

**Town of Gnesen Planning Commission
September 20, 2023 Minutes**

Members Present: Carter Williams, Pete Bergman, Sherri Underthun, Carol Jacobson, Joe Ferguson, Matt Thibodeau, Kevin Middleton, and Kathy Buran; Rick Hogenson, Zoning Officer and Hannah Jurek; Planning and Zoning Secretary.

Members Absent: Dick DeLano, Mike Polzin, Zoning Officer

Others Present: Supervisor Nancy Poppenberg, Susan Lyons, Ted Raymond, Joshua Wing, Lee Stubenvoll, Christine & Deke Melone, Ana Viele, Al Warner, Joanne Vavrosky, Ross Benedict, Matthew Beyer, Kathy Watters, Jay & Marci Haller, Tom Kvaj, Austin Sersien, Tim Grahek, Jeff Carlson, Brett Ballavance.

APPROVAL OF AGENDA: A motion was made by Joe to approve the agenda; seconded by Sherri. All vote in favor.

APPROVAL OF THE HERNSEMAN VARIANCE PUBLIC HEARING MINUTES: A motion was made by Carter to approve the Hernseman Variance Public Hearing minutes, second by Kathy. All vote in favor

APPROVAL OF THE August 16, 2023 MINUTES: A motion was made by Sherri to approve the August 16, 2023 minutes, second by Joe. All vote in favor

Public Hearing for CUPs: Matt called the CUP Review Public Hearing for to order at 7:10pm. Ulland Brothers (Liberty, Palmer, and Oscar Pits) – Deke Malone, resident on Sunshine Lake Road, started the conversation opposing the renewal of the CUP stating that they are still getting very heavy smells (from the Oscar Pit) when the wind is moving in the right direction. He has been to CUP public hearing in the past where there was talk of mitigation efforts, and does appreciate the mitigation efforts that Ulland has tried, but says none of the mitigation efforts have worked. Stating that we (Sunshine Lake Road) hasn't noticed any improvement or difference in the smell that they get when the hot mix plant is in operation. Also stating he would like to see additional mitigation proposals and wanting to know what other options are out there, because it does impact Sunshine Lake Road residents and their ability to be outdoors when the plant is in operation. Matt read an email sent in by Mike and Erin Bellefeuille who live on W. Pioneer Road near the Ulland plant, the Bellefeuille's wanted to know if there are daily air quality test being done, stating that the smell of the particles emissions nearly every day, all day, while the plant is in operation is getting worse. Stating a noticeable haze in their yard this morning, and provided pictures that can be seen at the Clerk's office. The Bellefeuille's mentioned how their family has noticed health concerns such as headaches, allergy/breathing issues, sore throats, dry or itchy eyes, and muscle aches, contributing that to the past few weeks with the weather shift causing the heavy air close to the ground. Carter suggested we let Jeff Carlson from Ulland have to floor to speak to the concerns Deke Malone mentioned earlier in the meeting. Jeff Carlson stated that they have completed the air quality list and provided that to the Commission Members, stating that they are operating in the parameters that the MPCA has put forward. They were able to complete a noise study. The studied was done with both crusher and the asphalt plant were in operation. As far as mitigation efforts, Ulland is continuing to add EcoSor(sp?) product for odor control. Also after last year's CUP, Ulland has purchased new equipment. It's the latest technology for the grind system, called a counter flow plant. In the past the aggregate flow and flame direction would be the same direction causing the blue smoke. The new equipment is the opposite, the flame and flow will got opposite directions, reducing the cause of the blue smoke. It took a year to get, and is delivered to the site, but will take weeks to switch out, so that will be what happening this fall/spring. Ulland is still following best management practices, overly dig, and strictly follow hours of operation, 7am-8pm weekday, 7am-5pm on Saturdays. Sue Lyons, resident on Sunshine Lake Road and secretary of the Sunshine Lake Association, started off by saying that the hot mix plant has been an ongoing issue. They (Sunshine Lake Association) have voiced their concerns to Ulland, stating that they do appreciate the efforts they have taken. They are also aware that once the Oscar plant is diminished, and they move to the old Billington Pit, the plant would be directly West of Sunshine Lake, which is a concern. Noting that they do appreciate that the plant will be placed in the far west corner of the pit, away from a house dense geographic area. On behalf of the entire Township of Gnesen, Sue Lyons would like the make a formal request that the Ulland complaint hotline and

Hannah and Sarah's email addresses be published in the Gnesen News. With the idea that only the Sunshine Lakers know about the complaint hotline. Sherri brought up that on Saturday Sept 18, she attended the 5K near the Ulland plant that she organized, and she noticed the hot mix plant was in operation that morning, noticed the haze, and a slight smell but didn't receive one complaint from runners and spectators. Sherri also followed up on emails she received on September 5, she went out on Sunshine Lake Road to see what it was like, stating we have about six people who complained, and a dozen complaints. When on Sunshine Lake Road, she noticed a neighbor was doing something with their driveway that required tar, understanding why there was extra smell on the 5th when the complaints came to the office. Reiterating with Jeff Carlson about the new plant equipment relieving the blue smoke smell, he agreed. Kathy also mentioned that she could smell the hot mix plant in operation from her home on Church Road, sympathizing with Sunshine Lake. Stating that this year has been the worst year ever in regards to the smell. Jeff Carlson retort by saying this year Ulland has received the least complaints and operations have been the same as last year. Jeff mentioned that it is a function of the wind direction, following up on the concern of westerly winds stated by Sue Lyons earlier, when the wind is coming out of the southwest, especially in the morning, the air is heavy, its pulling up moisture from the south usually, typically southern breeze carry more moisture, creating heavy air, where it can't get up into the atmosphere. Westerly winds would provide more fair weather, less cloud cover, and would have an opportunity to have the smoke get higher up into the atmosphere. Carter mentioned that this was talked about at the site inspection, mentioning that this summer we have dealt with smoke (from Canada Fires), that hung in the air and settled, which would also impact the ability to get some of the blue smoke from the hot mix plant to thin out in the atmosphere. Carter made the motion to review the permit (Ulland's CUP) with the understanding that we publish the hotline and that we continue to ask them upgrade the equipment as quickly and accurately as possible. Seconded by Sherri. In further discussion, Kevin asked Jeff if it was possible to get a fan in the stack to help blow the smoke higher, noting that you can see the haze hover over Rice Lake Road at 7 in the morning. Jeff stated that with the air being so heavy, no matter how high it goes, it always seems to come back down, especially in the morning, also stating that most of the complaint that have been coming in are in the morning hours. Jeff Carlson stated that they (Ulland) are trying to be good neighbors, it was brought up to have a noise study, they did the noise study, Brett from Stantec was there to discuss his findings. He also is the contact to discuss the air quality test as well. Brett is Ulland's consultant from Stantec. Brett Ballavance, Environmental Engineer from Stantec spoke, stating that Ulland is following their air quality permit, their storm water permit, they have done a noise evaluation this week, they will give a report of the finding from the noise evolution to the Township once completed. He mentioned that Ulland is going above and beyond, stating that there is nothing requiring them to do the noise evaluation, but they are doing it anyways. With the finding from last week, they are in line with the State of Minnesota's morning and nighttime standards. A resident asked when last year was emission testing done, the reply was it was done in August, an emission test hasn't been done this year, but it was mention that there are things they have to do yearly to comply with the air quality permit though out the year. (Inaudible discussion) Another question was asked by a resident, they wanted to know if the information from the testing, and the complaints is that compiled somewhere? Carter mentioned that complaints that come to the office go to Hannah and then are directly forwarded off to the commission members, the same works for phone calls. Joe took this time to remind everyone that the regulations we operate under have been completely preemptive by MPCA and the Federal EPA, even if we wanted to revoke their (Ulland's) CUP we couldn't do it because they are in compliance with federal and state law. Reminding again, that what can be done here is very limited. Mentioning that all the reports get filed with the MPCA, and can be accessed through them. Deke Malone spoke to commission mention that no one here was expecting that the commission would not renew the CUP, its mostly about make sure our voices are heard, that we are on record. Sherri had a question for Hannah, asking if the complaints (that were forwarded and also printed in their packets) were all the complaints that the office received the year. Hannah responded by saying yes. Sherri reiterating that the complaints came on August 18, September 1, and September 5. It was pointed out that Town Clerk Sarah has told resident to call the Ulland complaint hotline and leave a message. It was stated that the Township does not have record of the phone messages left at Ulland. Carter would like to make an amendment to his original motion, he would like Ulland to forward all complaint in writing to the office. With the amendment added to the original motion all voted in favor. KGM Contractors (Snow Creek, Abramson Pits) – Operations same as last year. During the pit inspections Carter noted that there is concrete and asphalt that's waiting to be crushed, culverts and metal scrapings removed by October 30, and some stumpage that will be taken care off. They also alerted the Commission that there will be a major airport project coming in 2024 so there will be more activity. Sherri made

a motion to approve the CUP reviews for both the Snow Creek and Abramson Pits, second by Kevin. All vote in favor. There was a quick question from Zoning Officer Rick Hogenson in regards to the Liberty Pit that Ulland owns; asking if the fill is nontoxic material, stating the matter to which the pit it being filled and the trucks operating suggested otherwise. Ulland Rep stated that it is nontoxic material that the reasoning behind the trucks backing in is to help fill in being contour to the surroundings. At this time Matt asked Brett Ballavance to say aloud is contact information for the record: Brett Ballavance; 218-393-4085, brett.ballavance@stantec.com. Viele Contracting – Ana and Austin from Viele’s was present. They will be putting concrete containment underneath their 3 oil bins. Viele Pit did chloride the driveway, and the reclamation plan is updated consistently. Sherri made the motion to approve the CUP with the condition that they are putting the concrete containment underneath the oil bins, second by Kathy. All vote in favor. St. Louis County Twin Pines Pit – Matthew Beyer who is taking over for Ross Benedict was in attendance and gave a brief introduction. Carter stated that the County and this pit have been very helpful working with us on this pit, and hopefully in the future they continue to do that. We want to make sure that their reclamation plan is on file. Carter made a motion to approve the CUP review for St. Louis County, second by Sherri. All vote in favor. Cedar Drive Excavating – Gary Juten was in attendance for the CUP reviews stating business as usual. The site visit found nothing new to report. Sherri made a motion to approve the CUP review for Cedar Drive Excavating, second by Kathy. All vote in favor. Salvage Yards: Steve Larson- He was in attendance. Joe made a motion to approve the CUP review for Steve Larson’s salvage yard, second by Kevin. All vote in favor. Matt asked for a motion to approve the remaining two salvage yards, Carter asked if the office received any complaints on them, Hannah responded by say now. Kevin made a motion to approve the CUP reviews for the other two (Ted Raymond and Brian Johnson) salvage yards, second by Kathy. All vote in favor. Dynamic Sign: Island Lake Inn- Joe made a motion to approve the CUP review for Island Lake Inn Dynamic Sign, second by Kevin. All vote in favor.

CONTINUING BUSINESS:

Home Business Application: The Home Business application was present to the Town Board for approval but the Board had some issues with some of the questions being asked on the application, after some discussion, it was asked on why we are regulating it at all, when the nuisance ordinance covers noise and dust and traffic pollution, and other issues. And at the County level, they have stopped regulating home businesses. Joe made the motion that the Commission recommends to the Town Board that we abandon the application and licensing of home businesses and refer and complaints that we receive from a home business or about a home business to the nuisance ordinance. Second by Sherri. Al Warner, resident, had a question asking the commission, is there any businesses that Gnesen would not want in their Township? Carter mentioned that they are listed in the ordinance. Al then asked, if you don’t know what’s in your Township, how do you know what business is happening in the Township? Response from the Commission, unless they are violating the ordinance, why do we care? The problem is, we have a complaint driven enforcement system. So if a business operates no matter what they are doing, or how they are doing it, if no one complains about it, it continues. All vote in favor.

Subdivision Application: Sherri completed the Subdivision Application and it was presented to the Commission. If there are no changes the next step is to send it to the Town Board for approval. Carter made the motion to approve the subdivision and send it to the Town Board for final approval. Second by Pete. All vote in favor.

MIG Variance Canceled: The variance scheduled for October for the MIG variance has been canceled the Town Board made the decision to approve by resolution which was done at the Monday, September 11 meeting.

Vest are in!: The vest that were requested by the commission so they have some sort of identification when doing site visits are in. See the office to grab one or leave it for safe keeping.

NEW BUSINESS:

Communication Town CUP: Matt asked Hannah at the Monday Town Board meeting to get information and present it to the commission the current CUP for the communication tower. The

question at hand is that; when American Tower comes in for a review, can we add a condition that says they must comply with the current tower ordinance. Hannah reached out to Minnesota Association of Township for council and Steve Fenske responded by saying no. Once a conditional use permit is taken out, after it goes to public hearing, and everything else, it goes to the county and is registered and becomes part of the deed. You cannot change the conditions on that unless they don't meet the conditions, and if the conditions change then they have to apply for a new permit. Joe read what attorney Steve Fenske sent, *"The town cannot add conditions to a CUP already issued. The intend of a CUP is to allow the landowner to continue the use allowed under the conditions described indefinitely. The town could possibly add new conditions if there is a violation of the current conditions, as part a revocation and re-issue action."* So unless they are violating the terms of the original CUP, we can't do anything. Matt asked if the original CUP for the communication tower be in next month's packet for discussion.

Short Term Rental Update: The Board asked for the Commission input on accepting grandfather status to those who submitting the paper work by September 1 minus the septic permit, due to the backlog at the county level. This only affected one person, and the Commission felt that as long as the application and the rest of the paperwork need was submitting by the 1st of September, and the septic inspection was done by the 1st the owner was just waiting on the paper work, that was okay. But there is still the issue that there are STR that are operating in the Township that don't that a STR permit. It was suggested that the Zoning Officers respond in writing stating that they are operating without a STR license, and since they missed the grandfather status deadline that they would fall underneath the number 40 rental license can be given 20 riparian, 20 non riparian. Sue Lyons commented stating that she chatted with Sarah, in regards to the publishing of the STR in Gnesen Township, it is stated in the ordinance that STR will be published in the Gnesen News with an address and contact information. Sarah did publish it in the Gnesen News, but to publish every month would take up to much space in a Newsletter, and would require more pages for print which would in turn cost the Township more money. It was suggested that a list be added to the website. And a small blurb be placed in the newsletter directing people to the website for a full list of STR. The Commission agreed that would be reasonable. New Zoning Officer Rick Hogenson had some question regarding septic systems that needed some clarification.

ZONING OFFICERS REPORT: One STR was denied, the property owner was a non-homesteaded resident. Rick contact the homeowner and the alternate contact. He also reached out to an attorney with St. Louis County who was able to confirm that they were not a homesteaded resident of Gnesen Township. Rick also confirmed that him and Mike are making progress on the backlogged of permits needing a second site visits.

BOARD MEMBERS REPORT: Everything was already talked about that Nancy was going to bring up during her report.

Carol brought up that at the Town Board level, they are looking to bring in someone to help train the Zoning Officers and Commission Members on Land Use in the Township. The training would involve but not limit too; creating the record, making finding of fact, conduct at public meetings, variance applications, CUP/IUP applications, stump the lawyer.

Marcia Haller, resident, asked if the Commission could recap what was discussed about the Communication Towers, for she had to level for a medical call. Matt recapped.

Sherri made a suggestion for next meeting, based on the information we received from Steve Fenske about CUP's; why are we doing the CUP reviews? She would also like to start talking about guidelines and perimeters for picking Chair, Vice Chair, and Past Chair; for the upcoming years.

MN Power Public hearing reconvened will be held on Wednesday October 18, 2023 at 6:30 pm.
Next P&Z Meeting will be held on Wednesday, October 18, 2023 at 7:00 pm.

A motion was made by Sherri to adjourn, with a second by Joe. Motion passed. Meeting adjourned at 8:37 pm.

Respectfully submitted,

Hannah Jurek, Planning and Zoning Secretary

Matt Thibodeau, Planning Commission Chair

Date

Date