

**EUREKA TOWNSHIP PUBLIC HEARING  
DAKOTA COUNTY  
STATE OF MINNESOTA**

**JUNE 10, 2015**

**WINDMILL LLC Request for an Amendment for Dry Batch Ready-Mix Plant**

**Call to Order**

Planning Commission Vice Chair Barfknecht called the Public Hearing to order at 7:00 PM. Members present: Vice Chair Lu Barfknecht, Commissioner Phil Cleminson, Commissioner Fritz Frana, Commissioner Donovan Palmquist, Township Attorney Representative Kevin Beck, Kenneth Miller, Kirsten Pauly, Sunde Engineering Inc., representing Mr. Miller and Carol Cooper, Attorney, representing Mr. Miller.

Vice Chair Barfknecht highlighted key points of the Procedures for Public Hearings. Vice Chair Barfknecht also stated that it is the Planning Commission's responsibility to conduct a Public Hearing and everyone who has an interest, to be able to give public testimony.

Mr. Miller presented a slide show presentation to the Township residents of a dry batch ready-mix plant located in Prior Lake. Mr. Miller stated that the pictures presented are very similar to what will be in his operation. He discussed the plant loading area, fly ash storage, charging building, silos and vacuum system, washout water collection area and explained how this would pertain to his facility. Mr. Miller indicated that if this goes forward it would go behind the wash plant and take advantage of a vegetative berm.

Commissioner Frana asked Kirsten Pauly of Sunde Engineering to elaborate on the introduction of cement and fly ash as part of the process in terms of impact.

Ms. Pauly indicated the types of materials being brought into the site are aggregate, sand and gravel to mix with cement and water, fly ash, and some stabilizers. The Minnesota Pollution Control Agency has a number of regulations regarding ready-mix plants and mining operations in general, in terms of how you store chemicals and materials. In the case of fly ash, it is in an enclosed silo loaded pneumatically and has a dust suppression system associated with the silo to prevent the escape of particles. The cement is also dry and has to be enclosed. The plant itself operates under an Air Emissions Permit from the Minnesota Pollution Control Agency, which requires certain measures to be in place... There is also a storm water pollution plan and a Storm Water Permit issued by the Minnesota Pollution Control Agency—part of this amendment would involve the review and updating the of that storm water

pollution prevention plan to address the storage of these new materials and the operation of the plant itself.

Vice Chair Barfknecht called on the following residents who signed up to give public testimony:

**Donald Holz, 23787 Essex Avenue** – Mr. Holz stated he lives across from the proposed plant and has talked with several real estate agents who have told him that his property will definitely go down in value. Mr. Holz would like the Board to listen to the residents of Eureka Township who oppose this, and stated that it will affect all of us greatly. Mr. Holz stated, the bottom line is this will affect our real estate values. In addition, there is already a dangerous intersection near the plant and with more truck traffic, that intersection will have to be upgraded.

**Randy Wood – 23775 Essex Avenue** – Mr. Wood stated that he was a member of the original Task Force and co-author of the original mining ordinance. Mr. Wood wants it known that he opposes the expansion to include a ready-mix plant on Mr. Miller's gravel pit.

Mr. Wood stated that the original ordinance strictly forbade ready-mix concrete plants, but recently Mr. Miller initiated a change in the Ordinance, which would allow such a business in his mine. Mr. Wood is requesting that the Town Board and the Planning Commission members not set a precedent in the Township by allowing this business.

Mr. Wood has stated that Mr. Miller has been breaking laws for years and the township officials have done little. Examples Mr. Wood has stated:

- Mr. Miller has or did have a dumpsite with discarded tires and unrelated gravel pit equipment
- Mr. Miller is in violation of the heights of the piles. Rules state stockpiles must be 8 feet below the berms-it has been this way for years
- Mr. Miller is in violation of the "Phasing" section in the ordinance. The rules say, "*No more than 10 acres of land may be exposed to extraction at any one time. In addition, a maximum of 25 acres can be utilized for extraction and stockpiling*". Aerial photos from the Dakota County website clearly show that for at least for the last five years, violations have been continuous. Approximately 70 acres are being used.

Mr. Wood specified that the Township officials are very aware of this and other critical violations, but do nothing and allow this hearing to be held. Please let our Town Board know that we are opposed to this and would like to terminate the mining permit. Ordinance 6, Chapter 8, Section 1, states, "*A permit shall be terminated upon violation*". Clearly, the Board needs to take action.

**Gary Smith – 4628 235<sup>th</sup> Street West** – Mr. Smith would like it to be known that he is opposed to the cement plant. He stated there would be cement dust and fly ash blowing on windy days in his direction causing health issues, loss of property values, as well as damage to his crops. Mr. Smith also indicated that he is concerned about the hours of operation, and the amount of water being used.

Mr. Smith stated that if this permit were issued, he would like the following conditions added to the permit:

- Concrete plant to be located no less than 1,000 feet from any dwelling
- Concrete plant to be located no less than 500 feet from any property lines
- Hours of Operation: Monday-Friday, 7:00 AM to 5:30 PM; Saturday was not mentioned in the Ordinance or the Interim Use Permit
- Water meter installed at the source of water to the plant and reported to the DNR
- Any spill or release of cement dust needs to be reported to the Environmental Protection Agency, Town Board, and property owners within 1,000 feet
- Dust free surface on the area to be traveled to and from the concrete plant—watering will not be sufficient to control the dust with the extra truck traffic
- Monitor the well to be installed and to check for leaks in the fluid basins—to be installed and tested by an independent firm

**Thomas Eckness – 24705 Essex Avenue**--Mr. Eckness opposes this and stated it is his opinion someone big is going to buy it out. The biggest issue to all of the neighbors is the noise. Mr. Eckness stated he drove a ready-mix truck for 38 years. The silos blow out the top-it will start off with tubes to collect the dust and then the tops come off and the dust will blow all over crops. When loading a ready-mix truck, the trucks have to be revved up and the drum has to spin as fast as it can go creating a lot of noise. The dust will also be a major factor. Mr. Eckness is also concerned about water contamination and cleaning the trucks with hydrochloric acid –that is nasty stuff and Mr. Eckness knows from personal experience it can make you very sick and hydrochloric acid does not get recovered. It is not conducive to good health. Mr. Eckness is also concerned about the roads. There will be no benefit to the residents. Once the permit is issued, I believe it will be sold and then it will get big—there is a lot of money in this. Big company lawyers are more experienced with this than Township lawyers. Mr. Eckness stated that this ready-mix plant would have no benefit to the residents.

**Doug Houser – 9130 235<sup>th</sup> Street West** – Mr. Houser was at the last Public Hearing. Mr. Houser is stating that the people of the Township do not want this implemented. Mr. Houser wants to know when is the Town Board going to listen to what the people want-not what individuals or businesses want. He also stated, “How do we get the Town Board to listen to the residents who voted them in?”

**Brian Ahern – 6215 235<sup>th</sup> Street** – Mr. Ahern wanted to direct his comments to the Town Board—one being intensification of use and how it applies to the permit. He stated that Mr. Miller will be bringing in raw material from offsite to manufacture a product with equipment that wasn't at the site before and has to be delivered by trucks that were not there before (an unknown number), and Mr. Miller is still going to operate as a mine. Mr. Ahern stated that this is potentially a problem. How do we measure and how do we know Mr. Miller is staying within the guidelines of an accessory use permit? Mr. Ahern sees this as intensification of use at this site and stated as time goes on, it can only get bigger.

Mr. Ahern's second comment -- "Where are we going from here?" Do we have a plan? We had an Ordinance where a ready-mix plant was not allowed—now it is—will it lead to concrete blocks, asphalt plants etc.? Mr. Ahern stated he sees this as a progression. With good lawyers and land purchase, are we allowing the Township future growth, whether we want it or not? Mr. Ahern thought we had a long term plan or vision for the Township and is wondering if we are adhering to that.

**Charlie Liane – 9020 West 235<sup>th</sup> Street** – Mr. Liane stated he opposes this. Mr. Liane lives across the street from the Kelly Pit and would like the Township to know the noise from that pit is so loud—the noise and vibration from the conveyor belt make it impossible to even take a nap during the day. Mr. Liane also wants the residents of the Township to know that there will shortly be a Public Hearing for Kelly Aggregate, as Kelly Brosseth is in the process of applying for the same permit that we are here tonight for Mr. Miller. There are a lot more people that live across the street from the Kelly plant than live across the street from the Miller plant.

Mr. Liane also spoke about the disease silicosis, which is an irreversible lung disease that is caused from cement dust and the crushing of asphalt and concrete. It is like little razor blades settling into the bottom of your lungs and is similar to lung cancer. Mr. Liane commented on a test OSHA conducted in Chippewa Falls, Wisconsin on silica dust—they went a mile away from the plant and measured the particles, which were way beyond acceptable levels from a mile away. Mr. Liane lives across the street from the Kelly plant. The Township has only let a minimum amount of people know when these public hearings are held. The mailed out newsletter has been discontinued and Mr. Liane offered to pay to have the newsletter mailed out for the next 6 months to a year until this is settled, to no avail. He stated the residents are not informed of these meetings. If you did not sign up to get a notice about these meetings, you have no idea what the Board is trying to do. Mr. Liane invited everyone to come to his home and try to have a conversation in his driveway—he stated the noise and the vibration is unbearable. What is to come--being bought out by a large company? Mr. Liane stated he has ultimate respect for the Planning Commission, but the Town Board has no integrity. In his final comment Mr. Liane stated, when you live across the street from something like this, it changes your life forever. Silica dust is deadly, it's irreversible, and is forever.

Mr. Miller requested to respond to some of the questions. Mr. Miller stated that he and Mr. Chard, his partner, will be relocating the crusher slightly and will put the dry batch ready-mix plant where the crusher is now, and this will help with the noise, and moving it behind the wash plant. Mr. Miller and Mr. Chard will blacktop further in past the scale site to address the fact that the trucks raise dust.

Kirsten Pauley addressed the silicosis issue and the study that was brought up in Chippewa Falls regarding silica dust in ambient air adjacent to the three mining operations. Ms. Pauley is familiar with the study and the Minnesota Pollution Control Agency has reviewed the data. Her understanding of the study is that the elevated levels were the result of an agricultural field where they were tilling, and elevated levels were in the air as a result. The plant sites where they are processing the sand have not shown violations of silica dust in the ambient air. The issue has been studied in Wisconsin and in Minnesota. Ms. Pauley stated she did not have the results of that study, but would compile that information and see that it gets presented to the Board for the record. She also stated it is regulated for workers in a mine, but there are no standards in the State of Minnesota.

The other question Ms. Pauly addressed was the amount of water used. She stated the site does operate under a water appropriations permit, and they are permitted to utilize up to 600 gallons per minute. Mr. Miller has this permit with the Department of Natural Resources. This request will not increase the amount of water used, but will operate within that existing permit.

The next question involved traffic and intensification and how that can be measured. Ms. Pauly stated that essentially the aggregate would be used in the ready-mix plant. Instead of being hauled offsite as raw aggregate, it will be hauled off site as finished product. Ms. Pauly stated Mr. Miller would be swapping out the type of truck, not necessarily one-for-one, but it is not as if you are adding another 20-30 trucks. The existing Conditional Use Permit has a maximum amount of truck traffic per hour and there is no request to increase that.

Ms. Pauly stated regarding noise, the State does have noise standards and there is the ability to monitor noise levels to be in compliance. The predicted noise is not anticipated to increase or exceed noise standards.

Vic Chair Barfknecht asked if anyone who has not spoken would like to provide testimony.

**Cindy Trevis - 5525 235<sup>th</sup> Street** – stated that she lives 500 feet from the plant. Ms. Travis and her family moved here and there is a lot of traffic on the road and a lot of traffic goes to the plant and it is very noisy. I would like to know the times they are allowed to run and if they can run on the weekend. It is very noisy and my husband and I are opposed to this.

**Charlie Liane - 9020 West 235<sup>th</sup> Street** – urged everyone to go online and research silicosis –so far there are only four states that regulate this.

**Bill Pearson - 10060 199<sup>th</sup> Street West**-stated that he is the owner of Prior Lake Aggregate. He has had Rivers Edge Concrete in his pit since 2010 and they have never generated a complaint. Anyone may call the city of Savage to substantiate.

Vice Chair Barfknecht called again for additional testimony. Vice Chair Barfknecht declared the Public Hearing is closed.

**Gary Smith - 4628 235<sup>th</sup> Street West** - requested to add questions to his testimony. He asked the following:

- How much water is used in each truckload of ready-mix?
- Are the wash pits lined, and will they eventually leach away?
- What is being dumped over the hill?

Vice Chair Barfknecht asked one final time for any additional testimony. She declared the Public Hearing closed. The Planning Commission discussed available times to meet with the attorney for the Findings of Fact. Deputy Clerk to send Attorney the minutes when completed. The Meeting with the Planning Commission and the Attorney scheduled for June 25, 2015 at 7:00PM at Eureka Town Hall.

Commissioner Cleminson made a motion to adjourn the Special Meeting. Commissioner Palmquist seconded the motion to adjourn.

Cheryl Murphy  
Deputy Clerk

Minutes approved by the Planning Commission on \_\_\_\_\_.