

**EUREKA TOWNSHIP  
DAKTOA COUNTY, MINNESOTA**

**SPECIAL EUREKA TOWN BOARD MEETING**

**JULY 1, 2015**

**CALL TO ORDER**

Chair Brian Budenski called the meeting to order at 6:00 p.m. Town Board Supervisors present were Brian Budenski, Kenny Miller, Carrie Jennings, and Dan Rogers. Township Attorney Chad Lemmons and Township Clerk Mira Broyles were also present. *(See attached list for others present.)*

Kenny Miller recused himself for the duration of the meeting.

Chair Budenski noted the purpose of the meeting was to consider a request by Windmill LLC for an amendment to an Interim Use Permit to allow a dry batch ready mix plant.

The Planning Commission Findings of Fact dated June 23, 2015 were reviewed. The Planning Commission recommended approval of the proposed Interim Use Permit amendment based on seven conditions.

Chair Budenski opened the floor for public comment.

Robert Ripley stated he felt the ordinance that was approved in 2002 strictly prohibited such a use and that it was never intended for gravel pits to operate indefinitely. He noted that by allowing a ready mix plant, there would be no completion date for the pit. He encouraged the Board to reconsider the amendment to the mining ordinance that was approved in January 2015. Board members explained that outside materials in excess of 25 percent of the material mined cannot be brought into the mine, therefore there would be an end date for the pit. It was noted that the ready mix operation would actually move up the end date.

Gary Smith stated he was the chairman of the committee that drafted the Township's mining ordinance. He wanted to clarify that Mr. Miller's gravel pit has an end date and asked if the end date would be extended. Board members indicated that Mr. Miller's pit has an end date. Mr. Smith asked if Mr. Miller could apply for a new permit at the end date of the current pit. Attorney Lemmons stated a new permit could be applied for however it would have to meet all the requirements of a new gravel mine and new conditions could be applied.

Mr. Miller discussed materials that are permitted to be brought in to his mine as well as the County and State requirements and testing procedures.

Chair Budenski closed the floor to public comment.

Supervisor Jennings questioned the Pollution Control Agency regulations. Kristen Pauly of Sunde Engineering (representing Mr. Miller) addressed requirements and permits regulated by the PCA and noted they are re-evaluated every five years.

Supervisor Jennings also noted that she shares the concerns of Mr. Ripley and Mr. Smith regarding accessory uses in gravel pits, as well as the change made to the mining ordinance. She stated she felt the ordinance would be challenged if Mr. Miller's application is approved.

Supervisor Budenski stated that the mining ordinance amendment was approved prior to the election of the two new Board members.

Motion was made by Supervisor Budenski, seconded by Supervisor Rogers, to approve the Windmill LLC Interim Use Permit amendment to allow a dry batch ready mix plant on the following conditions taken from the minutes of the June 23, 2015 Planning Commission meeting. Condition number 7 regarding a review by TDKA is to be excluded.

1. The concrete plant can be located no less than 1,000 feet from any dwelling.
2. The concrete plan can be located no less than 500 feet from any property lines.
3. Hours of operation are Monday – Friday from 7:00 AM to 5:30 PM with no Saturday operation.
4. Dust free surface on the area traveling to and from the mine.
5. Notification to the Town Board and property owners within 1,000 feet if there is any spillage or release of cement dust.
6. Height of structure shall not exceed the height of the berm and/or screening.

Discussion was held on the motion. Supervisor Jennings stated she feels the Township's consultant should review the Environmental Assessment Worksheet (EAW) rather than an independent consultant. Attorney Lemmons stated that if the Board feels the EAW needs to be reviewed, there must be specific reasons why the review is necessary. He stated requiring a review of the EAW could open the Township up to a lawsuit.

Supervisor Jennings expressed concern over the materials used in a ready-mix operation. Ms. Pauly addressed the storage of the materials noting there are spill prevention plans required by the State. Mr. Miller noted that the development agreement will be very detailed outlining precautions and handling of materials. He further noted that if the Interim Use Permit amendment is approved, the amended development agreement will come before the Board for approval. Attorney Lemmons suggested that the motion include a condition that the development contract be amended.

The motion was amended as follows:

Motion made by Supervisor Budenski, seconded by Supervisor Rogers to approve the Windmill LLC Interim Use Permit amendment to allow a dry batch ready mix plant on the following conditions, taken from the minutes of the June 23, 2015 Planning Commission meeting. Condition number 7 regarding a review by TDKA is to be excluded. Approval is also subject to the applicant and Town Board agreeing to an amendment to the development agreement which will include, but not be limited to, siting of proposed plant, nature of materials to be imported and storage of said imported materials.

1. The concrete plant can be located no less than 1,000 feet from any dwelling.
2. The concrete plan can be located no less than 500 feet from any property lines.
3. Hours of operation are Monday – Friday from 7:00 AM to 5:30 PM with no Saturday operation.
4. Dust free surface on the area traveling to and from the mine.
5. Notification to the Town Board and property owners within 1,000 feet if there is any spillage or release of cement dust.
6. Height of structure shall not exceed the height of the berm and/or screening.

Supervisor Jennings inquired about the status of complaints made against Mr. Miller. Chair Budenski stated that all the issues in the complaint have been addressed by Mr. Miller. Discussion was held on the number of trucks allowed and the hours of operation. Mr. Miller stated his current permit allows more trucks than they currently have running and he noted his hours of operation are 7:00 AM to 5:30 PM, Monday through Friday, 7:00 AM to noon on Saturday and the pit is closed on Sundays and holidays. Monitoring of the trucks was discussed and it was noted that a traffic summary could be reported in the annual report made by Mr. Miller.

Vote was taken on the motion. Motion carried 2-1. Supervisor Jennings voted nay.

Motion was made by Supervisor Budenski, seconded by Supervisor Rogers to adjourn the meeting at 7:12 PM.

Respectfully submitted,

Mira Broyles, Clerk  
Eureka Township