

January 15, 2013

A regular meeting of the Scandia City Council was held on the above date. Mayor Simonson called the meeting to order at 7:00 p.m. Following the Pledge of Allegiance, roll call was taken. The following council members were present: Council members Dan Lee, Chris Ness, Jim Schneider, Sally Swanson and Mayor Randall Simonson. Staff present: City Administrator Kristina Handt, City Planner Sherri Buss and Deputy Clerk Brenda Eklund.

PUBLIC FORUM

There were no public comments.

APPROVAL OF AGENDA

Ness, seconded by Lee, moved to approve the agenda as presented. The motion carried 5-0.

CONSENT AGENDA

The following Consent Agenda was presented:

- a) Minutes
 - 1) December 18, 2012 Regular Meeting
 - 2) January 8, 2013 Work Session
- b) Treasurer's Report

Beginning Balance 12/01/2012	\$1,769,463.33
Receipts	+ <u>1,013,542.03</u>
Expenditures \$ 139,001.49	
Payroll 23,078.41	- <u>162,079.90</u>
Adjustments: Property Tax Adjustment	- 13,356.45
Childers Credit	+ 5,000.50
Duplicate Receipt	- <u>1,298.22</u>
Ending Balance 12/31/2012	\$2,613,867.73
- c) Payment of Vouchers
- d) Approval of Washington County Conservation District Contract for Wetland Conservation Act and possible Zavoral Mine and Reclamation monitoring tasks
- e) Approve Official Depositories (*Resolution 01-15-13-01*)
- f) Ratify Surety and Blanket Bonds (*Resolution 01-15-13-02*)
- g) Accept Resignation of Peter E. Weber from Scandia Fire and Rescue
- h) Approve Salary Adjustment for Maintenance Superintendent (*Resolution 01-15-13-03*)
- i) Approve Citizen Complaint Form (*Resolution 01-15-13-04*)
- j) Approve Ordinance No. 138 Fees for Planning and Zoning Applications
- k) Approve Ordinance No. 139 Amending Ordinance No. 91, An Ordinance Establishing Rules for the Organization and Procedure of the City Council of the City of Scandia
- l) Authorize Administrator to Attend Ehlers Public Finance Seminar, February 7-8, 2013

Ness, seconded by Swanson, moved to approve the Consent Agenda as presented. The motion carried 5-0.

PLANNING COMMISSION: RECOMMENDATION REGARDING CONDITIONAL USE PERMIT FOR ZAVORAL MINE AND RECLAMATION PROJECT. TILLER CORPORATION, APPLICANT

At their Special Meeting on January 7, 2013, the Planning Commission adopted Resolution No. 01-07-13-01D recommending denial of Tiller Corporation's application for a Conditional Use Permit for the Zavoral Mine and Reclamation Project. Tiller Corporation had applied for a Conditional Use Permit to re-open a dormant, un-reclaimed gravel mine east of the intersection of TH 97 and TH 95 in November 2008, and submitted an updated application on October 8, 2012. The Project was evaluated through an environmental review process, and the City determined the Environmental Impact Statement (EIS) to be adequate on September 25, 2012. The Planning Commission held a public hearing and series of meetings on the CUP in December 2012 and in early January 2013.

City Administrator Kristina Handt explained that the Council needs to determine if the application for a CUP meets the criteria of Ordinance No. 103, the City's mining ordinance, and the general criteria for a Conditional Use Permit as listed in Chapter 1, Section 8 of the Scandia Development Code. Handt advised the Council to provide direction to staff on which Alternative from the EIS should be used, and to determine an escrow amount for monitoring costs, should the Council consider approval of the CUP. A draft Development Agreement was provided for the Council's review, with these items left blank.

City Planner Sherri Buss began with a review of the staff report, which evaluated each criteria required to be met in order to issue a CUP. The review utilized the analyses completed for the EIS and the mitigation recommendations to evaluate the project's compliance with the ordinance criteria. The staff report concluded that the project met the performance standards of the Development Code and Ordinance No. 103. Proposed conditions to meet the criteria for a CUP were developed, including the mitigation recommendations noted in the EIS. A draft resolution for approval was available for the Council's review.

Planner Buss stated that the project request is consistent with the goals and policies of the City's 2020 Comprehensive Plan (Mining Ordinance No. 103, Section 3.1(4)(C)). The Planning Commission determined that the application should be evaluated using the 2030 Comprehensive Plan, adopted in March 2009, after the application was received. By applying the current Comp Plan, mining is no longer an approved use at the Zavoral site and the Planning Commission denied the application for this reason and through other findings. Buss stated that in a memo from Attorney Stevens, dated December 5, 2012, the City was advised that the 2020 Comprehensive Plan should be used in determining compliance.

Simonson, seconded by Lee, moved to recommend the City evaluate the application using the 2020 Comprehensive Plan.

Council member Schneider stated that the City should stick with what the Applicant had been told all along, that the project would be evaluated based on the 2020 Comprehensive Plan which was in place at the time the application was submitted to the City.

Council member Swanson stated that she evaluated this issue based on the law and agreed with this position, that the 2020 Comprehensive Plan be applied.

Council member Lee noted that Tiller was asked to base the initial EAW findings on applying the 2020 Comprehensive Plan.

Mayor Simonson asked for a roll call vote on the above motion. Ness – yes; Swanson – yes; Schneider – yes; Lee – yes; Simonson – yes. The motion carried 5-0.

Planner Buss explained that the second part of the question is to determine if the mining and reclamation project is consistent with the goals and policies of the 2020 Comprehensive Plan; that mining is an allowed use in the Ag District and it meets the requirement for screening and reclamation.

Lee, seconded by Schneider, moved to accept the staff analysis that the project is compliant with the 2020 Comprehensive Plan. The motion carried 4-1, with Ness opposed.

Planner Buss began a discussion of Section 5.6 of Mining Ordinance No. 103, protection of groundwater. The application included a Groundwater Quality Protection Plan. Tiller is proposing a maximum mining depth of 840 feet above mean sea level, with an average mining depth of 15 feet. The EIS indicated that the separation between the maximum depth of mining and existing ground water level shall be 25 feet or more. To address concerns of groundwater monitoring, conditions were included to require additional observation wells. Buss explained that Conditions #3-15 in the draft resolution will address the ordinance requirement that the project safely deal with protection of groundwater.

The Council discussed groundwater separation of 25 feet. If quarterly monitoring reports that this is less than 25 feet, what steps will be taken? Council member Swanson recommended that a response plan be in place to address this. Buss suggested that the City seek guidance from the consultant LGB and the DNR, and she will add wording to the Annual Operating Permit to address this. Buss noted that Tiller has begun the installation of monitoring wells and water table data should be available soon.

Council member Ness stated that he would like to see no fuel storage on the site at all, as it is one less thing to go wrong. Buss explained that conditions address the potential for fuel storage on site in the event that it becomes necessary. Council member Lee noted that it would be safer to have a containment area and plan in place rather than no fuel storage allowed. Mike Caron, Tiller Corporation, was asked to explain fuel storage needs. He said that typically fuel vendors come once a day to fuel equipment on site, but in the event there is a piece of equipment on site that needs more frequent refueling, Tiller would like the ability to have fuel stored on site in a 500-1,000 gallon tank so as not to shut down the operation. He does not anticipate setting up a fuel storage area initially in the project. Ness stated that he would reverse his position on fuel storage so as not to halt mining activities and prolong the project.

Planner Buss explained that she worked closely with the Washington Conservation District (WCD) to develop the conditions for the protection of surface water. The stormwater management plan will not concentrate stormwater drainage at a discharge point, but rather it will infiltrate over the whole site. Buss stated that surface water monitoring reports will be submitted by the WCD annually during review of the AOP. Council member Schneider recommended more frequent reporting as rainfall can fluctuate greatly in one season. Council member Swanson suggested monthly monitoring may be best during the mining season, at least in the first year. Buss stated that she will consult with the WCD about optimum frequency and have a recommendation to include in the AOP for the next meeting.

In the discussion on operating conditions, Planner Buss asked for direction on setting operating hours. The ordinance allows mining operations to occur between the hours of 7 a.m. to 7 p.m. Monday through Friday, unless specifically authorized by the City. The EIS provided an option to limit hours on Friday from 7 a.m. to noon to minimize conflicts with recreational traffic, but Buss noted that removing ½ a day could extend the length of the mining operation. Council members were in agreement to allow mining from 7 a.m. to 2 p.m. on Fridays.

Planner Buss continued to address the requirements of the mining ordinance and explained the conditions related to meeting those requirements.

The reclamation plan was discussed and Planner Buss explained that Conditions #69-79 of the draft resolution are related to the reclamation plan for the CUP. Jason Husveth, Critical Connections, provided input about the diversity and structure of the reclamation plan. The area will be planted with native trees and seed mixes to create native dry and prairie communities and white pine woodland. Buss explained that the site will be monitored for five years following the completion of the mining project, and that the creation of native plant communities exceeds the requirements of the ordinance.

Planner Buss proceeded to review the staff report using the evaluation of the Conditional Use Permit criteria from Chapter 1 of the Development Code.

On the issue of traffic, Planner Buss noted that Condition #35 requires that speed studies be conducted by MnDOT at three locations: 1) on TH 95 north and south of TH 97; 2) on TH 97 near the Scandia Elementary School; and 3) on TH 97 near the intersection with County Road 91 (Lofton Avenue). Council members Schneider and Swanson questioned the reasoning for the locations, as Swanson stated it would be doubtful that trucks would be speeding in these areas as they are at turning points or near the four-way stop at TH 97 and County Road 3.

Planning Commissioner Jan Hogle was present to explain that the TH 97/Lofton intersection is dangerous due to the curve and hill to the east. A speed study was recommended to potentially reduce the speed of all traffic moving through this section of the road to improve safety. Council members agreed to limit the speed study condition to this one location at TH 97 and Lofton Avenue.

Mr. Caron addressed Condition #39, that all truck traffic shall use the controlled intersection at Manning and TH 97 when making left hand turns onto TH 97, and not Lofton Avenue. Mr. Caron requested the condition not be considered due to the increased mileage it requires. He explained that when the permit for the Scandia Mine was issued, the roadway and traffic patterns were found to be adequate and this project will not be generating more truck traffic since it will be replacing the haul trucks coming from the Franconia and Osceola pits. Planner Buss advised that using Manning Avenue as a hauling route was not included in the EIS traffic analysis.

Mr. Caron also requested that hauling on local streets be allowed in the instance that a local project may require material and it would be more efficient to deliver it right from the Zavoral site.

Council member Schneider stated that he is not in favor of making the haul routes any longer, and the speed study near Lofton Avenue should address the safety issue. The Council was in agreement to remove Condition #39 and that the use of local streets could be allowed under certain conditions. Planner Buss stated that she will add a condition that local roads could be used for hauling material to local projects with approval by the City.

In discussing environmental and economic impacts, Planner Buss explained that the project has the potential to impact some measures of public health and safety, and some decrease in the value of property near the site; however the EIS found that if the mitigation recommendations are implemented, the impacts will not be significant.

Council member Swanson stated that the project may affect tourism, but not enough to shut down the project. Swanson said property values are only impacted if one goes to sell their property, and there will be a time limit on the project. Council member Lee stated that reclamation on the site could improve the value of surrounding properties.

Council member Schneider stated that the term “significant” means a lot. He doesn’t see long-term detrimental effects; property values can fluctuate for many reasons and not necessarily due to a mine. Not all areas will be in agreement, but they must look at the project as a whole.

Council member Ness stated that he questions the requirement that the project will promote and enhance the general welfare, even with the mitigation strategies.

Council member Swanson stated that the County Board is promoting road improvements and the mine could be a source for the needed aggregate.

Council member Lee stated that the project has a number of mitigations, conditions, and a good handle on when it will be done, which addresses many of the issues.

Administrator Handt asked the Council to consider the project alternatives evaluated by the EIS that would determine the duration of the mining project. The Planning Commission recommended that conditions specify Alternative 3 (a 3.3 to 5-year operation), with a maximum duration of 39 months from the date of approval of the CUP.

Council member Ness stated that 3 to 5 years is too long and asked if the project could be completed in two 150-day seasons.

Mr. Caron stated that the optimal time frame would be 4 years, in which there would be no noticeable impact on the number of trucks. He stated that he respected the fact that the City would like the project completed in the shortest amount of time, but he would have to consult with the mine operators before answering.

Council member Schneider stated that the longer duration would lessen the daily truck traffic and that the project could go on at a more reasonable pace. Council member Lee agreed that allowing the project to be completed in 3-5 years is acceptable and gives Tiller the time to do the project safely and efficiently.

Administrator Handt advised that only the alternatives which were evaluated in the EIS should be considered, and the 2-year duration was not an alternative and therefore the impacts were not studied.

Mayor Simonson stated that an aggressive attack could be detrimental to the site.

The Council concluded that the project operation be 3-5 years in duration. Planner Buss stated that an end date for the project would be included in the Development Agreement.

Lee, seconded by Schneider, moved to direct staff to prepare a resolution to approve Tiller Corporation's Conditional Use Permit for the Zavoral Mine and Reclamation Project, with the revisions as agreed upon.

Council member Swanson stated that she would like additional time to review all documentation, including the Development Agreement, and make sure it is right. Mayor Simonson recommended the Council review the materials and continue discussion at the February 12 Council Work Session.

Mayor Simonson called for a vote on the above motion. The motion carried 4-1, with Ness opposed.

Administrator Handt explained that page 7 of the Development Agreement allows for the City to set an initial escrow amount for the payment of all City costs associated with the monitoring, supervision and inspection of the project. Monitoring costs were revised and estimated to be about \$100,000 for the first year. Staff recommended an escrow of \$25,000 be established. Council was in agreement with this amount, and that a letter of credit is used as the financial guaranty for reclamation, rather than a performance bond.

BUILDING OFFICIAL

The Council received Building Official Keith Wille's report on building activity. Eighty-six permits were issued in 2012, with net revenue of \$12,720.14.

POLICE DEPARTMENT

Deputy Chris Majeski reported on the past month's police activity. Fraud cases are being investigated. The youth snowmobile class recently held at the Community Center had a very good response.

FIRE DEPARTMENT

Assistant Fire Chief Bill Havener reported that final specifications for the new fire engine will be reviewed with the Council in March. The department plans to start a recruitment process this spring.

CITY ENGINEER

The Council received City Engineer Phil Gravel's report. He has been working with Maintenance Superintendent Kieffer on a 2013 seal coat/patching list and a six-year master seal coat plan for the streets.

CITY ATTORNEY

Attorney Stevens reported that Tom Miller is working on Tiller's Development Agreement.

PUBLIC WORKS

The Council received Maintenance Superintendent Tim Kieffer's activity report for the month of December. Council member Schneider noted that the guardrails on 199th Street need to be repaired.

DESIGNATE OFFICIAL NEWSPAPER

Bids were received from the Forest Lake Times and the Country Messenger to be designated as the official newspaper. Administrator Handt explained that the Country Messenger supplied the lower publication cost, but the Forest Lake Times has the larger circulation. Both papers have served as the City's official newspapers through the years.

Mayor Simonson stated that both papers represent the City well, but the input from the community has shown a strong loyalty to the Messenger. Simonson asked that the Messenger continue to maintain a newspaper rack at the Community Center for free pick-up of the newspaper.

Randi Smith, publisher of the Country Messenger, agreed to continue this practice.

Council member Ness stated that the Messenger has been doing a good job. Council member Swanson agreed and added that people consider it the "town paper".

Swanson, seconded by Lee, moved to designate the Country Messenger as the official newspaper for 2013. The motion carried 5-0.

APPOINT ACTING MAYOR FOR 2013

Ness, seconded by Schneider, moved to appoint Council member Swanson as Acting Mayor for 2013. The motion carried 5-0.

ADJOURNMENT

Ness, seconded by Swanson, moved to adjourn. The motion carried 5-0.

The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Brenda Eklund
Deputy Clerk