost of wetland delineation.

Carol Cooper: On the subject of bridge construction and reconstruction, some people have bridges in their driveways. If they need repair or reconstruction, you talk of up to 120 days. How many days do they have to wait? Is this a reasonable thing for the JPO?

Dean Johnson: There is the matter of bridge vs. culvert. I don't know the number involved. There is an emergency provision.

Mark Zabel: If it involves less than 1 acre of land disturbed, it is up to the community.

Carol Cooper: This does not apply to *all* bridge construction?

Mark Zabel: No. If a community wants our assistance, they can ask for our help. Bridge construction is an example of the “other” category where communities might want our assistance.

Carol Cooper: Is there something in black-and-white about “might want to look at?”

Mark Zabel: When we expect runoff into the River there is a direct impact. The size of the area being disturbed can have impact downstream.

Carol Cooper: If a bridge goes out for a driveway.

Mark Zabel: They would not be going through the entire process of reconstructing a bridge. They could do a temporary solution until they can repair the bridge. We may or may not want to look at it.

Carol Cooper: What harm are you trying to avoid by getting involved in bridge repair?

Mark Zabel: When reconstructing a bridge, land is disturbed, and there can be erosion and runoff into a waterway. That can go into another waterway, and it is possible to cause problems downstream.

Butch Hansen, Eureka: What does it cost for wetland delineation? A Storm Water Pollution Prevention Plan (SWPPP) costs a minimum of \$5,000. That’s what I had to pay in Rice County for one house. What do you classify as wetlands? There are ten classifications. It has to do with soil and vegetation. One I dealt with had mature trees on it. If you have five acres of woods, you can classify it as wetlands. You have the nerve to say that you would come in and buy our land. It’s our money. You don’t know the answers. There needs to be more study. You should be able to answer simple questions. You guys have some homework to do before you expect our local government to put their thumb back on us. There are a lot of wetlands you are going to take authority over. It’s not right. There have to be better answers before you make our boards do this. What is the cost for a licensed engineer to draw up a SWPPP?

Dean Johnson: There is no single answer. It is entirely caught up in what is being proposed. The MPCA requires this today already. I can’t tell you the range of costs.

Butch Hansen: That’s not a very good answer. If it is one acre, what are the costs?

Dean Johnson: There are a lot of variables: is the land flat, does it involve a wetland?

Butch Hansen: What are you classifying as a wetland?

Mark Zabel: Wetlands are defined in the Army Corps of Engineers Manual. It takes into account hydrology, soils, vegetation, how long water stands on the land. Engineers are trained in this and will define the line.

Butch Hansen: You could take somebody’s woods.

Mark Zabel: Floodplain forest is wetland.

Butch Hansen: It could be somebody’s backyard, and now you say you can’t mow it anymore. You guys left a lot of looseness so you could tighten it up later.

Mark Zabel: In 1982, the Metropolitan Comprehensive Storm Water Management Act was passed. There had been downstream problems, but there was not the authority to stop this. The Act was passed to provide for intercommunity agreements. This is the second generation. It is an open public process to manage intercommunity activities. Communities have to adopt the plan and then ordinances subsequent to the plan to manage water and to not burden another community.

Butch Hansen: Is “storm water” water from a rainfall?

Mark Zabel: Yes, and water from a rainfall can move to another place.

Butch Hansen: Silt can move. There is already a law.

Mark Zabel: This is a way of implementing practices to manage this.

Butch Hansen: Is it not already law?

Mark Zabel: On a construction site, yes, there are National Pollutant Discharge Prevention System (NPDES) permits.

Butch Hansen: You are using storm water to manage the pond behind my house. I pay taxes on it. I already have other easements that I can’t use. I pay taxes on all of it. It sounds like what you are trying to do again. I don’t like buffers. You’re going to designate that as wetland. How are you going to regulate it? Why pay taxes on it? People aren’t going to buy it with the buffer.

Dean Johnson: The buffers apply only if you divide the property.

Butch Hansen: “Subdivision” is you make one-acre lots and develop it. “Lot split” is what you do in an ag area.

Dean Johnson: Whether you call it a “subdivision” or a “lot split,” it is dividing the property. When a split occurs, and the land no longer retains Ag Preserves or Green Acres eligibility, then the buffers apply. Read the Ordinance. It is clear what the exemptions are.

Butch Hansen: You mention Green Acres. They’re redoing Green Acres. How do you throw this into this?

Dean Johnson: I can’t predict that. The Legislature comes up with the answer. If it requires amendments to the standards, the JPO can consider those.

Butch Hansen: We need an extension. It’s tough to develop more and more ordinances to govern us. What does it hurt if there is a six-month or a one-year extension? Why pass this in a hurry?

Joe Harris, County Commissioner and Chair of the VRWJPO Board: They changed the Green Acre law last year and are talking about it again this year. There are provisions in the document to allow amendments. There are always changes in rules and regulations, whether from federal, state, county, city, or township levels. The document allows the flexibility to amend the rules and regulations. Many are the existing rules and regulations. The vast majority of this effort is getting our arms around all these rules and regulations that communities have been dealing with for years. Over the years, I have listened to many communities complain about other communities. This is a way to bring local communities into conformity and give validity to the rules and regulations. Will everyone be happy? Probably not. The original law requiring this, communities floundered for seven to eight years to create a JPO. This Vermillion River Watershed is the biggest watershed; it has 21 cities and townships. If only one said no, the whole thing fell apart. Thus, the State law says that the County shall do watershed planning. Five years ago Dakota and Scott Counties started down this road. Five of the nine people [on the Vermillion River Watershed Planning Commission] come from rural areas to protect your interests. Almost all the rules and regulations do not come into play unless *you* make the change. All ag property is exempt from these rules and regulations. If an ag producer wants to sell off fifty acres, he will have to deal with these rules and regulations. If you disturb more than one acre of land, then you have to deal with the MPCA rules and regulations. You’d still have to do a SWPPP, regardless of this Ordinance. How the

property is used today has been protected. If you want to develop, and you affect water quality, then you have to deal with the rules and regulations. To say hold back until the the Legislature decides on Green Acres is not prudent. The Legislature can make a change at any time.

Dean Johnson: Please limit this to questions about the Ordinance. If you have a complaint, please save it until later [during this hearing.]

Butch Hansen: If it is less than one acre, you determine if there are buffers.

Dean Johnson: There is a list of exemptions.

Jodi Hansen, Eureka: If I have a forty-acre parcel, and I sell the forty-the whole property-then there are no buffers?

Dean Johnson: Yes.

Jodi Hansen: What about if I have forty and sell twenty?

Dean Johnson: In that particular example, if you have forty and split it into two parcels, and they are a certain width, you can go to the County and get an exemption. If less than twenty acres but it retains Green Acres, buffers do not apply.

Jodi Hansen: If there are 120 acres and there are three building sites, using up all the acreage, and I have 40 acres, my sister has twenty acres, and my dad has sixty acres in a trust, when Dad passes away, is that considered a lot split?

Dean Johnson: If division occurs at death, it depends on the provisions in the split. It depends on whatever acreage limit is in Green Acres at the time of the split. If it is *eligible* for Green Acres, the Standards say buffers do not apply.

Don Pflaum, Eureka: You [Dean Johnson} are an independent consultant. Who do you have a contract with?

Dean Johnson: I was hired by a resolution of the communities.

Don Pflaum: Do you have a scope of services?

Dean Johnson: I was to provide the collaborative ordinance.

Don Pflaum: How were you selected?

Dean Johnson: I assisted in the Collaborative Plan. I was selected by Dakota County through an open process, and I do have a contract with the County.

Don Pflaum: [Directed at Mark Zabel] Who are you?

Mark Zabel: I am an employee of the County and the Director of the VRWJPO.

Don Pflaum: Joe Harris, what is your position on conservation easements on a lot split?

Joe Harris: It has to come before the Local Government Unit (LGU) and may have to come before the JPO Board.

Don Pflaum: You are one of three Commissioners on the JPO Board. Are you going to vote yes?

Joe Harris: Yes

Don Pflaum: Ladies and gentlemen, take note. Pat Pariseau, what is your position?

Pat Pariseau: Who is on the JPO Board?

Joe Harris: There are two Commissioners from Dakota County and one Commissioner from Scott County. From Dakota County, there are Joe Harris, and Paul Krause from Lakeville. From Scott County there is Tom Wolf.

Don Pflaum: A lot of people in this room do not like this. How can you [Pat Pariseau] protect my property rights?

Pat Pariseau: I would like to vote on the side of property rights. There is something brewing for Dakota County that may be coming your way.

Cal Pflaum, Eureka: As long as I continue to farm, the buffer is not different? Can I get that in writing?

Mark Zabel: I will provide a written statement to you.

Cal Pflaum: Several years ago, there was a problem with Elko-New Market dumping in the Vermillion River. Where were you then? We didn't like what was happening. Dakota County did nothing. Joe, how many of those meetings were you at? [There was an exchange here between Commissioner Harris and Calvin Pflaum about the meetings and attendance.]

Dean Johnson: You can talk to Commissioner Harris [about the meetings and attendance] after the meeting.

Cal Pflaum: This document is saying nothing will change if I don't sell and I continue to farm?

Mark Zabel: As long as you don't subdivide, buffers do not apply.

Terri Petter, Eureka: You keep saying these things are already law, so why are you rewriting them in another ordinance? I have 100 acres along the Vermillion River; eighty are affected by wetland. I already have to pull permits. Why do we need another ordinance telling us what we can and cannot do? This is a permanent easement, but we have to pay taxes on it. Who had the idea to put more regulations on us? I have a bridge. If I want to replace a board, I have to go through so many agencies already.

Dean Johnson: This is a single-source document that gives more authority at the local level where you might have a "one-stop shop." It doesn't mean that you might not have to go to more than one spot.

Terri Petter: I may still have to go to the JPO?

Dean Johnson: There is a list of what has to. You may not have to.

Terri Petter: Don't we have enough enforcement already?

Dean Johnson: By arrangement, the LGU may say they do not want to deal with the WCA. Under this document, they do deal with the WCA. They do now.

Terri Petter: You people on the JPO, we really don't know if you know what you are talking about. You don't have land on the Vermillion River; we do. You're telling us what we can do with our land. We bought the land because of the River; it's beautiful. We fought Elko-New Market. We don't pollute the River. If I want to divide and sell to a developer, you are limiting us. If the buffer goes to 300', my forty acres is junk. I don't have one foot of land that is usable. What is the maximum buffer?

Dean Johnson: The maximum on any river is 150' from the river itself.

Terri Petter: I probably have only three acres that I can mow. You're telling us what we've worked for, my retirement fund, is junk.

Dean Johnson: These communities are deciding whether they want to retain local permitting authority. The Standards are in effect right now, whether they do or not.

Terri Petter: Why would the Township want to adopt this if we have to go to Dakota County?

Dean Johnson: This Plan and Ordinance have to be consistent with the Standards. The communities felt it was better for their residents to retain the authority. That's why they are here.

Terri Petter: How did these people get selected?

Dean Johnson: There are two Commissioners from Dakota County and one Commissioner from Scott County.

Terri Petter: What is the minimum buffer?

Mark Zabel: That depends on the water quality. On a grass waterway, it is thirty feet.

Terri Petter: What are we allowed to do? Can we mow?

Mark Zabel: Routine mowing is restricted.

Terri Petter: I mow my trails along the Vermillion River.

Mark Zabel: There are specific provisions in the Ordinance as to what can be done.

Joe Harris: Why do you care if you're not affected by the provision unless you subdivide?

Terri Petter: If I cluster and subdivide, then I hang myself.

Dean Johnson: If you have three building rights and 120 acres, you could divide and still be Green Acres-eligible.

Terri Petter: No, because it is all woods.

Dean Johnson: If it doesn't qualify, we are recommending to the [JPO] Board to consider if it is a one-per-forty district, and you are meeting local requirements and can have those divisions, then the buffers would not apply. The Ordinance is clear what the exemptions are. It depends how you subdivide.

Terri Petter: The Vermillion River is classification A. It would be a 150' buffer. I have a pond.

Dean Johnson: If the pond is wetland and you subdivide, you are subject to a wetland buffer. The waterways are on the map. If you impact the wetland and you subdivide, the buffer would apply. If you created a pond, the County probably knows. If it is pre-existing wetland, Soils and Water Conservation District (SWCD) does functional classification. You may still have to do a wetland delineation.

Terri Petter: We have to pay for that.

Dean Johnson: Yes.

Terri Petter: If I sell my forty-acre parcel, I have to check off that it is not developable.

Dean Johnson: If the threshold that requires a buffer is triggered, it has to be created.

Scott Anderson, Castle Rock: If I own property that is already subdivided, does the buffer go into effect if I sell?

Dean Johnson: No. The effective date is the date of this Ordinance. If the subdivisions already exist, no.

Scott Anderson: You mentioned "Buyer Beware." Do I have to put something in my purchase agreement?

Dean Johnson: No, because you are not subdividing. The development agreement in the estate situation would be recorded at the County.

Scott Anderson: If any one of these communities doesn't adopt the Ordinance, does the authority rest with the VRWJPO?

Dean Johnson: Yes.

Scott Anderson: Is there anything being done to prevent CapX2020 from building on this watershed?

Dean Johnson: There is nothing to prevent building on it, unless wetlands are affected, and then the regulations apply.

Kristin Kingsbury, Minneapolis, attorney, Duffy law firm: I would like a nutshell summary of what triggers a conservation easement.

Dean Johnson: We did that already. The conservation easement is formed for the buffer.

Kristin Kingsbury: If a landowner is subject to these regulations, do they have to apply for shoreland and floodplain permits?

Dean Johnson: Dakota County is the floodplain and shoreland authority, but not the wetland authority. That's the way it is now, regardless of this Ordinance. The townships have their own ordinances, regulating all land except that in the floodplain or the shoreland. The townships still issue the building permits, subject to the standards of the County.

Kristin Kingsbury: Is there a third option to allow the townships to modify this?

Dean Johnson: It is a matter of timing. The townships can adopt this now and then, on their own, modify it. They would still have to go through the VRWJPO. They can propose an amendment at any time.

Terri Petter: So the only thing new is the buffer system?

Dean Johnson: The buffer system is already in effect.

Terri Petter: So this is only about whether they are turning it over to the JPO or are keeping it?

Dean Johnson: Yes.

Bob Donnelly, _: We get paid for easements now. Do we get paid for this easement?

Dean Johnson: Not under this Ordinance. If you subdivide, you may have to give road easements.

_____: If I own 300 acres and I split off three acres, is it just the three acres that is subject to the buffers, or the whole 300 acres?

Dean Johnson: We are asking the VRWJPO to consider that buffers do not apply if that is done in a one-per-forty zone.

PUBLIC COMMENT PERIOD

Dan Harstad, Castle Rock: When is the government going to stop taking land from people? We worked hard for it.

Jerry Zimmer: In synopsis, you used "maybe," "possibly," "may or may not," "I don't know for sure yet," etc. That leads nowhere. You used "water quality" numerous times and "Vermillion River Watershed." When was the last water quality test done in the watershed? If you don't know what the water quality is, how do you know it is bad? What's the pollutant? There are no cattle left. What is polluting it other than the Elko-New Market disposal plant?

Mark Zabel: The Elko-New Market disposal plant goes to the Empire water treatment plant and then it goes to the Mississippi River.

Jerry Zimmer: When will that happen?

Mark Zabel: It is being done now.

Jerry Zimmer: They are still dumping. Other than that, what is polluting?

Mark Zabel: Surface water runoff. These regulations are for the disturbance of soils.

Jerry Zimmer: In Eureka Township, there's been no growth, farming for 100's of years. What is now polluting?

Mark Zabel: Storm water runoff.

Jerry Zimmer: You guys are trying to find a solution to a problem that does not exist.

Dean Johnson: You are entitled to your comments.

Jerad Sachs: I do recommend to the Planning Commission members that you recommend to your Boards to pass this, as it maintains control locally. The Board needs to pass this. Then as a group, go to MAT [Minnesota Association of Townships]. They should have more power than the JPO. Until Green Acres is straightened out, put the brakes on and figure something out. Put on the emergency brake, take one step back, and decide what is right.

Carol Cooper: Senator Pariseau has agreed to propose a bill to the Legislature to extend the deadline. We've heard a lot of "maybes." They said they might pay, but if it is not required, how will it happen? There is no mention of any objective standards for how they make decisions. They said it was an open public process for years. I haven't been aware of this. If they want you to be aware of property taxes or to pump your septic, they let you know. They didn't let us know about this. If it is no different from existing laws, why do we need it? There are no mandatory easements in shoreland zoning. They don't say anything about conservation easements. They said "all ag is exempt." It is exempt if your land qualifies under Green Acres. That is a moving target. There is more in here than just the buffers. There is a whole page, depending on water quality, what they can tell farmers to put on their fields. I don't call that "ag exempt." If you don't split a property, you don't need a buffer, but it does affect you. If you sell the property, chances are the buyer will know his use will be restricted. He will not pay you the same amount of money for it. It does affect you. These conservation easements take private property for a public purpose without compensation. That is against the Constitution. The landowner pays for everything-replanting of vegetation, etc. I thought slavery was illegal. Why are we here? Because State statute says they have to have a public hearing to pass an ordinance. But why are we here talking? Is anyone going to pay attention? I got the impression that this hearing doesn't matter. He said be sure to have a quorum here and go ahead and do what you are supposed to do.

Carl Lind, Castle Rock: I am a landowner. This is muddy beyond belief. I am against the Ordinance overall. They had their input. Once these buffers are in place, they can be changed at a meeting no one attends. I have purchased three SWPPP's. One required \$20,000 of improvements. I had to hire someone to design buffer strips. If I did subdivide, it is possible that my land would be 100% not usable. Most of the people around me are farmers. They are looking forward to retirement off their land.

Butch Hansen: I was on the Eureka Township Planning Commission when Elko-New Market was dumping. I'm the one who took the pictures. We got no help from Joe Harris or Paul Krause or Scott County. The only reason they are monitoring the Vermillion River is because Eureka Township hired its own expert to monitor water quality. It bothers me that you wouldn't help us. There was never a Commissioner that stood up and said "enough." These are the individuals to oversee what happens on the Vermillion River. It has been stated that the MPCA will sue us like Lake Elmo. Lake Elmo sued the MPCA. When it is stated that we have to fear the Met Council, be sure they have their facts in place. Eureka had to spend our own taxpayer dollars to make the River better. Where were they when there was human feces that were floating down the River? These three people have no expertise. The problem is too much government. No one cares more about their property than the landowner. I care about my property. They don't care about how you feel. Maybe it's time for Mr. Harris to retire and move on to another position. You haven't proved to me that you care about water quality. They want to create more rules to protect their jobs. I'm a little bit confused. If the County hired Dean Johnson to create an ordinance that is approved by the JPO, that's "double dipping." This is a lot of outside people coming in to tell us what to do. My property will be worth dollars less. That's important to everyone in this room.

Mark Hansen, Eureka: If this can't be put on the back burner, what's the rush? Put out postcards and allow the township to decide on who gets appointed to the JPO. Let's hear from the property owners what they want.

Don Pflaum: I like to compromise, but on this particular issue, I won't compromise. It is not a watershed plan. It is a tool and a mechanism to take property. I want to recommend to my township to wait on making a decision. The Vermillion River is changed from a prairie stream to a woodland stream. Beavers have taken over. They defecate as much as pigs do. Where is beaver abatement? There will be lawsuits. Requiring taking of property without payment is unconstitutional. This is power-hungry staff trying to protect their own jobs. Property owners should come first. What projects were done with these funds? Eureka got no help from the Counties. [On Elko-New Market dumping problem] I was told that they didn't want to provide help because the watershed JPO would fall apart. A nonprofit organization sent advocates to the County Board to advocate for setbacks. Fifty percent of them reside in Minneapolis. Our consultant disagreed with the MPCA allowance of what was dumped into the River. Where is all this runoff coming from? It's from the houses to the north, not the farms. The buffers are excessive. There is no scientific evidence that I have found that says they are effective. This is just providing for open space along the River with trail implementation within ten years. I support one-in-forty zoning. There will be growth and those people have to live somewhere. These buffers will take thousands of acres out of the development pool. This promotes sprawl. Development will, eventually, not be able to pay its own way. This promotes socialism and not the free market society. Taxpayers' dollars are going into this plan and it will ruin my quality of life.

Terri Petter: We have a bigger problem here. We're supposed to be free. We have laws and laws and one tacked on to this bill or another. People are getting really p----d.

We've had problems with the Township, but we worked through those. This is not a compromise. I used to live in Apple Valley. We were the last house to have horses. We were sued by Apple Valley. They put in a four-lane road. They didn't care about ruining the lake I used to swim in. The County and the City let it happen. The government is pushing too hard. People can be pushed only so far. I worked hard for my land, and now if I go to sell it, and it can't be subdivided, my land is worth much less than surrounding land. Just because I have gorgeous property. I pay my taxes. I work. I try to do things the right way. Now the government is saying it will take control of the land if we sell it. You can fight progress. I sued nine times. They killed a horse of mine. They stole tons of gravel from our gravel pit. Pat Pariseau has said that she would work to try to get it extended. There are too many questions. Maybe we should go up higher. Maybe the townships should get together and try to get some of the higher government control back. Easements are just a way to steal property. We got the sewer line and everything else. You have to fight to get what it is worth. By the time you get done fighting, you aren't making any money. People are going to start to rebel. Everybody should think about that.

Cal Pflaum: I see worried faces all over, and two faces up there smiling. People are worried about protecting their interests and their retirements. How many dollars are spent on staff?

Scott Anderson: We all have feelings and concerns. I think it is not too hard to see that the government has become an over-reaching authority and doesn't do what the people want it to do. Maybe Mr. Harris is not representing us. He is an elected official. There are already existing laws. The townships are supposed to adopt this and then look at how the construction of a building will be affected by these. We own property on the Vermillion River. If my son digs up some dirt for a track, Mr. Harris might say he's affecting the River. He'll send an engineer out, and I'll have to pay for it. There are a lot of wildlife in the River. They kill other animals and eat them in the River. Does that pollute the River? I see government officials telling us that our township should adopt this and enforce it. The government can then say we can regulate the township. If I were on the Board, I'd say "you do it."

There was no further public comment.

The hearing was recessed.

Eureka Planning Commission stated its intent to continue the hearing at a public hearing to take place at the Eureka Town Hall on March 30, 2009, at 7:00 p.m.

Submitted by,
Nancy Sauber, Planning Commission Recorder
In the absence of Nanett Sandstrom, Town Clerk