

Minutes of the Dodge County
PLANNING COMMISSION MEETING
June 3, 2009

The regular meeting of the Planning Commission was called to order by John Allen at 7:00 PM on Wednesday, June 3, 2009. Present were Planning Commission members Galen Johnson, Harlan Buck, Jon Balzum, John Allen, Larry Schmeling, Walt Wyttenbach, and Richard Wolf. Also present were County Commissioner Lyle Tjosaas, Dave Hanson, and Compliance Officer Melissa DeVetter.

Motion by Harlan Buck, seconded by Galen Johnson, to approve the agenda and the May 2009 minutes. Motion passed unanimously.

Other Business

Jaguar Communications – CUP #09-05 (tabled)

The public hearing is to consider an application for a Conditional Use Permit for the installation of major essential service. The planned route is located within the Right of Way starting at 600th Ave at the Mower-Dodge County line running east on the north side of the centerline to 197th Ave. turning north, and remaining west of the centerline to CR-M within the Section 34, Hayfield Township. At CR-M the line runs north of the centerline east to CR-T (200th Ave) diverting north on the west side of the centerline to State Hwy 30 in Section 27, Hayfield Township. At State Hwy 30 in Section 14 and 13 the line runs north of the centerline east to CSAH 9 (220th Ave) south on the east side of the centerline to 750th Ave crossing section 19 and 30, Vernon Township. North of the centerline heading east on 750th St to 260th Ave the line crosses Section 30, 29, 28, and 27, Vernon Township. The fiber optic cable then heads south on 260th Ave to 755th St east of the centerline in Section 35, Vernon Township. Lastly on the 755th St the line parallels north of the centerline heading east to the Dodge/Olmsted County line crossing Section 35 and 36, Vernon Township. Jaguar Communications, Inc is the applicant.

Bob Fenlason and Ed Holt were present from Jaguar.

John Allen inquired if they went to the Vernon Township meeting.

Bob Fenlason stated they did attend Vernon Township meeting.

Galen Johnson inquired if any thing new has developed since the last meeting,

Melissa DeVetter stated the proposed route going though the City of Hayfield has changed. This issue will be between the City of Hayfield and the County Highway Department.

Motion by Jon Balzum, seconded by Galen Johnson, to recommend approval of the Findings of Facts and Recommendations of the agenda report with the following conditions:

1. Jaguar Communications shall provide a copy of the Insurance Certificate for Contractors General Liability and Property Damage (as per section 17.1709) to Dodge County Planning staff prior to the installation of the fiber optic cable.
2. Jaguar Communications shall obtain a Dodge County Highway Department ROW permit and provide a copy of the permit to Dodge County Planning staff prior to the installation of the fiber optic cable.
3. Jaguar Communications shall obtain a MnDot ROW permit and provide a copy of the permit to Dodge County Planning staff prior to installation of the fiber optic cable.
4. Jaguar Communications shall obtain a Utility Crossing License from the Minnesota Department of Natural Resources and provide a copy of the license prior to installation of the fiber optic cable crossing DNR protected watercourse.
5. Jaguar Communications shall notify Dodge County Planning and the Dodge County Highway Department 48 hours prior to starting the project.
6. As built plans shall be submitted to each impacted Township and to the Dodge County Highway Department within 60 days of project completion.
7. Jaguar Communications shall contact all landowners to obtain information on tile lines and crossings in the project area. All drainage facilities and patterns shall be repaired to pre-construction condition. When tile lines are cut and before repairs are made, tile openings shall be protected to prevent dirt, silt or animals from entering the tile system. All tile lines which are impacted shall be restored and repaired to the previous conditions and operable state without cost to the landowner. All repair/restoration activities shall coincide with installation of the cable.
8. Construction activities shall be conducted in such a manner as to minimize impacts on livestock movements and access to agricultural fields.
9. Fiber optic cable shall be installed no less than 3 feet below ground within the ROW and under public road surfaces.
10. Fiber optic cable shall be bored under all public and private roads (including driveways) unless the County Board approves an alternate process.
11. No installation outside of the ROW is authorized without written landowner permission submitted to Dodge County Planning staff prior to installation of the fiber optic cable.

The motion was passed unanimously

Chris Ebnet – CUP #08-18 (extension)

Chris Ebnet was present to explain his request for an extension. He is waiting on bids from contractors.

Galen Johnson inquired on the date of the letter.

Chris Ebnet stated it was a mistake; it should be 5-11-09.

Motion by Richard Wolf, seconded by Larry Schmeling, to recommend approval for an extension of CUP #08-18 for 1 (one) year based on reasons stated in the letter from owner, Chris Ebnet dated May 11, 2009. C.U.P. #08-18 would be extended from June 10, 2009 to June 10, 2010 with the following conditions:

1. Dodge County Zoning Permit be obtained before construction.
2. The Agricultural Covenant shall be signed and recorded.
3. The septic system must meet the Dodge County's septic ordinance.
4. A driveway access and permits be obtained from the Township.
5. Address be obtained from Dodge County Highway Dept.
6. The well setback be no less than 50 feet from property line.

The motion was passed unanimously

Milestone Materials – CUP #07-10 Amend

The first public hearing is to consider amending Conditional Use Permit #07-10 to allow individual hot mix asphalt plants on a temporary basis and to expand the mineral extraction and processing area located within the sand and gravel pit on 37 acres in the Agricultural District. The property is 1.71 acres located in the NE 1/4 of NE 1/4 of Section 17, and 35.29 acres located in the NW 1/4 of NW 1/4 of Section 16, Milton Township. Milestone Materials is the applicant and Leslie Kunz is the property owner.

Brian Schumacher, Chad Kelly and Tara Wetzel were present from Milestone Materials. Chad Kelly presented the plans for the asphalt plant and expanding the material extraction.

Mike Sheltan presented a list of neighbors in opposition to the expansion of this operation based on the experience the neighbors have had in the past few years. The typical concerns are the noise, the volume of the material and the wear and tear on the roads. He doesn't feel the bond is enough to repair the road when the company leaves. Does this help the county and does the county get a tax for this?

Melissa DeVetter stated there was an aggregate tax, but that has been repealed at the begin of the year.

Mike Sheltan read the statement the neighbors signed (see file). He feels the township has done its fair share and it's time to let the rest of the county do theirs. He would like to see this proposal held to another meeting giving him time to prepare and allow other neighbor to come to the meeting.

Galen Johnson inquired where Mike Sheltan lives.

Mike Sheltan stated he is third generation family farm living $\frac{3}{4}$ mile southeast. His property is next to the old Milton town hall.

Ron Durst stated that Milton Township has met with Milestone Materials twice. The first time a number of individual came forward with concern that had not been heard before. They spent a lot of time at the meeting going over these concerns. Another concern was brought up at the last meeting; a number of trucks were turning south instead of going north. This would be an additional concern for the township. Milestone did go out and talk to everyone that had concerns at that meeting. They have made an honest effort in doing that. One other concern addressed was the amount of water that is in the pit. Tara Wetzel met with the township about this concern. There was also a concern about the condition of the roads with the truck traffic, but the trucks only travel about 400 feet on the township road. They did grade it and watered the road. The road wasn't destroyed and a bond was posted for the road. The township didn't take a vote at their meeting; so they are not opposed or in favor of it.

Jon Balzum inquired what gravel road he was talking about.

Ron Durst stated its 237th Ave which comes off of CSAH 24 and turns south to enter their property.

Terry Krahn had a concern about the road in the area, but the hours of operation are a bigger concern. He believes with the original permit they got; that the depth they went in the pit they exceeded it by a lot. He thought that it should have been watched a lot closer. If they are given a permit this time; they need to abide by the rules. Chad and Brian did stop by his house and they had a lengthy discussion about his concerns.

Scott Schleck lives ¼ mile north of the quarry. His concerns are the hours of operation and the traffic. He uses CSAH 24 to go to his business and there were many days he had to slow down because the trucks didn't stop for the stop sign. There needs to be some precaution taken.

Motion by Harlan Buck, seconded by Larry Schmeling, to close the public hearing. Motion passed unanimously.

Brian Schumacher addressed the trucking concerns. This project currently under contract is 1/3 the size of last time. The project was for three months last time. This time they expect the asphalt plant to be there for one month with the aggregate operation to come in one month prior. Milestone has come up with a plan to improve the intersection at 237th Ave by installing modified turning lanes. The county will be trimming back some trees to improve site distance. The proposed truck route will be coming along Co Rd 11, which is approximately 1 ½ miles from 237th Ave and stopping for the stop sign there; so they do create a lot of noise in braking and accelerating of the trucks. Brian Schumacher also encourages the neighbors to report a truck driver if he is rolling though a stop sign. As far as the hours they did look back at the hours of operation for last year and did see someone was clocked in after hours. They are not sure what they were doing; if

they were operating equipment or doing maintenance. This time they will post signs at the pit so that everyone working at the pit will know the hours of operation are 6:00 A.M to 8:00 P.M. Overnight there is a small generator that runs some lights, a small heater for the oil and security cameras. The security cameras are needed because two year ago someone cut their cords and took them.

The only project under contract is Hwy 60 and delaying the vote would affect that project. They are schedule to start that project early July and paving at the end of July.

The \$25,000 bond that was posted is for Milton Township and is just for the township road. It's just to assure the township that Milestone will take care of the road. They bladed it, put the crown on it and chlorided it several times. Milestone felt they did a pretty good job. When they were out visiting the neighbors; Scott Kunz stated to them that the dust control was better when Milestone was there then when they weren't.

As far as the small contractor going south; they will post a sign stating they must go north out of the pit. These were not their trucks.

Chad Kelly stated that at the first meeting they were not aware of any complaints until the neighbor brought them up. There was no formal complaint submitted; so in response to that they thought it would be a good idea to put sign out at the pit with a local number for a contact person.

The water concerns as far as the excavation elevation; the base number is 1030 feet or approximately 25 feet deep, but it varies with the land and that would be the bottom of the pit.

John Allen inquired how deep the pit is from last time.

Chad Kelly stated he did not know how deep the water is.

Galen Johnson inquired if the excavation went deeper then what it was permitted for.

Chad Kelly stated it wasn't stated on the last permit. There was not any anticipation that they would hit that much water. Milestone heard that it was a concern; so that is why it is being addressed this time.

Galen Johnson inquired from Melissa DeVetter on what the wording was on the original permit.

Melissa DeVetter stated on the original permit there wasn't any wording on the water depth.

Walter Wyttenbach thought that it was suppose to be reclaimed as farmland on the first permit.

Melissa DeVetter the original reclamation plan stated a shallow lake surrounded by cropland and that is pretty much what they have now.

Walter Wyttenbach stated he has a concern about the scope of the project and does feel it's hard on the roads and has a hard time supporting it. County Road 11 is basically shot and when it was built in 1992 it was built as a nine ton road but never got the final lift. So the last few year of heavy use it will have to be reclaimed.

Guy Kohlnhofer addressed that they have plans to rework the road in the future.

Walter Wyttenbach stated he felt the Milton Township has given up a lot already and would have a hard time to support this if it does pass. He requests the board to make this the final project for the pit and discontinue the five year plan.

John Allen inquired of Guy Kohlnhofer if this road was going to be reclaimed or milled and over laid.

Guy Kohlnhofer stated it's a plan to reclaim it and most likely Milestone Materials will be doing it the work.

Galen Johnson inquired on what direction the trucks will be going when they come out onto CSAH 24.

Brian Schumacher stated the trucks will be going west to Hwy 57 then north to Wanamingo.

Jon Balzum inquired how much of Hwy 60 will they be doing.

Brian Schumacher stated it from Zumbrota to Kenyon.

John Allen inquired if this was all coming out of this pit or is it coming out of Rochester too.

Brian Schumacher stated it's all coming out of this pit.

Chad Kelly stated the one benefit that gets over looked is the proximity to these projects. The cost of trucking from another location is more costly.

Jon Balzum inquired if they hauled out of the pit last year for County Road 9.

Brian Schumacher stated no; they did not use the pit other than for local homeowners who need rock to build driveways.

Guy Kohlnhofer inquired if the materials need for County Road 5 was being hauled from Rochester.

Brian Schumacher indicated yes it is coming from Rochester. There is no more aggregate in Dodge County, but the sand is here.

John Allen stated the plants have to go where the sand or rock is. The sand will be hauled out with heavy trucks either to Rochester or back to Dodge County.

Galen Johnson inquired if this is two amendments; one for temporary asphalt plant and the other for expanding from 8 – 37 acres.

Melissa DeVetter explained what was being proposed. The one part is to allow a temporary hot mix plant as needed to be reviewed by the county and the other part is to expand of the pit. It's all part of the same amendment.

Galen Johnson inquired if they could you do this project with 8 acres.

Chad Kelly indicated no; they need to expand area to get enough material to be able to do this project.

Galen Johnson inquired with this project how much do they need.

Chad Kelly indicated he hasn't run the number to know for sure, but probably not 37 acres.

Harlan Buck stated we need to look at the facts; we must have roads and we need this material for these roads.

Brian Schumacher stated sand and gravel pit are always next to rivers. That is where the material.

Motion by Harlan Buck, seconded by Richard Wolf, to recommend approval of the Findings of Facts and Recommendations of the agenda report with amending the ending date on condition # 4 and two additional conditions (#13, #14) along with the following conditions:

1. Planning Commission Findings of Facts and Recommendations from the May 7th, 2007 meeting.
2. Use of the sand and gravel pit for location of temporary screening and crushing plants and individual portable hot-mix asphalt plants shall be allowed under the current CUP on a project specific basis, with review and approval Milton Township and Dodge County. A Letter of Intent shall be sent to Milton Township, the Dodge County Zoning Department, and the Dodge County Highway Department 90 days prior

to commencement of all operations. The Letter of Intent shall provide the following information:

- a. Location of the road project for which the pit and plant are being used
- b. Proposed hours and days of operation per road contract
- c. Expected volume of materials that will be utilized from the pit for the project.
- d. The number, name or other identification of the screening and crushing and portable hot-mix asphalt plant proposed for use
- e. Results of air emissions tests indicating that the above proposed plants are currently in compliance with MPCA's air quality standards.
- f. Site Specific Storm Water Pollution Prevention Plan for the proposed temporary hot-mix asphalt plant
- g. Copy of MPCA's MNG49 indicating plant proposed for use is covered under the general stormwater permit.

3. Written approval from Dodge County is required prior to any land disturbing activities.
4. Permit is issued until May 8th, 2012 and shall be reviewed at that time for the operation.
5. A road bond in the amount of \$25,000 would be posted for 237th Avenue for the length of the term of the sand and gravel operation with the township.
6. The Amendments to Permit Application for the Extraction of Minerals and Sand be recorded.
7. The placement of the screening and crushing plants and portable hot-mix asphalt plants shall not exceed 1 year unless the applicant submits written a request to Dodge County and Milton Township 60 days prior to expiration of the initial approval date for the 1 year temporary plant. Any extension would require approval from Dodge County.
8. Signing shall be used during trucking operations. Signs that state "Trucks Hauling" shall be posted along CSAH 24 during hauling operations. Signs must also be located on each side of 237th Ave, 800 feet from the intersection and be turned down when not hauling.
9. Trucks hauling material from the pit to the project site shall be limited to the hours of 6:00 a.m. to 8:00 p.m., Monday through Saturday, or restricted to the hours and days specified in the contract for the road project. No hauling shall be allowed on Sunday. Nuisance complaints shall result in review of the CUP by the Planning Commission and County Board.

10. On an annual basis, the permittee shall provide to Dodge County Planning staff a list of projects proposed for the year, including expected volume of material to be excavated, proposed reclamation that will take place and a reclamation bond sufficient to properly reclaim all mined areas.
11. The floodplain elevation of 1050 shall be surveyed and identified on site. No fill, stockpiles, equipment or other materials shall be placed within the regulatory floodplain.
12. On an annual basis, the permittee shall provide a contact name and phone number to Milton Township.
13. Prior to any trucking activities, the permittee shall construct a modified turning lane and acceleration lane on CSAH 24 and 237th Avenue. The lane designs and construction shall be approved by the Dodge County Highway Engineer. Copies of the approved plans for the lanes shall be submitted to the Dodge County Environmental Quality Department for the applicant's file.
14. All trucks and other equipment exiting the pit shall be required to turn north on 237th Ave. to access CSAH 24. Trucks or other equipment exiting the pit shall not be allowed to travel south on 237th Ave. for any distance. Signage shall be clearly posted at the pit exit to inform all drivers of this requirement.

The motion was passed 6-1 vote. (Ayes: John Allen, Harlan Buck, Richard Wolf, Jon Balzum, Larry Schmeling, and Galen Johnson. Nays: Walter Wyttenbach)

Amending Dodge County Zoning Ordinance; Section 1619 Animal Feedlot Part 4, Setback for feedlots

The second public hearing is to consider amending the Dodge County Ordinance; Section 1619: Animal Feedlots, Part 4, Setbacks for feedlots.

Ken Olson stated he had several comments to make: First, he is in support of the reciprocal setback and also it's a state law. Second, he feels the distance for the setback should be 1320 feet, but he does feel that 1000 feet is reasonable for 30 animal units or more. He doesn't feel it should be anything less than 1000 feet. And the third is with a farm dwelling and a non farm dwelling there should not difference other than owner operators.

Ron Durst had a concern if he owned a feedlot but had a renter living there would he be allowed to expand or would he have to meet the 1000 feet setback.

Walter Wyttenbach stated that since he owned the feedlot he would still be able to expand.

Ron Durst inquired if OFFSET would be updated as new tools become available.

Mark Moenning stated he felt using 91% for OFFSET was a doable procedure. He had a concern that existing registered feedlot owners will re-register their feedlot at a high number to keep a 1000 foot setback from a new resident.

Motion by Larry Schmeling, seconded by Richard Wolf, to close the public hearing. Motion passed unanimously.

Mark Gamm commented on the use of the OFFSET tool; we could add language that stated similar tool could be used.

Ken Folie stated that the definition for OFFSET states "as developed and amended by the University of Minnesota".

Motion by Galen Johnson, seconded by Walter Wyttenbach, to recommend approval of the Findings of Facts and Recommendations of the agenda report with the following conditions:

The Planning Commission recommends approval of the amending Dodge County Zoning Ordinance Section 1619: Animal Feedlot; Part 4, Setback for feedlots with the following changes:

1. Setback distance for a new feedlot of thirty (30) animal units or more shall be a minimum of one thousand feet (1000') from residential dwellings (except owner/operators dwelling), golf courses, churches, cemeteries, camp grounds and public buildings public assembly areas, licensed child care centers, and boundary of any subdivision within the Urban Expansion Residential and Rural Residential District.
2. Setback distance for new dwellings (except owner/operators dwelling), golf courses, churches, cemeteries, camp grounds and public buildings public assembly areas, licensed child care centers, and boundary of any subdivision within the Urban Expansion Residential and Rural Residential District shall be a minimum of one thousand feet (1000') from an animal feedlot of thirty (30) animal units or more.
3. Existing feedlots within one thousand (1000') of a dwelling may expand their capacity if able to meet a 91% odor annoyance free number based of the University of Minnesota OFFSET calculation.
4. Adopting the MN Rules 7020.0300 or successor rules, DEFINITIONS, into the Dodge County Zoning Ordinance.

The motion was passed unanimously

Adjourn

Motion by Jon Balzum, seconded by Richard Wolf, to adjourn. Motion passed unanimously. The meeting was adjourned at 8:35 P.M.