

MINUTES - PLANNING COMMISSION/BOARD OF ADJUSTMENT MEETING

TUESDAY, FEBRUARY 14, 2012, 7:00 P.M., COMMISSIONER ROOMS, LYON COUNTY GOVERNMENT CENTER, MARSHALL, MINNESOTA

MEMBERS PRESENT: Thooft, Nassif, Ludeman, Steen, Chalmers, Ritter, Anderson, Zimmer and Biren

Thooft opened meeting at 7:00 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Thooft turned meeting over to Biren.

INTRODUCTION OF BOARD MEMBERS. Biren introduced new members – Laurel Steen and Jon Chalmers.

Biren – organizational meeting.

ELECTION OF OFFICERS – CHAIR AND VICE-CHAIR POSITIONS. Biren asked for nomination for the Chair position. Will ask three times for nominations. Motion by Thooft to elect Nassif. Biren asked for nominations twice more. Motion by Ludeman that nominations cease and to cast a unanimous ballot for Nassif for Chairperson, seconded by Thooft. All members voted in favor. Motion carried.

Election for Vice-Chairman position. Will ask three times for nominations. Motion by Ludeman to elect Thooft as Vice-Chairman. Motion by Nassif that nominations cease and to cast a unanimous ballot for Thooft for Vice-Chairperson, seconded by Chalmers. All members voted in favor. Motion carried.

AMEND/APPROVE AGENDA. Motion by Ludeman, seconded by Thooft to approve agenda. All voted in favor. Motion carried.

CORRECT/APPROVE MINUTES FROM THE DECEMBER 13, 2011 MEETING.

Motion by Nassif, seconded by Ludeman to approve minutes as presented. All voted in favor. Motion carried.

BOARD OF ADJUSTMENT: None

PLANNING COMMISSION:

Public Hearing - McLaughlin & Schulz for a Conditional Use Permit to operate a gravel/sand mining operation and a hot mix plant. The property is zoned agricultural. Owner of the tract of land is Valley Partners, LLC, c/o Charles Klukas and the legal description is the East Half of the Northeast Quarter (E1/2NE1/4) of Section Eleven (11), Coon Creek Township. *Board Action – motion recommendation to County Board.* Wayne Hess was present for McLaughlin & Schulz. Biren – they are the operator and applicant. Showed aerial photos from last spring of site, crop

field where gravel is found, an area that water ponds in the spring. Showed pit locations and residences in area. Haul roads are township roads to county roads. Numerous haulers in area. Gravel alley. Land is in the agricultural district. Mishap with newspaper, public hearing notice does not meet notification requirement due to legal newspaper not publishing notice. County Board will also be holding a public hearing to satisfy requirement. Protect health, safety and welfare of properties. Received three letters regarding this matter. Showed photos of condition of road as of today. Need to work with local road authority (township board) for a safe access onto road. Potential to put a hot mix plant on site also. Township roads 160th avenue and 210th street. Klukas here representing property. 210th street issues, a lot of traffic, past history with McLaughlin and Schulz positive. Nassif read letters from Shirley Saunders, Ron Demuth and Larry Demuth. Attached to these minutes are copies of the letters. Nassif – comments, is it too much, what do we do about it? People writing letters don't feel maintenance is the best. Ludeman – stipulate blading done on a daily basis, stipulation how often graded? Biren – not quantified, as needed, open. Ritter – as needed who determines? Biren – chase person down when I get a call to see who is hauling. Township gets bill, they keep track, prorated to haulers. Chris Nibbe bladed road last year, some growing pains, did not get the attention it needed. McLaughlin & Schulz haul heavy on road, bladed more than once a day. Few trucks don't expect to blade daily. Anderson – blading won't take care of dust. Biren - calcium chloride applied twice, spray on top of road, keeps moisture on top, \$1.00/foot, put on in front of homes and T intersection and County Road 59 haul road. Wears off as summer goes on, blading wrecks it. Second application doesn't do as good of a job, too much floatation on top. Road not good for homeowners. Will help now that County Road 15 to the east side as it was posted under 7 ton road, no one except R&G could haul on it. County Road 13 had double traffic. County Road 15 rebuilt last year, should help split traffic. Ritter – ground up asphalt help? Biren – no experience with that. Anderson – don't move it around, keeps dust down, a lot of maintenance with that. Wayne Hess – pricey. Ludeman – speed limit, reduce to 30 mph. Biren – coordinate weight restrictions with state, go off County Road 13&15, if road is ready or not, used. Haul road one mile east to County Road 15 and two miles west to County Road 13. Wayne Hess – used County Road 13 because 15 was posted and under construction. Not the major hauler, Con Ag is. Biren – McLaughlin & Schulz may use it hard for two weeks. Ritter – limit Con Ag to County Road 13? Biren – Con Ag hauls to Tyler and Marshall, some of it splits on it own. Gravel rich area, township road is in better shape than 10 years ago, rough and dusty. Anderson – township post speed limit sign? Weight restriction sign. Ludeman – speed kept down, an attempt to mitigate it. Nassif – enforcement? Suhail Kanwar – road authority can post it. Ludeman – one mile. 160th and 210th Biren 210th problem road. Nassif – more traffic, dry weather, going to get worse, speed limit, calcium chloride help little. Thooft – calcium chloride applied twice year, put it on more, losing anything? Biren – don't want to blade it. Ludeman – soy dust, expensive, to work needs moisture to attract, one week gone if high traffic. Anderson – meeting with haulers in March. Biren – to go over the bills and get calcium chloride scheduled. Ludeman – encourage contractors to work with township and John. Biren – have a violator out there. Have to take it to the County Board, pull permit, County Board meets twice a month, almost too late. Ritter – solution, 6 haulers each pay \$2000 for blading 2-4 times week, dollar amount that is fair. Wayne Hess – pay \$3000 year for calcium chloride and pay the township another \$3000 for blading. Bob Tolk and Con Ag pays, one operator has never paid. Ludeman – pay or no permit. Thooft – haulers following rules, working with township and someone that is not, have to enforce that. Chalmers – statement in Ronal Demuth letter, tried to

get them to comply but he is, for the most part, ignored, perception or basis of fact? Biren – someone calls me, McLaughlin & Schulz best to work with. Tell homeowners to call me right away. Festering two days before they call, not good. McLaughlin & Schulz have been responsive. Northern Con Ag have to find equipment takes a day or so. Rogge says today hauling then done. I do get the run around. Anderson – how far do you go in front of Shirley's? Biren – 1000', beyond grove. 160th ½ distance to Bob's driveway. Coming from the south not gaining a lot of speed. In the 1970's the county allowed Saunder's house to be moved in closer to the road than the setback requirement. Nassif – 80% perception. Working with haulers, some cooperation, enforcement action we can look at? Biren – if you pull permit, has to be done by County Board. Chalmers – suspended depending Board action? Zimmer – John does not have that authority. Suhail Kanwar – can Zoning Administrator be granted that authority by the Board? Zimmer – CUP has state statute to follow, will look into that. Thooft – 210th or 160th has a hill? Biren – 160th probably to 210th. Thooft – not cause a new issue for this area, using roads that are being used already. Ludeman – CUP suspended/withdrawn would be a wake up call, appear before County Board. Lay down laws, need change in behavior and action. Biren – March meeting can tell them. Ritter – wash boarding, dry, 30-40 mph speed limit, empty trucks hauling going 50-60. Wayne Hess – trucks don't get that high. Road condition bad right now. Blade and 3 days later road is in the same condition. Ludeman – no authority other than to permit, meet with contractor to come up with a solution. Make a motion to approve. Zimmer – making a recommendation to County Board, another Public Hearing will be held by them, could be changed. Oakland – need to go over Findings of Fact. Biren – Findings of Fact is check list, due diligence about application. Board reviewed Findings of Fact. 4. Chalmers – M&S have been good about taking care of the road.

 Ludeman moved, seconded by Thooft to recommend to the Lyon County Board of Commissioners to grant a Conditional Use Permit to McLaughlin and Schulz to operate a gravel/sand mining operation and a hot mix plant. The property is zoned agricultural. The affected property is owned by Valley Partners, c/o Charles Klukas and is located in the East Half of the Northeast Quarter (E1/2NE1/4), Section 11, Coon Creek Township. With the following stipulations:

1. Conditional Use Permit will be reviewed annually.
2. Conditional Use Permit is granted for 40 acres or the life of the operation whichever is less.
3. Top soil will be stockpiled and used for reclaiming and leveling.
4. Reclaiming and leveling of land is to be done as work progresses.
5. Grade site after extraction is completed so as to render it usable, seeding required avoiding erosion and an unsightly mar of the landscape.
6. Must maintain a backslope of 4:1 or flatter.
7. Responsible for maintenance on roads trucks will be hauling on.
8. Responsible for dust control on haul roads and service roads within site.
9. Haul roads designated as: 210th Street to CSAH 13 or CSAH 15. Driveways on 160th Avenue or 210th Street may also be utilized.
10. Owner must notify the Lyon County Zoning Office when work is complete.
11. Must obtain permits from appropriate agencies.
12. Must comply with Soil and Water and DNR regulations.
13. Consult with township regarding driveway access requirements.
14. Adopt Findings of Fact as part of this motion.

15. A copy of the Lyon County Board of Commissioner's Motion shall be filed with the County Recorder's Office along with the legal description of the property. Additional fees to be paid by the applicant for the actual costs incurred by the county for the recording fees.

DISCUSSION: Alan Klukas – stipulation on 40 acres? Biren – 40 acres at any given time, state permitting process if over 40 acres, working surface smaller or MPCA involved. Zimmer – need to take public comment? Wayne Hess – pit to north reclaimed, never tell we were ever there. Biren – render it usable, could be wildlife area, not always cropland. Oakland – Coon Creek Township approved of request. Thooft – who makes decision how land is reclaimed? Biren – landowner, McLaughlin & Schulz and myself. Nassif - Public Comment? None. Biren – those people that sent letters for this hearing will be invited to the Township's March meeting when the road maintenance is discussed. Will look into enforcement issues of CUP permits for gravel sites.

VOTING FOR: Thooft, Ludeman, Nassif, Steen, Chalmers

OPPOSED: None

ABSTAINED: None

ABSENT: None

Motion Carried.

CONDITIONAL USE PERMIT/PUBLIC HEARING – MINNESOTA SESSION LAW 2000 – MINN. STAT. §116.07, SUBD. 7(D), FEEDLOT: None

Nassif – can letters be sent to Vroman and Buesing for their service on board? Oakland – that should have been done by the County Board.

RENEWAL - CONDITIONAL USE PERMITS – JANUARY:

Precision Autobody, Business, SE1/4, Section 32, Lucas Township. Issued 1993, not recorded. Inspect yearly. (Renew every 5 years, due in 2013). *Board Action – no action required.* Biren – does vehicle work, brakes jobs, no issue.

Dennis Campbell, Tree Service, SW1/4NW1/4, Section 14, Monroe Township. Issued 2002 (renewable, 5 years). *Board Action – renewal.* Equipment is stored in shed, wouldn't know it was there. Motion by Nassif, seconded by Thooft to renew for 5 years. All voted in favor. Motion carried.

Qwest Wireless, 300' Guyed Tower for Communication and Two Equipment Cabinets (Norman and Geraldine Carrow) – leased land SW1/4, Section 26, Fairview Township. Issued: February 2002 (5 years). *Board Action – renewal.* Biren – Hwy 23 location. Nassif – may be owned by Centurylink, check on owner. Biren – 5 antennas on tower. Once permitted, no concerns since put up, controversial at hearing. Ludeman – check on name. Biren – Granted for use, name not an issue. Ritter – red or strobe light? Biren – strobe during day, night red. Serviced not running. Strobe very long, I get a call. Motion by Ludeman, seconded by Steen to renew for 5 years and check on the name. All voted in favor. Motion carried.

RENEWAL - CONDITIONAL USE PERMITS – FEBRUARY:

Jeff Kirk, Mobile Home, NE1/4 SE1/4, Section 15, Shelburne Township. Issued: February 1992 (3 years). Renewed every three years, not recorded. 2010 and 2011 renewed for one year, concern with septic system, new one not installed when mobile home moved to site. Inspect yearly. *Board Action – continue yearly inspection until tenant moves.* Biren – Jeff and John Kirk own property. Will be the last person to live in mobile home. Elderly family friend lives there, located near Burchard, have to drive there to see it, single man. Renew for one year. Motion by Nassif, seconded by Chalmers to inspect yearly. All voted in favor. Motion carried.

DISCUSSION:

WECS – Bill. Biren – information to enhance management of wind farms, stronger language. State pay attention to county ordinances.

Farm Disposal Waste. Biren – AMC slipped, law. Concrete buried in county needs to be recorded. Form will be at the Recorder’s Office, land owners choice to record it if they choose to, not enforced at county level. \$46 to record, do a deed search will be on there, concrete not hurting anything.

Cap X2020 Update. Biren – information, power lines are pretty controversial. Different thresholds for permitting. Built from Brookings, SD to Hampton, MN. Branch that runs to Rochester and one from Marshall to Granite Falls. Picture of power lines, comparable to size of power line along I-90. Will run one mile south of Minneota, 2 miles north of Ghent, parallel through there, running through the county. Impacts a few homes. Large enough that we won’t have a voice in permit other than public comment that has been taken already. Schedule - easement done in 2012. People opposed to it, not a lot they can do. Substation in Lyon County, they have bought land from Deutz Brothers to expand, three times as large as it is now, part of whole project. County tile system that will be relocated. Complaints or questions, forward them to Biren. A lot of public informational meetings were held. VanKeulen building site, went around it. Did listen to some of the public comments. Thooft – get letters still. Biren – substation is east of Marshall. Power cooperatives listed on handout.

Nassif adjourned meeting.

Respectfully submitted,

Michael Nassif, Chairman
Planning and Zoning/Board of Adjustments

Carol Oakland, Secretary
Planning and Zoning Board of Adjustments