

Minutes

January 09, 2023

Planning Commission Meeting

The agenda for this meeting was posted in the legal paper of record, the Plattsmouth Journal, on December 29, 2022. The Chairman, Alan Mueller, opened the public meeting at 7:00 pm & stated that the open meetings act is posted on the wall in the back of the room. The Pledge of Allegiance was recited. Roll call for the Planning Commission Members Althouse, Staben, Tesar, Oehlerking, Mueller, Crofoot and Widick met as advertised. Sullivan, Felthousen and Dennis were absent.

Approval of minutes: A motion was made by Staben, seconded by Widick to approve the minutes from December 12th, 2022 meeting. A voice vote followed with all voting aye.

Mueller opened the public hearing @ 7:02 pm with the **first item** on the agenda, Conditional Use Permit # 11462 – Ash Grove Cement – Rickey L. Bond LF EST, owner -10617 Mynard Road, Louisville – parcels 130142557, 130142476 & 130142654 – Legal description: NW1/4, PART OF NE1/4 PART OF SW1/4 33-12-12 – Mining.

Mueller then invited the Ash Grove representative up to speak. Jim Lang, an Omaha attorney, representing Ash Grove, came up to speak. He stated that this matter had been tabled until this meeting for the purpose of addressing the matters brought forward at the prior public hearing and to complete and extend the Conditional Use agreement. Since that time, Lang's team, Mike Jensen, Cass County Zoning Administrator and Alan Mueller, Board Chairman have met and discussed what needed to be on the agreement. The agreement was drafted and sent out to the Planning Commission members. The only change made was in section 3.3 of the agreement – a provision was added that Ash Grove would sweep the street in the event there is any debris from the truck hauling. This will be as directed through the superintendent of the Cass County Roads Department. As mentioned before – they will have tire cleaners on site also. Mueller mentioned that one of the points of reference with the mining operation – the land purchase basically – is now just on the east side of the creek (146 acres). This changed from the original submittal which formatted the whole balance of the farm. He then asked for any questions. One of the questions asked by the commission was the speed limit of 35 mph causing issues with vehicles passing the trucks. They believe a higher limit of 45 mph would be better. Additional screening to the west of 108th street was discussed. Jensen also mention that Leonard Thorne, the Roads Superintendent was implicit that the Department of Roads doesn't want any relaxation of standards on the road build. Mueller then asked Eric Beiermann to come up and explain this. He went through the road design and explained the location. The design standards would be decided by the Roads Department and the Board of Commissioners. Crofoot asked about the percentage increase of road traffic. They stated that it would be a 300 - 400% increase. Mueller then opened up the meeting for public comment. Three people came up to speak with the following concerns/questions:

- Hours of operation – 6 am is too early. **Ash Grove has already changed the original 6 am to 6 pm time to accommodate. They will consider the actual start time for the trucks at 6 pm as opposed to 5:30 am. They would consider operating from 7 to 5 so the hours aren't so early. They mentioned 4 to 5 trucks making 25 trips per day. This would put a truck going down the road every 12 minutes to start. They need a 10-hour window of time in order to get the mining done.**
- Exhibit H states no flood lights will be allowed to operate on the property. **Ash Grove stated that there will be no flood lights. They see no need for them. The only lighting will be similar to a yard or street light to allow pedestrians to see where they are going.**
- Placement of the Berm. It was stated that a berm would be required along 108th street – that is not what is written in the agreement. They want to see them place the berm on 108th Street – possibly on the property directly west of the proposed mine instead of along the Ash Grove property. Trees won't help a lot until they are fully grown. **Tesar stated that once they get the 30 feet of overburden off, they would be 34 feet lower than that once the pit is dug. Nobody is going to see the mining. He believes that the berm being up on the hill will be more than sufficient for screening. Ash Grove agreed. Landowners would have to agree on what is sufficient for screening.**
- Post mining seeding and soil stabilization – this should be done as they finish each area or section prior to starting in a new area.
- Putting trees on the berm would be useless - for screening purposes, a level berm – approximately 300 feet long and 100 feet wide with three to four rows of trees, 25 feet apart, 25 feet between 3 or 4 rows will possibly work for soundproofing and dust prevention. **Oehlerking asked him if he was willing to deal with the possibility of snow drifting if they place 300 feet of trees which will change the drift pattern.**
- Question about what the traffic study was based on for Hwy 66. Is there an actual document from the State Department of Roads on this issue? A turning lane and an acceleration lane should be built on this highway.

On 108th street, the hard surfacing also needs to be done before traffic is allowed on the road. **Mueller stated that he did discuss this with the district engineer, Tim Weander, and he stated the neither the acceleration or deceleration lanes would be a benefit at this point in time ; however, it will be in the agreement in the event that either are ever needed. Any future needs will also be covered in the agreements.**

Mueller asked if anyone else wished to speak. Since there were no more comments or questions, he asked Ash Grove to come back up and address some of the questions/concerns. These are addressed above in red. Mueller asked if there were any other questions or comments. Since there were none, he closed the hearing at 7:46 pm. Mueller asked about the discussion on the hours of operation – all were good with the hours. Oehlerking asked about the speed limit. That will be set by the Board of Commissioners. Several of the commission members had issues with the speed limit being set at 35 mph. They believe it should be 45 mph. Since this seems to be an issue, a separate vote for the speed limit was done. Jensen also suggested that they put in the motion that there would be no relaxation of any state standard on the road build. Tesar then made a motion to amend the speed limit to 45 mph with no relaxation of the road standard (section 9, pursuant to title 428, Nebraska Board of Public Roads). Seconded by Oehlerking. A roll call vote followed with the following votes: Althouse – aye; Tesar – aye; Staben – aye; Mueller – nay; Widick – aye; Oehlerking – aye; Crofoot – aye. Motion to recommend carried with a 6 to 1 vote. A second vote was then requested. A motion was made by Tesar to approve Conditional Use permit 11462 with amended speed lime of 45 mph and with no relaxation of Title 428 of the Nebraska Public Road classification of road standard. Seconded by Althouse. A roll call vote followed with the following votes: Althouse – aye; Tesar – aye; Staben –nay; Mueller – aye; Widick – aye; Oehlerking – aye; Crofoot – nay. Motion to recommend carried with a 5 to 2 vote. The hearing will go before the Cass County Board of Commissioners on February 14 at 8 am.

The **second item** on the agenda was opened for public hearing at 8:00 pm by Mueller - Regulations update – Action item Mueller asked Jensen to introduce this item.

Administrative remarks: On the regulations update - a reminder that the Planning Commission meeting resulted in a vote of 4 CSCS regulatory recommendations – those being setbacks, right-of-way, screening and storm water management. This evening’s meeting would be to vote on the Administrative Subdivisions in AG - 1 per 40 acres – and in TA - 1 per 20 acres for clarification. A second vote will be needed for the 2023 Zoning Regulations document as a whole. Tesar asked about RMUD correction on the map. Jensen stated it would be fixed at a later date. Since there were no more questions or comments, Mueller opened up the public hearing.

Four people from the gallery came up to speak with the following questions/concerns:

- With growing population and expansion coming to Cass County, traffic has expanded 10 times. With the pressures coming to the county, solar is a benign projects compared to what you could be looking at. Would rather see a known entity develop a solar farm as opposed to a dozen 10-acre lots that may or may not be well maintained.
- In a bill introduced by a Lincoln State Senator - LB49 – he states “the use of solar energy and wind energy in Nebraska is of utmost importance to the state.” Solar wind energy is not about what’s important to this state. What’s important is reliable and low-cost electric power. Wind and solar energy destabilizes the grid.
- With the current application for NextEra solar project, only 1% of farmable land will be taken out of production.
- Solar panels are less dusty than tractors and much quieter.
- Believes solar and wind energy statement to be false.
- Renewables are a great way to increase the tax revenue for all counties.

Mueller then asked if there were any more comments or questions. Since there were none, he closed the public hearing at 8:12 pm. He asked if there was any more discussion from the Planning Commission. He stated that the Commissioners were asking them to address the Administrative Subdivisions in AG and TA. They want individual votes on this. Tesar made a motion to shift the Administrative Subdivision to an Administrative hearing for the AG (1 per 40 acres) and the TA (1 per 20 acres) that would go before the Planning Commission for approval. Seconded by Mueller. A roll call vote was taken with the following votes: Althouse – aye; Tesar – aye; Oehlerking – aye; Staben – nay; Mueller – aye; Widick – aye; Crofoot – nay. Motion to recommend carried with a 5 to 2 vote.

Mueller made a motion to approve the packet of rules and regulations as presented in the updated February 2023 document. Seconded by Crofoot. A roll call vote was taken with the following votes: Crofoot – aye; Oehlerking – aye; Tesar – aye; Mueller – aye; Dennis – aye; Felthousen – aye; Althouse – aye; Widick –aye; Staben – aye. Motion to recommend carried with a 7 to 0 vote.

The **final item** on the agenda was the election of officers. The current positions are held by:

- Chairperson – Alan Mueller
- Vice Chairperson – Ray Althouse
- Secretary – Bob Staben

A motion was made by Tesar to elect by unanimous consent the retaining of the current officers. Seconded by Oehlerking. A roll call vote was taken with the following votes: Crofoot – aye; Oehlerking – aye; Tesar – aye; Mueller – aye; Dennis – aye; Felthousen – aye; Althouse – aye; Widick – aye; Staben – aye. Motion to recommend carried with an 7 to 0 vote.

A motion was made by Tesar to retain Lind Brouhard as the recording secretary. Seconded by Althouse. A voice vote followed with all members voting aye. Motion carried.

Mueller asked for a motion to adjourn the meeting. A motion was made by Tesar, seconded by Crofoot. A voice vote followed with all members voting aye. Meeting closed at 8:20 pm.

Linda Brouhard
Recording Secretary

*These minutes will not be approved until the next Planning Commission Meeting and are subject to change.