

VEVAY TOWNSHIP PLANNING COMMISSION  
Regular Meeting/Public Hearing  
Wednesday, July 10, 2019  
Vevay Township Hall – 6:30 p.m.

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MINUTES

**Members present:** Jack Cady, John Lazet, Chris Lewis, Pattie McNeilly, Jim Minster, and Al Winters.

**Member absent:** Commissioner Walker was excused by voice vote.

**Other Persons present:** Supervisor Ramey, Treasurer Sherwood, Clerk Kean, Zoning Administrator David Vincent, and Legal Counsel David Revore.

**I. Call to Order:** The meeting was called to order at 6:30 p.m. by Chair McNeilly.

**II. Pledge of Allegiance**

The audience joined the Commission in reciting the Pledge of Allegiance.

**III. Set/Amend Agenda**

The agenda was accepted as presented.

**IV. Approval of Minutes: Regular Meeting of June 5, 2019**

No amendments were offered.

**MOTION** Cady, seconded by Lewis, to approve the June 5, 2019, regular meeting minutes as amended.

**CARRIED 6-0.**

**V. Brief Public Comment**

There was no public comment.

**VI. Recess to Public Hearing regarding: Public Comment on Proposed Zoning Ordinance Amendment Chapter 21 Mining of Earthen Materials**

Chair McNeilly – explained that the proposed amendment has been in process for about 18 months, and was started at the request of residents who had concerns about some current mining operations. The amendment has been drafted by Commissioners with the assistance of legal counsel and input from some operators.

Jeff Oesterle – asked if there had been any consideration of the cost of complying with the Ordinance? The cost is not on a sliding scale based on the scale of the proposed operation, and requiring licensed professionals to prepare documents adds substantial cost. A concern is that the applicant prepares an expensive work product, to which the Commission can then require

more expensive changes to be made after consulting with other governmental entities. Recommended specifying that non-commercial mining on private property for use on those properties should be exempt from this proposal. Asked why if state requires a permit for any water management such as de-watering, the Township also requires specifications?

Lance Anderson – a sealed plan could be as much as \$10,000 more than one that is “professionally drawn.”

Larry Launstein – if the extent of the deposits is not known, how can a reclamation plan be drawn? The operator will not know which areas will be mined until they actually mine and follow the veins. (Commission response – the goal is to reclaim any area that is disturbed, not limit what areas can be mined.)

John Fischer – In Section 8 (A), the change in the distance of the crusher from 250 to 500 feet is problematic; his operations are closer than 500’ to residential uses, but blocked by a natural hill and substantial trees. Recommended instead allowing use of any appropriate blocking to meet the noise standard at the property line. The escrow amount of \$5000 is for what purpose? And it seems too high? (Commission response – explained that the only prior Township experience for a new mining SLU permit is the proposed Tear Mine, back in 2008-2010. Given the concern for negative impacts on water and the surrounding parcels, the Township retained a consultant to independently verify submitted information and critique verbal representations made to the Township.). There is a potential for pricing operators out of the game. An alternative approach could be considering phasing in costs based on acreage, or tonnage mined or shipped, or whether mining would be above or below water table. The \$5 million liability insurance is expensive. As opposed to the industry standard of \$1 or \$2 million coverage, a \$5 million bond costs up to \$7,000 more. Bonds, insurances, sealed plans, etc., can easily add up to \$100,000 or more.

John Warvel – water management - even pumping on site from pond to pond, with no dewatering offsite, requires state permits.

Bill Rogers – estimates the cost to meet the requirements of the current Ordinance is about \$370,000, give or take \$50,000 either way. His estimates include:

- \$ 2,000 - 12 copies drawn and sealed by a registered civil engineer
- \$ 2,000 – Shading indicating the extent of land used for mineral removal operations and activities
- \$ 2,000 – indicating location, width, and grade of all easements
- \$ 30,000 – indicating existing elevations of the lands at five foot intervals
- \$ 30,000 - indicating the estimated extent of overburden based on soil borings
- \$ 2,000 – indicating the areas to be used for ponding/water management
- \$ 35,000 – the rehabilitation plan showing final grades at 5 foot intervals
- \$100,000 - replacing top soil during rehabilitation
- \$ 10,000 - hard surfacing of roads in the area of operation for dust abatement
- \$ 50,000 – if the Planning Commission requires studies regarding dewatering processes
- \$100,000 - performance bond to ensure compliance with the Zoning Ordinance
- \$ 25,000 – required insurance policy covering personal injury and property damage

The five foot contour topographical map requirement is too expensive. A hydrogeological study prepared by a “registered professional engineer” is very expensive. There may be insufficient top soil on site and have to be hauled in to meet the four inch depth requirement; the reclamation cost per acre should be more like \$2,500/acre. (John Fischer – volunteered that reclamation would run him about \$10,000 per acre.) The five year life span of an SLU permit is too short, and not worth the financial risk; a ten year life would be better. An annual “review” would be better than “null and void”. “The narrative for on-site use of petroleum products...” is already regulated by the state, and doesn’t need additional requirements from the Township.

Ginette Anderson, lives on Ives Road across from the mining operation – pits are not always a friendly neighbor. Dust is a constant issue, operations can be outside the permissible hours of operation, and every day there is the concern of speeding trucks. Maybe minimize dust by paving the entrance road to the public road. Neighbors need to feel that the operators are working to minimize nuisances. Turning trucks leaving the mine have driven onto lawns and caused damage. There are tire cleaning installations/equipment that could be used or required.

Commission - asked when mining operations started; various audience members noted that the Ives road mine started in the early 1950s. The Crazy C mine on Barnes Road operated for at least 30 years.

## **VII. Adjournment of Public Hearing and Recommencement of Regular Meeting**

There being no further public comment, the public hearing was ended at 7:38 pm, and the regular meeting recommenced.

## **VIII. Reports**

### **A. June 2019 Building Report**

Commissioners had received the Building report, summarizing the nine permits issued, including a demolition, construction or installation of: a new home; footings; windows and siding; a new Adult Foster Care (AFC) home; a pole barn for agricultural use; cell tower additions; a detached garage; and a deck.

### **B. June 2019 Zoning/Enforcement Report created by David Vincent**

Commissioners had received the Code Enforcement report, summarizing the 17 complaints received so far in 2019, indicating five complaints have been closed due to resolution or information being provided to the complainant. The twelve pending complaints are in various stages of being addressed or remediated, and include: three concerning junk; two concerning trash on property and vehicle parking; metal roofing coming off of a barn; living in a camper and not the unlivable house; a non-compliant sign; unmown property; a pontoon boat stored in the front of a property; a noise complaint of airport traffic; and a complaint of vegetation impairing vision at a road intersection.

## **IX. Pending Business**

## 1. Discussion on Zoning Ordinance Amendment Chapter 21 Mining of Earthen Materials

Commission – had discussion on the number of recommendations made, and the possibility of having a subcommittee work with operators and residents. The Commission’s goal in a mining SLU permit is to initially obtain a clear and complete plan for involved parcels, followed by annual updates. A primary concern is how to handle an operation that persists in noncompliance.

Commission – established a subcommittee (Comms. Lewis and Minster, Lazet less formally) to meet with interested Township residents and consider changes to the draft amendment based on comments made tonight. A report and any recommendations should be ready for the August 7, 2019, Commission meeting. Consideration will be limited to what has been publicly raised:

- 1) Whether private use, non-commercial operations should be included;
- 2) Whether to extend the SLU permit life from five to ten years;
- 3) Whether a “renewal” should be subject to the permitting entire process, or consist of a detailed “review” of operations;
- 4) Whether documents should be “professionally prepared” as opposed to being “drawn and sealed by a registered civil engineer”;
- 5) Whether “a hydrogeological analysis prepared by a Michigan registered professional engineer or certified professional hydrogeologist” can either be eliminated or substituted with a less expensive option of preparation;
- 6) Whether on-site storage and use of petroleum products needs to be overseen by the Township;
- 7) Whether the Township can require changes based on the input of other governmental agencies;
- 8) Whether four inches of topsoil for reclamation should instead have flexibility based on the individual parcel(s) or operation;
- 9) Whether crushing operations can shield noise by appropriate measures as opposed to being a set distance from residential uses;
- 10) Whether measures to abate dust (such as tire cleaning equipment) should be specified and required;
- 11) Whether the escrow amount of \$5,000 plus other costs needs to be modified;
- 12) Whether the liability insurance policy should be lowered from \$5 million, to \$1 or \$2 million; and
- 13) Whether the Township needs to be informed of enforcement actions taken by other governmental agencies.

Chair McNeilly – any interested resident here tonight is welcome to be a part of the subcommittee discussion. Please provide the Township with your contact information. (Following adjournment, the following persons indicated interest: John Warvel, Bill Rogers, John Fischer, Lance Anderson, and Ginette Anderson.)

## 2. Zoning Ordinance Possible Amendments

Comm. Lazet – gave an update on the Elhorn Engineer building application, the ZBA having granted both variances: distance from a residential use, and square footage of the proposed building. Further, Mr. Luks had proposed a promising possible manner of amending the Ordinance to better reflect activities in an Industrial District.

Comm. Lewis - gave an update on the status of a draft for solar arrays, including height, setbacks, screening, etc. The 27' tall solar tracking arrays have not yet been installed on Eden Road as the soil has been too soft given the rain over the past weeks. He had earlier today sent a draft document to Commissioners for consideration.

Comm. Winters – is continuing to work on finding all of the references to screening in the Ordinance before formulating recommendations.

**X. Any Other Business**

No other business was discussed.

**XI. Additional Public Comment**

A concerned resident brought up the issue of dewatering of gravel mines and when that prohibition first was added to the Ordinance. No one had a definitive answer.

**XII. Adjournment**

There being no further business, the meeting was adjourned at 8:13 p.m.

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John Lazet, Secretary