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DEC 17 2008

OAH 2-0330-20061-BA
MBA D-454

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MUNICIPAL BOUNDARY ADJUSTMENT UNIT

In the Matter of the Petition for the
Detachment of Certain Land from the
City of Rockville

**AMENDED FINDINGS OF FACT,
CONCLUSIONS AND DECISION**

This matter comes before Administrative Law Judge Raymond R. Krause on the City of Rockville's Motion for Amended Findings of Fact, Conclusions and Order. The Motion was filed on November 10, 2008. An Objection to the Motion was filed by the Township of Maine Prairie on November 14, 2008. A motion hearing was set for December 2, 2008, by telephone.

Peter Tiede, Esq., Murnane Brandt P.A., represented Maine Prairie Township (the Township). James A. Mogen, Rinke Noonan Law Firm, represented the City of Rockville (the City). Harry E. Burns, Burns Law Office, represented the Petitioners.

In the course of the motion hearing, the Township withdrew its objection to the Motion. The parties all agreed to the proposed terms of the Amended Decision. There being no further issues in contention, the Motion was granted and the hearing adjourned.

Based on the agreement of the parties, the Administrative Law Judge makes the following:

DECISION

1. Order Number 1 of the Decision filed on October 30, 2008,¹ in this matter is amended to add the following: The Petition for Detachment is Denied with respect to the area generally defined by the following boundary:

Starting at the northeast corner of Section 32, westerly along the north section line of Section 32 to the point of intersection with the centerline of County Road 8. Then, southerly along said centerline of County Road 8 to the intersection with the centerline of Grand Lake Road. Then, easterly along the centerline of Grand Lake Road to the intersection with the north

¹ OAH File No. 2-0330-19711-BA.

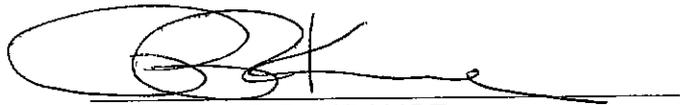
section line of Section 33. Then, westerly along the north section line of Section 33 to the point of beginning.

2. The City is hereby ordered to obtain a survey of the area excluded from detachment from a registered surveyor that is acceptable to both the City and the Township, and to file that survey with the Office of Administrative Hearings, Municipal Boundary Adjustments Unit, to identify the excluded portion of the detachment petition.

3. All other Findings of Fact, Conclusions and Orders of the Decision filed October 30, 2008, remain in effect.

4. Office of Administrative Hearings costs associated with this proceeding shall be divided equally between the City and the Township.

Dated: December 3, 2008.

A handwritten signature in black ink, appearing to read 'R. Krause', with a long horizontal line extending to the right.

RAYMOND R. KRAUSE
Administrative Law Judge

**STATE OF MINNESOTA
COUNTY OF STEARNS**

**INTERIM USE PERMIT
FILE NO. 06-01**

Permittee: Dan Hansen, 23762 Mill St. S., PO Box 324, Rockville, MN 56369
Requested Use: To operate a gravel mining and processing operation on 23 + Acres in an A-40 zoning district.
Description: The sand and gravel products that will be mined are Class V and rock; the equipment to be used will be a screen, crusher, and loader. No gravel washing activities will occur at this location.
**Applicable Ordinances/
Statutes:** Zoning Code, Ord. 2003-04, Sec. 9, Subd. 13 Mining/Extractive Uses
Zoning Code, Ord. 2003-04, Sec. 27 Conditional Use Permits,
Zoning Code, Ord. 2003-04, Sec. 28 Interim Use Permits

The above entitled matter was heard before the City Council of Rockville on the 18th day of October 2006 for the following property:

PROPERTY ADDRESS: Near Highway 23 & Rausch Lake Road, Rockville, MN 56369

PARCEL NO. 76.41627.200

LEGAL DESCRIPTION: That part of the Southwest Quarter of the Southeast Quarter and that part of the Southeast Quarter of the Southwest Quarter, both in Section 16, Township 123 North, Range 29 West, Stearns County, Minnesota lying southerly of the south line of MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 73-47 and MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 73-48, according to the recorded plats thereof, said Stearns County.

IT IS ORDERED that Interim Use Permit No. 06-01 be granted subject to the following conditions:

1. The interim use permit will expire five (5) years after the date executed below, subject to annual review. Failure to meet any of the conditions of this agreement, or substantial change to the conditions in the neighboring properties, shall constitute grounds to terminate this permit after review by City Council. Permittee shall be given an opportunity to address the City Council prior to termination under this condition. Nothing in this condition shall limit the immediate termination of this permit for violation of any other condition.
2. No gravel washing occur on this or any site in Rockville without an interim use permit.
3. A letter of credit approved by the City Attorney is provided in the amount of \$75,000. The letter of credit, or a replacement security approved by the City, shall remain in effect for the entire term of this permit. The amount and terms of this letter of credit shall be reviewed by the City Engineer and City Attorney during the annual review. Upon review, the terms of letter of credit must be revised as directed by the City Attorney in order to ensure the ability of the City to draw upon the security. Also upon review, the amount of the letter of credit must be revised as directed by the City Engineer to reflect the estimated costs of reclamation of the site and of repairing and returning 230th Street to its original condition, as described in condition 12 below. Failure to obtain a new letter of credit for whatever reason, shall constitute a termination of this

permit, and authorize the City to immediately draw the entire amount of the letter of credit to be placed in escrow.

4. Compliance with all conditions of the Sec. 9, Subd. 13 of the Zoning Code, and all other City Ordinances.
5. Compliance with all County, state and federal laws and regulations, including, but not limited to, those governing public health and welfare, public and worker safety, water quality, air quality, noise pollution and waste disposal.
6. Right-of-entry is provided to the City of Rockville, and its agents, to inspect the site and determine compliance with all conditions imposed on the operation.
7. A copy of the restoration plan submitted to Stearns County to be provided.
8. Operation is limited to the hours of 7:00 a.m. to 9:00 p.m. with an allowance to warm up vehicles beginning at 6:00 a.m. The City reserves the right to amend the hours of operation to eliminate the allowance to warm-up, at any time, with two weeks notice.
9. All setbacks are observed, as identified in Exhibit 1B, with the additional requirement that no mining occur within 17 ft. of the right-of-way of any road, street or highway. The existing pile of dirt material may be removed from within the setback to the existing surrounding grade. No material shall be disturbed within the 17 ft. setback that is below existing grade, with a variance.
10. Silt fences are installed as described in Exhibit 5, with the additional requirement to install run-off prevention measure to the ditches which empty into wetlands.
11. Prior to the termination of the interim use permit, 230th Street is restored to its prior condition.
12. Prior to the termination of the of the interim use permit (for whatever reason), the site is reclaimed by, either: (a) grading the site to remove any slope greater than 10:1, replacing the topsoil to an adequate depth, planting a mix of seeds and plants appropriate to the area and taking all action necessary to prevent surface water infiltration; (b) performing the proposed improvements to establish the site as a wetland, as approved by Stearns County; or (c) an alternative plan is agreed to with the City and this condition is waived.
13. Landscaping is installed to the outer rim of the mining area so there is no outside drainage entering the mine pit.
14. All fueling, fuel storage, maintenance, and storage of the mining equipment is limited to an area outside of the mine pit, and on an area which has secondary containment for any spill or leak.
15. No bituminous hot-mix operations on site, or nearby.
16. No use of explosives which leave neither nitrate residue nor any residue which is a drinking water contaminant.

THIS INTERIM USE PERMIT SHALL TERMINATE UPON THE OCCURANCE OF ANY OF THE FOLLOWING EVENTS, WHICHEVER OCCURS FIRST: A. THE TERMINATION DATE; OR B. THE USE HAS BEEN DISCONTINUED FOR A MINIMUM PERIOD OF 90 DAYS.

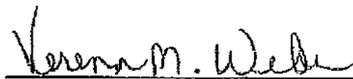
Approved this 18th day of October, 2006

CITY OF ROCKVILLE



Brian Herberg
Mayor

Affirmed:



Verena Weber
Clerk/Administrator