

Otsego County Planning Commission

Minutes 11-23-09

1. **Call to order.**
2. **Pledge of Allegiance.**
3. **Roll call:**

Present-Mr. Borton, Mrs. Jarecki, Ms. Nowak, Mr. Hilgendorf, Mr. Colosimo, Mr. Stults, Ms. Backenstose, Mr. Mang, Mr. Klee, Mr. Ernst, Mr. Arndt

Staff present-Mr. Ferrigan, Sharon Bolinger

Public listed on sign in sheet-Tom Quinn, David Delaney, Tom Matelski, Holly Matelski, Elliot Blumberg, Jodie Whitney, Tim Boyko, Olen Harris, Colleen Jozwiak, Herb Russell, Maureen Derenzy

4. **Consent Agenda - None**
5. **Approval of the 10-19-09 minutes.**

Motion to approve the minutes with corrections made by Mr. Ernst, Support by Mr. Borton.

Motion approved unanimously. Motion carries.

6. **Colleen Jozwiak requested time to make a presentation to the Commission.**

Elliot Blumberg, Mrs. Jozwiak's attorney, addressed the Commission.

"Commission members, my name is Elliot Blumberg, I represent Mrs. Jozwiak. You may recall that I was back before you in September; I brought with me a series of materials which you all were provided regarding the special use permit that you issued to Northern Processing LLC. In that special use permit and its application there was a document called an impact statement that was provided to the commission in support of their application. In September I came back before this Commission asking, actually inquiring as to whether or not the Commissions position was that now that the special use permit was running it's course it was about to expire, whether the applicant was required to submit a reclamation plan. And at that September hearing there was some discussion and Mr. Ferrigan was directed by Commission to contact the Counties attorney to ask for a legal opinion on that issue. In the next meeting apparently that letter had not been received, and then ultimately you received the recommendation or at least the legal opinion from Commissions council. It's my understanding now that there has been a formal adoption and that there is a requirement to prepare and submit this reclamation plan, so Ms. Jozwiak has asked me tonight to again confirm that that's the situation because we have not obviously received any word that such a plan has been prepared or received by the Zoning administrator. And the second question that only you can answer is, Is that since you've issued the special use permit it is our understanding that it expire in January of 2010 we would ask you for some conformation tonight that is the date at which the applicant must vacate the gravel pit. So those are the two issues that we are asking you to address this evening."

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Mr. Stults asked, "Does the public wish to participate with any comments on any items not on the agenda tonight?"

Tim Boyko addressed the Commission. He is a candidate for the 105th Representative Seat. He is on a listening tour attending meetings to just listen and observe.

7. Public hearing for the proposed Otsego County Capital Improvement Plan for 2010 – 2015.

There was a modification to that plan concerning the Otsego County Library. There is a representative from the Library here to speak on behalf of her part of this plan.

Maureen Derenzy, Director of the Otsego County Library addressed the Commission. Ms. Derenzy explained the modifications as to the dates and priorities of the Library project. (Modification sheet attached.)

Mr. Stults read to the members of the public the items on the Capitol Improvement Plan. (Spread sheet attached.)

Open public hearing for the Capital Improvement Plan at 6:22pm.

Tom Quinn, President of Kirtland Community College addressed the Commission. He had some questions about the science center that was proposed at the M-Tech Center and what that might mean to Kirtland.

Mr. Ernst asked Mr. Quinn if he knew of the proposed expansion to the University Center. Mr. Quinn replied that he did not.

Public Hearing closed at 6:25pm.

Mr. Stults asked the Commission member to suspend the rules so that the Commission could deliberate on the Capitol Improvement Plan at this time rather than under new business.

Motion made to suspend the meeting rules made by Mr. Ernst. Support by Mr. Mang.

Motion approved unanimously. Motion carries.

11. New Business-Capital Improvement Plan discussion.

There were multiple discussions among Commission members.

Mr. Ernst stated that he thinks that this Commission may be stepping out of the role of what this Planning Commissions responsibility in this plan will be.

Mr. Mang stated that if this is a Planning Commission document then this Commission has the authority to correct or amend this document. He then asked for some clarification of details within the document.

Mr. Ernst agreed with Mr. Mang that this is a document that can be changed by this Commission.

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Mr. Stults asked if the Commission was in agreement to remove the University Center expansion from the proposed document as suggested by Mr. Ernst.

Mr. Quinn asked to address the Commission. He stated that he is not trying to stop this proposed expansion to the University Center; he would just like to know more about it.

There were more discussions among Commission members.

Motion made by Mr. Ernst: "I move that the Planning Commission adopt the Otsego County Capital Improvement Plan for 2010-2015 in accordance with the Michigan Planning Enabling Act, Act 33 of 2008, section 125.2865, with the following comments.

1. Adoption of this plan does not meet the special provisions for project approval by the Planning Commission. Full project descriptions must be submitted per the Act.
2. Expansion of shared facilities such as the M-Tech/University Center should be coordinated with co-owners and facility partners.

Motion supported by Mr. Borton.

Motion approved unanimously. Motion carries.

10. Unfinished Commission Business

1. Northern processing: Gravel pit, Commission update on status of reclamation plan submittal.

Mr. Stults "At our last meeting the Planning Commission asked Mr. Ferrigan to request Northern Processing provide us with a current reclamation plan. Mr. Ferrigan what did you receive?"

Mr. Ferrigan "I have not received a written reclamation plan. There has been some development in this case since our meeting. You received in your packet an order that was signed by Judge Janet Allen the court had made a ruling that we're not required to submit a reclamation plan. As you can see by our company tonight that Mr. Matelski's here with his legal representation and Ms. Jozwiak is here with hers. Unfortunately, very unfortunately, our legal representation was unavailable; his wife is having surgery tonight. He has given me three dates that he would be available to be here, Nov. 30th, Dec. 4th, or Dec. 21st. The Chairman and I received a letter from the County Administrator today regarding our attorney and I'll read what it says to you. It' says that, this is from John Burt, this to help you understand who it is because it says "my" at the beginning. John Burt says "My understanding is that the Matelski gravel pit mining issue may come up at the Planning Commission meeting, I have been advised by our attorney that the Planning Commission along with Joe should refrain from discussing the topic until he can be in attendance. Unfortunately his wife was having surgery today; he has provided Joe with a list of dates that he is available. He says that it is apparent that this is heading for a law suit, it is important that neither side gain ammunition from Planning Commission members to be used against Otsego County in court. Even more imperative, is that under no circumstance, should the Planning Commission

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take any action regarding the case at tonight's meeting. I have directed Joe Ferrigan not to answer any questions regarding the case until further word from our attorney. Thank you for your help on this I appreciate your leadership that you have continued to show with the Planning Commission. Please let me know if you have any questions. John" That was directed to Chairman Stults. So that is where we're at."

Mr. Stults asked "Are there are any Planning Commission questions."

Mr. Ernst asked "What were the dates?"

Mr. Ferrigan "Nov. 30th, Dec.4th, or Dec. 21st."

Mr. Mang "What days are those dates on?"

Group "Monday, Friday or the 21st is a Monday. The 21st is our normal date for our December Planning Commission meeting."

Mr. Stults "I see no reason to call a special meeting for this. I would be as Chairperson, not willing to call a special meeting for it."

Mr. Stults "Is there any public comment related to this agenda item?"

Olen Harris addressed the Commission. "Olen Harris, you've been addressed by Mr. Blumberg that this special use permit expires January 19th. So now you're gonna, this thing is all set off until what December the 21st whatever you can come up with? So that's gonna leave what, one month for him if he has to have a site reclamation plan and complete the site reclamation before January the 19th? And is he expected by this committee to evict himself, or are you going to evict him from the property on that date because his special use permit expires? I know you're not gonna answer me because I can tell by the look on your face but I put it to you and it's gonna be in the minutes and everybody else can hear it, what are you gonna do?"

Mr. Stults "Is there any other public comment on this topic?"

Mr. Blumberg "Yes, Elliot Blumberg, I addressed you earlier this evening and one of the things I requested of this Commission is to tell us when the special use permit expires and when Northern Processing has to leave the premises. You issued the permit all been decided that the production phase is over we're in the reclamation phase we have a right to know when the Commission believes this permit expires and have the applicant removed."

Mr. Stults "Any additional public comment? Ok, any Commission comment?"

Motion made to postpone this case until our regular scheduled meeting on December 21st made by Mr. Ernst. Supported by Mr. Klee.

Motion approved unanimously. Motion carries.

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2. *Changing message signs: Board deliberation on public hearing, what is the next step?*

There were multiple discussions among Commission members.

Mr. Stults stopped the discussion and told Commission members to revise what they think the language should be and bring it back to the Commission.

3. *Article 23 committee recommendations and Commission discussion.*

There were multiple discussions among the Commission members.

Mr. Stults asked for a vote to support the proposed changes to Article 23 Section 23.6.1 and 23.6.2.

Vote approved unanimously.

Mr. Stults asked for a vote to support the proposed changes to Article 23 Section 23.6.2 changing the verbiage to "right".

Vote approved 10 yes to 1 no. Motion passed.

Mr. Stults asked Mr. Ferrigan to refer the changes to the Townships for their input. He also requested that they be asked to respond by one week before the next Planning Commission meeting.

11. New business.

2. Planning Commission objectives.

Mr. Stults passed out an action items list to the Commission members. He recommended setting some goals for 2010 to get these items accomplished.

12. Reports and Commission member comments.

There were multiple discussions among Commission members.

13. Adjourned 9:08pm.