CITY HALL
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April 19, 2012

Planning Commissioners
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Monday, April 23, 2012, at 4:30 p.m. in the Council Chambers** of the Winona City Hall.

1. **Call to Order**
2. **Minutes – February 27, 2012**
3. **Sand Study Process**
4. **Other Business**
5. **Adjournment**

Sincerely,

Carlos Espinosa
Assistant City Planner

PLANNING COMMISSION MINUTES

DATE: February 27, 2012

TIME: 4:30 p.m.

PRESENT: Chairperson Porter; Commissioners Boettcher, Eyden, Gromek, Buelow, Briggs, and Olson

ABSENT: Commissioner Ballard

STAFF PRESENT: City Planner, Mark Moeller; Assistant City Planner, Carlos Espinosa; City Attorney, Chris Hood

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The meeting was called to order at 4:30 PM by Chairperson Porter.

Approval of Minutes

Commissioner Eyden stated that she had a few amendments to the minutes from February 13, 2012 and she would supply the amendments in written form to staff. There being no other amendments, the minutes were approved unanimously.

Public Hearing – Amendment to City Code Chapter 43

City Attorney Chris Hood explained that the primary reason for this agenda item is moving the "30% rule" from Chapter 43 to Chapter 33A of the City Code.

Commissioner Eyden asked if relocating the ordinance would change it at all. Mr. Hood stated that the relocation would not change the ordinance.

Next, Chairperson Porter opened the public hearing.

John McCauley – 188 East Garvin Heights Road – asked why the ordinance was being moved. Chairperson Porter stated that the Planning Commission would discuss this.

Lynette Power – Franklin and Sanborn Street – stated that she would like to see the 30% rule re-examined.

Bryce Hobeltin - 68 West Howard Street – asked why the study on the 30% rule was included in the agenda.

Leland Smith – 468 Center Street – stated that it will be difficult for him to sell his house because his house is the only one on his block that is not rental. Mr. Smith stated that he hoped the Planning Commission was against the 30% rule. Chairperson Porter clarified that the Planning Commission is not discussing the merits of the 30% rule – only the location change.

There being no others wishing to speak, Chairperson Porter closed the public hearing.

Chairperson Porter asked if there was a motion to move the 30% ordinance from Chapter 43 to Chapter 33A as outlined by staff in the agenda. Commission Eyden made such a motion. The motion was seconded by Commissioner Olson.

Commissioner Eyden stated that the perhaps the Commission should address some of the questions from the public hearing, and asked if changing the location of the ordinance would have any impact on homeowners. Mr. Hood stated that there would be no impact.

Chairperson Porter stated that the rationale behind the move of the ordinance is that other cities have included similar provisions in their housing codes – not in their zoning codes. Mr. Hood added that the move is also recommended because the City's charter grants additional legal authority for ordinances such as the 30% rule.

After further discussion about the merits of the 30% rule, Chairperson Porter called for a vote on the motion. Upon vote, the motion was passed unanimously.

Sand Processing and Transportation Facilities CUP Amendment

Mr. Espinosa gave a presentation summarizing the agenda item. After the presentation, Chairperson Porter asked if there was a motion to approve the ordinance amendment as outlined in the agenda. Commissioner Boettcher made such a motion. The motion was seconded by Commissioner Olson.

Commissioner Briggs stated he was in favor of a one year moratorium on frac sand and a corresponding environmental review.

Commissioner Eyden stated that she would like more information from frac sand operators about the planned scope of the industry in Winona.

Mr. Hood asked if he could make a clarification about the agenda item. Mr. Hood stated that if the Planning Commission does not act on this agenda item, the City will be in a disadvantaged regulatory position.

Commissioner Boettcher stated that the frac sand operations are part of a legal industry, and it's up to the government to regulate them appropriately.

Commissioner Olson stated that he was in favor of the CUP amendment because it would allow the City to properly regulate frac sand operations.

Commissioner Gromek stated that he supported the amendment.

Commissioner Eyden stated that she supported hours of operation from 7 a.m. to 6 p.m. instead of 7 a.m. to 10 p.m. Commissioner Gromek asked what the hours are for current operations. Mr. Espinosa stated that existing operations typically wrap up the workday in the late afternoon. Chairperson Porter stated that he was not in favor of

specific hours of operation. Mr. Porter stated that businesses should be allowed to operate 24/7 as long as they are complying with the City's noise ordinance.

Commissioner Buelow expressed concern that the threshold for dust creation which triggers an air quality permit by the MPCA is too high. Mr. Espinosa responded that all CUP applicants will be required to submit a dust mitigation plan to help ensure that excessive dust isn't being created.

Commissioner Eyden expressed concern about the amount time the Board of Adjustment will have to review a CUP application. Mr. Espinosa responded that the Board would be subject to the 60 day rule, but the decision deadline could be extended as needed with good reason.

There being no further comments, Chairperson Porter called for a vote. Upon vote, the motion was approved 5-2 with Briggs and Eyden voting against.

Sensitive Land Development Ordinance Amendments

Mr. Moeller stated that at the last public hearing there were questions about how Natural State Areas would be delineated. As detailed in the agenda, it is proposed that NSA's be marked with posts/signs prior to any land disturbance. Mr. Moeller stated that this could be completed as part of a development agreement.

Commissioner Gromek asked if the Bluffland Protection Ordinance is more restrictive than the NSA approach. Mr. Moeller replied affirmatively.

There being no further questions, Chairperson Porter asked if there was a motion. Commissioner Olson made a motion to approve the amendments as proposed. The motion was seconded by Commissioner Buelow. Upon vote, the motion passed unanimously.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 6:00 PM.

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Carlos Espinosa
Assistant City Planner

PLANNING COMMISSION

AGENDA ITEM: 3. Sand Study Process

PREPARED BY: Carlos Espinosa

DATE: April 23, 2012

Summary

At its last meeting, the City Council designated the Planning Commission as the committee to guide and review the sand moratorium process. Below is the proposed outline of the process and the topics to be covered. The Commission should discuss any desired additions or changes. Also, Council requested that the public be able to speak each time the Commission discusses an agenda item pertaining to frac sand. The Commission should also discuss how it would like to structure such public participation.

Propose Study Plan

1) Review and modify plan and scope of study as determined by Planning Commission.

2) Meet with state agencies and hold a public information meeting to help answer general questions – invite Planning Commission.

3) Address general issues (see next page) topic by topic with Planning Commission. Set deadline to move to site by site analysis.

4) Progress site by site with Planning Commission to address how state and local regulations apply to each operation and how each operation was established.

5) Make recommendations for changes based on research and Planning Commission review. Potential changes include modifications to zoning districts (e.g. limits on location), performance standards, and the recently adopted CUP (e.g. additional or amended conditions).

6) Provide bi-monthly updates to Council. All amendments assembled in a final report to Council.

Progress/agendas and minutes posted on City website under "Frac Sand Information."

General Issues

1) State Air Permitting
   a. How does the state regulate air quality for sand operations?
   b. Are there gaps between state and city regulations?

2) State Water Permitting
   a. How does the state regulate water quality for sand operations?
   b. Are there gaps between state and city regulations?

3) Environmental Review
   a. What triggers review?
   b. What is the strategy of other government units?

4) Traffic Impacts
   a. What is capacity for shipping? Where is capacity located?
   b. What is the total truck traffic number created by operations?
   c. How does sand traffic compare to other industries?

5) Road Wear
   a. How can concerns about road wear be determined and remedied for individual operations?
   b. What is the strategy of other government units?

Also to be addressed: How Wisconsin cities have dealt with the issues above (e.g. Chippewa Falls) and Winona County's findings related to frac sand.

Site by Site Analysis

1) History of Site
   a. Use before frac sand
   b. How frac sand use was established

2) Narrative of Current Operations
   a. General description of activity
   b. Number of trucks
   c. Truck routes – origin/destination of trucks

3) State and Local Regulations that Apply
   a. Zoning
   b. Comprehensive Plan
   c. Air - Permits held or dust plans followed
   d. Water - Permits held and Best Management Practices followed
   e. Performance Standards - Noise, Dust, etc.
   f. Nonconforming Status/CUP Applicability