

PLANNING COMMISSION MINUTES

DATE: March 25, 2013
TIME: 4:30 p.m.
PRESENT: Commissioners Boettcher, Gromek, Davis, Porter, Hahn, English and Buelow
ABSENT: Commissioners Ballard and Olson
STAFF PRESENT: City Planner, Mark Moeller and Assistant City Planner, Carlos Espinosa

The meeting was called to order at 4:30 p.m. by Chairman Porter.

Approval of Minutes – February 11, 2013

The minutes from the Commission's meeting of February 11, 2013, were reviewed. It was noted that in paragraph two of page 3, the word "a", contained in the last sentence, should be removed. With this correction, it was moved and seconded to adopt the minutes. When the question was called, the vote of the Commission was unanimous to approve the motion.

Transportation Impact Analyses for Silica Sand Facilities & Mines

Chairman Porter called on Carlos Espinosa, Assistant City Planner to provide a summary of this item. Mr. Espinosa noted that, as presented in the Commission's agenda package, the City Council, during recent review of Transportation Impact Analyses and Road Use Agreements, had directed staff to draft code amendments requiring that all frac (silica) sand processing, storage, and shipping facilities complete a Transportation Impact Analysis (TIA). The amendment would also require any future mines (excavating any materials) to complete a TIA.

Proposed amendments would also serve to define frac sand. The proposed definition for this term would parallel that found in House File 1367 which is currently being discussed by the state legislature.

In concluding, Mr. Espinosa suggested that once discussed by the Commission, a formal hearing be established to consider amendments.

Upon discussion, it was reaffirmed that a Traffic Impact Analysis would apply to any form of mining activity.

Commissioner Porter asked of the legality of regulating specific forms of truck industries. Mr. Espinosa noted that although the proposed amendment would require that all silica sand processing operations be subject to a traffic impact analysis, any use generating 200 or more heavy commercial vehicle trips per day, and proposing to use non truck routes or state aid highways would also be subject to such study.

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In response to a question from Commissioner Davis, Mr. Espinosa explained that the TIA requirement for non-silica sand facilities could be waived by the City Engineer. Again, if a haul route from a particular business fully includes designated truck routes or state aid highways, analysis would not be required.

Commissioner Porter again suggested that there may be legal issues with attempting to impose significant regulations of specific trucking industries. He suggested that the City Attorney be asked to provide an opinion of this issue. Mr. Espinosa responded that he would attempt to do this.

Following further discussion, it was moved by Commissioner Gromek and seconded, to recommend that this issue be moved to a Commission hearing. At that point, proposed amendments, as presented in today's agenda package, would be formally considered. When the question was called, the vote of the Commission was unanimous to approve the motion.

Air Quality Monitoring for Silica Sand Operations

Chairman Porter again called on Mr. Espinosa to provide a summary of this item. Mr. Espinosa explained that during the recent sand moratorium, one issue studied by the Planning Commission related to air quality. At its meeting on July 9, 2012 the Commission recommended that requirements for moisture testing be added to City Code to address concerns about ambient silica dust from frac sand. The concept behind this proposal related to the fact that if sand is maintained in a wet condition, dust will not be produced.

In February 2013, Council did adopt the moisture testing requirement. However, on March 4, 2013, Council requested that staff further study air quality monitoring with the Planning Commission.

At this point, Mr. Espinosa referenced information, included to the Commission's agenda package, relative to recent crystalline silica sand testing that had been conducted at one processing facility and two mines located within Wisconsin. At these operations, EOG Resources had retained the services of Dr. John Richards to monitor crystalline silica in the ambient air at the PM₄ particle size level. Mr. Espinosa emphasized that Dr. Richards methods for monitoring crystalline silica at these locations have been previously used to monitor for the California crystalline silica standard (3ug/m³). Dr. Richards' methods for monitoring PM₄ are also being studied by the Minnesota Department of Health for recommendation to the MPCA (Minnesota Pollution Control Agency). He felt it was highly likely that Dr. Richards' monitoring methods as well as California standards would be recommended by the Minnesota Department of Health to the MPCA sometime in 2013. Following that, it would be the responsibility of the MPCA to determine how to implement the standard in Minnesota. As such, this Wisconsin study is particularly informative and preliminary results show that the three sites examined are not producing ambient crystalline silica dust at levels that are potentially hazardous to the public.

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Mr. Espinosa further referred to a testing procedure that had been conducted in January of this year by Dr. Crispin Pierce of the University of Wisconsin Eau Claire. In that, a small sampling had been made of ambient air quality in the area of the Central Garage at 1104 W. 3rd Street. The results showed that when samples were taken, air quality at the Central Garage was below federal standards for PM_{2.5} in a 24 hour period, but above federal PM_{2.5} standards for an annual period. As noted by Dr. Pierce, conclusions drawn from this data should be cautiously interpreted in that they provide a simple snapshot of air quality affected by wind, precipitation and activities in the area. An improved assessment of air quality would entail longer-term PM_{2.5} measurements of PM_{2.5} concentrations.

Mr. Espinosa stated that a number of bills were currently working their way through the state legislature relative to the silica sand issue. These bills differ in approach, but all include provisions for technical assistance to local governments from state agencies such as the MPCA. At the same time, state agencies themselves are studying how to address silica sand issues. This is important because, as stated at previous Planning Commission meetings, the resources and expertise for air quality monitoring lie with air quality consultants and the MPCA. Local governments do not always include experts to conduct or interpret information. As such, it may be prudent to wait for the state to implement appropriate air quality standards and regulations – especially given recent monitoring results from Wisconsin.

Mr. Espinosa noted that one option discussed at Council was requiring all frac sand facilities conduct air quality monitoring on site. To accomplish this, an amendment to the City's performance standards for dust would have to be made. At this point, he presented language that could be introduced to accomplish this goal. This language was included at the bottom of page two of the agenda item. Given this amendment, monitoring would only be required at facilities with uncovered or unenclosed sand piles. Facilities that entirely enclose sand would not be subject to monitoring. Additionally, monitoring would be the financial responsibility of the operator who would need to employ an air quality consultant to conduct the operation. The MPCA would provide technical assistance by reviewing the monitoring plans and helping to interpret monitoring results. If monitoring should show that a facility was in violation with applicable laws, the operator would be required to make changes to minimize dust creation and monitoring could be required for another year to demonstrate compliance.

Exclusive of the previous, Mr. Espinosa stated that other action options available to the Commission this afternoon would be to refer the matter to the Citizens Environmental Quality Commission for further study, or to simply recommend that nothing further be done with the issue until the State has implemented appropriate air quality regulations.

In response to a question, Mr. Espinosa noted that the Chippewa Falls processing facility is one of the largest in the country at this time. He again reiterated that the study conducted by the University of Wisconsin–Eau Claire would require a lot more work before drawing valid conclusions from it. Again, that study that presented a small snapshot in time of air quality within the area of the Central Garage.

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Commissioner Davis stated that she would prefer not to develop specific amendment language until such time that the state has had a chance to adopt standards/procedures pertaining to the issue.

Commissioner Gromek agreed and suggested that to do otherwise would be getting the cart before the horse. As such, his preference at this point would be to refer the matter to the Environmental Quality Committee for study and referral back to the Commission.

In response to a question from Commissioner Davis, Mr. Espinosa explained that the MPCA is currently looking at a number of emission factors, standards, and processes in dealing with the silica sand air quality issue. As of this time, nothing has been cast in stone.

Commissioner Porter noted that in review of Wisconsin data, ambient air quality problems do not exist with facilities that have been studied.

In response to a question from Commissioner Davis, Mr. Espinosa responded that equipment used in the University of Wisconsin–Eau Claire monitoring was different than that used in Wisconsin. Additionally, methods of measurement were also different.

Commissioner Buelow agreed with Commissioner Gromek in that he felt it would be appropriate to refer the matter to the Environmental Quality Committee for further study. In response to a question from Commissioner Hahn, Mr. Espinosa noted that amendment language contained in the Commission agenda package would require monitoring for a one year period. If positive results occurred, this period could be extended. In response, Commissioner Hahn stated that he would prefer that continuous testing be employed during that period. Mr. Espinosa responded that during the one year period, testing would be continuous.

Mr. Espinosa noted that anticipated monitoring costs would fall in the \$40,000-\$50,000 per year range. In response to a question from Commissioner Davis, Mr. Espinosa explained that monitoring results would more than likely be reviewed by the MPCA.

At this point, Chairman Porter asked the Commission what its desire was for this issue. Following discussion, the consensus of those present was that it would be premature to consider Code Amendments, pertaining to this issue, at this time. However, given the realization that the Citizen's Environmental Quality Committee does include members who have both an interest, and some expertise in, the air quality discussion, it is recommended that the matter be referred to the Committee for further study.

It was then moved by Commissioner Boettcher and seconded by Commission Gromek to recommend that the Environmental Quality Commission be asked to provide its study and recommendation of the Air Quality Monitoring directive. Once completed, Committee recommendations will be submitted to the Commission for consideration. When the question was called, the vote of the Commission was unanimous to approve the motion.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned.



Mark Moeller
City Planner