

ROBINSON TOWNSHIP PLANNING COMMISSION
January 28, 2014

The rescheduled regular meeting of the Robinson Township Planning was called to order at 7:30 PM at the Robinson Township Hall.

Present
Bill Maschewske
Shawn Martinie
Tom Tenbroeke
Sue DeRuiter
Scott Blackmer
Travis Vugteveen

Absent
George Schippers

Also present were Township Attorney Ron Bultje, Zoning Administrator Kathy Kuck, Tim Bureau of Bureau and Associates representing Robinson Township, Kurt Koella of Lakeshore Environmental and representing Northland Evergreen, Rich Bramer of Northland Evergreen, Tom Peplinski representing D.J McQuestion, and one additional member of the public.

A motion was made by Sue DeRuiter and seconded by Scott Blackmer to approve the Planning Commission minutes of October 7, 2013, October 8, 2013, October 22, 2013, November 6, 2013, November 19, 2013, and January 13, 2014.
The motion carried unanimously.

Non-Commission Inquiries – None

Township Board Report

Travis Vugteveen reported that the Township Board requested additional information from potential consulting planner candidates and is awaiting responses. The requested information would include specific plans for Robinson Township and estimated costs.

Announcements – None

Old Business

The update of the Master Land Use Plan is pending the hiring of a consulting planner.

New Business

The renewal request for the Emerald Lakes Earth Change project was the first item of New Business. There were no representatives present from Emerald Lakes.

The February 2004 letter from Robinson Township to Jack Dykstra of Emerald Lakes requested aerial photographs with the approved cells overlaid and detailing excavation activities to accompany future renewal requests. This material had not been given to Planning Commissioners.

Zoning Administrator Kathy Kuck distributed a copy of the required information which had been submitted by the applicant but was not distributed to Planning Commissioners. Kathy also had maps from the original application and approval for the Class B Earth Change permit, however, the complete text was not included and the Planning Commission was unable to verify the proposed progression of mining activity.

Township Attorney Bultje also noted that documentation dated 09/17/2001 listed conditions of approval. Attorney Bultje will send copies of this letter to all Planning Commissioners. It was also agreed that the Progressive Mining Plan was needed for review of the renewal application.

A motion was made by Scott Blackmer and seconded by Tom Tenbroeke to table the Emerald Lake Earth Change renewal request pending additional information. The motion carried unanimously.

The review of four new Class B Earth Change applications was next on the agenda. Shawn explained the review process and the first step was to make sure the applications were complete. The second step would be to schedule a public hearing.

Kurt Koella of Lakeshore Environmental and representing Northland Evergreen was present to describe two Class B Earth Change applications from Northland Evergreen. Mr. Koella explained the two proposed ponds have three purposes: 1. To serve as agricultural irrigation ponds 2. To serve as detention ponds for later development, and 3. To provide fill sand to build up the site for development. Mr. Koella explained that Northland Evergreen currently has a permit to withdraw water from Worley Drain, however, it is not environmentally friendly to do so.

Scott Blackmer – Do you have pumps into Worley Drain?

Kurt Koella – Yes.

Chairperson Shawn Martinie – Why not use a well?

Kurt Koella – It takes about 400 gpm. to feed a center pivot irrigation system.

Rich Bramer – The water has a high iron content. In a pond, the iron will settle to the bottom. He noted he has talked to Kuyers and other neighbors and they would like to use water from the two proposed ponds.

Bill Maschewske – Please explain why it is not environmentally friendly to pump water from Worley Drain?

Kurt Koella – Explained that Worley Drain is a cold water transitional stream that has fish in it. Dropping the water level endangers the fish.

Chairperson Martinie – What permits are required at the federal or state level?

Tim Bureau –DEQ permits are required if:

1. Excavation is within 500 ft. of a lake or stream.
2. If the excavation is greater than 5 acres in size and creates a lake.
3. If the body of water created has an outlet with ultimate connections to either a lake or stream.

Kurt Koella – If it is a storm water detention basin, then no DEQ permit is required. If it is a lake, then a DEQ permit is needed. Additionally, for an Agricultural irrigation pond, a water withdrawal permit is also required.

Bill Maschewske – What is the purpose of the ponds?

Kurt Koella – Storm water detention.

Chairperson Martinie – What purpose were the ponds sized for?

Kurt Koella – Storm water detention.

Chairperson Martinie – Inquiry of Attorney Bultje -- What about Article VII, Section 2 (d) of the Earth Change Ordinance?

Attorney Bultje – It applies to all Class B applications.

Chairperson Martinie – Noted there is no reclamation plan. A stockpile is not an end use.

Attorney Bultje – Described the recent amendments to the Earth Change Ordinance and the Orr Earth Change project.

Travis Vugteveen – Doesn't the use need to be justified?

Chairperson Martinie – Explained that before we get into detailed discussions, the Township wishes to send a concise letter to the applicants of any deficiencies in the applications.

Kurt Koella – Wants to build two 6 acre irrigation ponds and later convert them to detention ponds for future development.

Travis Vugteveen – What is the OCWRC review on the 120th Ave. pond but not on the 128th Ave. pond site?

Kurt Koella – It is drain commission review.

Kurt Koella – Stated the Planning Commission will get revised applications for irrigation ponds only. The review process will start over again with the Zoning Administrator.

M.D.O.T. Earth Change Requests.

Tom Peplinski, representing D. J. McQuestion was present and discussed the two proposed excavation sites. He noted that the proposal does not include creating a pond at either site. The purpose of the excavations is to get fill material for the construction of M-231.

Chairperson Martinie – Inquired regarding the many acronyms included in the applications, such as MDEQ Part 303.

Tim Bureau – MDEQ Part 303 is the Wetland Protection part of State Law. NPDES is the storm water permit under the Clean Water Act. A pond over 5 acres in size requires a DEQ soil erosion permit and a log needs to be kept by a certified construction site operator. Part 301 is the Lakes and Streams Act.

Chairperson Martinie – Is the Environmental Impact Statement site specific?

Tom Peplinski – No, it was done for the entire corridor.

Chairperson Martinie – What is NEPA?

Tim Bureau – Natural Environmental Protection Act. It requires an EIS which could include noise and societal impacts.

Chairperson Martinie – The EIS specifically identifies 3 parcels but has no detail.

Tim Bureau – MDOT did a supplemental NEPA process to add the parcels. Mr. Bureau also noted that James Fortney stated no MDEQ Part 303 permit is needed, however, Mr. Bureau said that is an open question.

Chairperson Martinie – Noted major issues.

1. Questions the bottom elevation of the south parcel of the Johnson St. project.
2. The Planning Commission needs subcommittee review to check for completeness.

Mr. Peplinski – Noted he has not needed Township approvals from other townships for previous projects.

Attorney Bultje – Stated the Township Board adopted a motion in December 2013 regarding earth changes for M-231. If the earth change is within the M-231 right-of-way and does not create a pond, an earth change permit is not required. If MDOT earth change is not within the right-of-way, or it creates a pond, then an earth change permit is required. Based upon this motion, both proposed projects by MDOT for borrow pits require Earth Change permits.

Chairperson Martinie – Could excavation expose a spring that would cause the excavation sites to fill with water.

Kurt Koella – Not likely.

A discussion was held with Attorney Bultje regarding the requirement for a minimum of 6 earth change units for each project as specified in the Earth Change Ordinance. Attorney Bultje stated that the Planning Commission could make a recommendation and the Township Board could provide relief from this requirement since it is a police power ordinance. Relief from the requirement could not be granted by the Zoning Board of Appeals, because the ZBA does not have jurisdiction over a police power ordinance.

Chairperson Martinie – Noted a subcommittee meeting needed to be established to review earth change applicants for completeness.

Tim Bureau – Recommends staying 2 feet above the high water table with excavation, otherwise it will likely become a wetland.

A Planning Commission meeting was scheduled for Monday, February 3, 2014 at 7:30 PM. The Northland Evergreen and MDOT Earth Change applications will be reviewed for completeness if revised copies are submitted by that time.

A motion was made by Sue DeRuiter and seconded by Travis Vugteveen to pay salaries for the time period of 8/27/13 through 1/13/14, including 2 subcommittee meetings, on voucher nos. 1242 – 1252.

The motion carried unanimously.

A motion was made by Scott Blackmer and seconded by Travis Vugteveen to adjourn the Planning Commission meeting at 10:25 PM.

The motion carried unanimously.

Respectfully submitted,

Bill Maschewske, Secretary
Robinson Township Planning Commission