

City of Empire Continuation of City Council Meeting / Planning Commission Meeting Minutes

April 18, 2023

The continuation of the April 11, 2023, Empire City Council Meeting was called to order by Mayor Trent Larson at 7:00 PM.

The City of Empire Planning Commission meeting was called to order by Jared Sachs at 7:00 PM.

Present from the City Council were: Mayor Trent Larson, Marla Vagts, Danny Rubio, Eric Hanson, and Tom Kaldunski.

Present from the Planning Commission were: Jared Sachs, Doug Clark, Gina Maunu, Julie Stulz, Elizabeth Haas, Jenni Faulkner, Brad Fisher, Brian Hilgardner and Charles Seipel-Teng.

Kyle Hartnett, Attorney with the League of Minnesota Cities presented information on Planning and Zoning, including the issuance of variances, conditional use permits and interim use permits. The City Council and Planning Commission thanked Mr. Hartnett for his presentation.

Tom Kaldunski made a motion to adjourn the City Council Meeting. Eric Hanson seconded. The City Council Meeting adjourned at 8:00 PM.

The Planning Commission Meeting was opened to Public Hearings #1, to consider application for IUP to permit a dog kennel at the Skyview Ranch Property (2413 210th Street E) and #2, to consider a variance request to permit up to 50 dogs on the property, where the zoning ordinance requires a maximum of 30 dogs, and a variance to permit a 5,000 sq. ft. pole barn on the property where the zoning ordinance requires detached accessory structures in the AG District to be limited to three times the size of the primary structure.

Charles Seipel-Teng read the public hearing notice. It was reported that the city received a comment for the public hearing from a resident that received the public hearing notice. The resident wished to remain anonymous and was concerned about noise from the animals on the property that would result from the kennel operation as they have experienced noise from the kennel in the past.

Jenni Faulkner presented a memo outlining the proposed IUP and variance applications. The IUP application, submitted by David Madigan, is to operate a dog kennel at the existing Skyview Ranch site. The current owners of Skyview Ranch would like to sell the property and business to Mr. Madigan. A kennel has been in operation on the site since the 1980's. The proposed IUP would carry over the conditions from the current IUP, in addition to requiring that the greenhouse on the property be repaired and operational, or removed by September 1, 2023, and all illegal outdoor storage items removed by May 31, 2023. The Planning Commission

recommended the addition of requiring the business owner to check back in with the Planning Commission one year after the issuance of the permit to evaluate operation and require 11ft. sidewalks for the proposed detached accessory structure to be constructed on the property.

The variance application includes the request to permit up to 50 dogs to be boarded at the property where the zoning ordinance limits 30 dogs. The current IUP permits up to 60 dogs. The zoning ordinance was amended between the original issuance of the IUP and the current application.

The variance application for the 5,000 sq. ft. detached accessory structure does not meet the requirement that the maximum size of a detached accessory, non-farm related structure in the AG District be limited to three times the size of the primary structure (the house). The request for the variance in this instance does not meet the definition of practical difficulties. The business could reasonably operate in a 3,400 sq. ft. structure.

No further public comment was made at the hearing.

Elizabeth Haas made a motion to close Public Hearing #1, to consider a request for IUP for the Skyview Ranch Kennel. Doug Clark seconded. Motion passed 5-0.

Doug Clark made a motion to close Public Hearing #2, to consider two variance requests for the Skyview Ranch property. Elizabeth Haas seconded. Motion passed 5-0.

Elizabeth Haas made a motion to recommend approval of the Skyveiw Ranch IUP with the additional conditions of a one year check in and maximum sidewall height of 11' for the proposed detached accessory structure; and to recommend approval of a variance to allow up to 50 dogs to be kenneled on the property. Doug Clark seconded. Motion passed 5-0.

Julie Stulz made a motion to recommend denial of the variance request for a 5,000 sq. ft. detached accessory structure to be constructed on the Skyview Ranch Property. Doug Clark seconded. Motion passed 5-0.

The meeting was opened to Public Hearing #3, to consider a request from Holcim-MWR, Inc. to rezone approximately 312 acres of property on Biscayne Ave. from AG (Agricultural Preservation) to ME (Mineral Extraction).

Jenni Faulker presented a memo outlining the zoning request. The proposed zoning request covers two parcels on Biscayne Ave. The parcels are currently in the mineral extraction overlay district.

The city has received no comment prior to the public hearing and no comment was received at the hearing.

Elizabeth Haas made a motion to close Public Hearing #3, to consider a zoning request from Holcim-MWR, Inc. Julie Stulz seconded. Motion passed 5-0.

A motion by Julie Stulz to recommend approval of the request from Holcim-MWR, Inc. to rezone approximately 312 acres of property on Biscayne Ave. from AG (Agricultural Preservation) to ME (Mineral Extraction). Elizabeth Haas seconded. Motion passed 5-0.

The meeting was opened to Public Hearing #4, to consider an application for mineral extraction IUP from Holcim-MWR, Inc. to allow a mineral extraction operation on approximately 312 acres on Biscayne Ave.

Jenni Faulker presented a memo that outlined the scope of the proposed mining operation. The operation will take place in phases over a five-year period. Pre-mining activities are expected to begin in late 2023 and include the installation of a tunnel under Biscayne Ave. for the extension of a conveyor system that will run west and north to connect to an existing conveyor that runs north from the Brand mine. The applicant has indicated that wetlands and watercourse will not be disturbed by mining activity. The applicant is proposing hours of operation to take place 24 hours per day, six days per week, excluding Sundays. Ordinance No. 450 limits hours from 6:00 am to 6:00 pm, however the City Council can allow longer hours. It is recommended to permit the proposed hours, on the condition that a 50-day probationary period be imposed for the hours, with review of the operations at the end of the 50-day period. The proposed conveyor will limit truck activity, however, fill sand sales are estimated to generate about 36 average daily trips. Sand sales will take place when contracts are awarded and can last from a few days to one week.

Tom Schmit and Moe Connell were present to answer questions on behalf of Holcim-MWR, Inc.

John Brand asked how long Biscayne Ave. might be closed for the installation of the conveyor. Tom Schmit with Holcim indicated that the conveyor installation is expected to take place this summer and last less than five days.

Tom Lewanski, natural resource manager with Dakota County Parks asked if dewatering will take place at this operation, if there will be impacts to adjacent wetlands and if there was an EIS completed for this site. Tom Schmit noted that no dewatering will take place. Brad Fischer indicated that he believes there will be minimal impacts to the wetlands based on the direction of waterflow on the property; most of the waterflow comes directly from the northwest. An EIS was completed for properties in the mineral extraction overlay district.

Gina Maunu made a motion to close Public Hearing #4; to consider an application for mineral extraction IUP from Holcim-MWR, Inc. to allow a mineral extraction operation on approximately 312 acres on Biscayne Ave. Doug Clark seconded. Motion passed 5-0.

The Planning Commission recommended including the requirement in item K of the IUP that chemical treatment be added to the requirement of watering for dust control as a result of the

operation; the term of the IUP end on March 31, 2029 to be consistent with other IUP renewals; and for Holcim to notify the City one week prior to sand sales which involve three or more days of hauling so that the City can determine how additional truck traffic affects the road conditions on Biscayne Ave.

Elizabeth Haas made a motion to recommend approval of the IUP for Holcim-MWR, Inc. for mining operations, with the additional conditions as reflected in these minutes. Doug Clark seconded. Motion passed 5-0.

The Planning Commission reviewed information on ROW permit fees from other cities in the area as well as a comment from the City's engineer on the current fees. The engineer recommended maintaining the current fee schedule because the cost of having an engineer on site for restoration associated with large projects will likely require a substantial amount of charged hours from contracted engineering staff. Doug Clark made a motion to recommend keeping the ROW permit application fees as stated in Ordinance NO. 375-A. Elizabeth Haas seconded. Motion passed 5-0.

It was reported that the City has received a concern about a business operating on the property at 1791 200th Street that involves trucking at the site. The Planning Commission indicated that the current owner of the property came to the Planning Commission in 2016, with a proposal that included the storage of trucks on the property that leave on the weekend. Trucks are driven by the property owner and one employee and leave the site once per week. The Planning Commission had no issues with the plan for the property in 2016 and it was the consensus of the Planning Commission that there are no issues with operations currently taking place on the property.

The Planning Commission reviewed an update from Dakota County on Highway Projects and an update to County Park Ordinance No. 107.

The Planning Commission discussed concerns regarding a new retention pond at the DNH site and its close proximity to Clayton Ave. Jerod Sachs asked if a guard rail should be installed. Brad Fisher noted that he will inspect the site and determine what is appropriate.

Doug Clark made a motion to adjourn. Julie Stulz seconded.

Meeting adjourned at 9:33 PM.