

Draft

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
SEPTEMBER 23, 2011 MEETING MINUTES**

The special meeting of the Goodhue County Planning Advisory Commission was called to order at 6:30 p.m. by Chair B. Overby in the Goodhue County Justice Center located at 454 West Sixth Street in Red Wing, Minnesota.

Present: Len Feuling Tom Webster Brandon Schafer B. Overby R. Bauer
Michael Wozniak Ron Allen Joan Volz

Absent: Howard Stenerson Larry Olson

¹Motioned by J. Volz and seconded by R. Bauer to approve the September 23, 2011 agenda. Motion carried 7-0.

CONFLICT/DISCLOSURE OF INTEREST:

NEW BUSINESS:

AWA Goodhue, LLC for a conditional use permit for a wetland replacement plan as required by Article 32, Section 7 of the Goodhue County Zoning Ordinance. The conditional use permit is requested on the following tax parcels:

Parcel Information for Proposed Permanent Wetland Fill Impacts						
Parcel ID	Township	Landowner	Section	1/4 Section	Impact Area	Impact Area
					(sq. ft)	(acres)
250330600	BELLE CREEK TWP	MARK D VIETHS	33	SW	1099	0.025
250360300	BELLE CREEK TWP	DALE S HADLER ET AL	36	NE	369	0.009
380100100	MINNEOLA TWP	LINDA M O'CONNOR	10	NE	5825	0.134
380100600	MINNEOLA TWP	LINDA M O'CONNOR	10	SE		
380100100	MINNEOLA TWP	LINDA M O'CONNOR	10	NE		
380110600	MINNEOLA TWP	TIMOTHY A GADIENT	11	NW		
380110700	MINNEOLA TWP	TIMOTHY A GADIENT	11	SW	706	0.016
380110500	MINNEOLA TWP	MYRON & L SCHARPEN LIV TRUST	11	SE		
380120700	MINNEOLA TWP	KENNETH J RYAN	12	SW	1789	0.041
380100100	MINNEOLA TWP	LINDA M O'CONNOR	10	NE		
380100600	MINNEOLA TWP	LINDA M O'CONNOR	10	SE		
380110601	MINNEOLA TWP	BEN O'CONNOR	11	NW	9788	0.225
Total						

DISCUSSION:

M. Wozniak explained staff report.

The notification process was discussed.

C/B. Overby said that Beau Kennedy handles wetland issues for Goodhue County. When you take away wetlands and replace them elsewhere there is a process.

M. Wozniak said comments were received by e-mail that were set in front of you.

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
SEPTEMBER 23, 2011 MEETING MINUTES**

R. Bauer asked about item 6 on page 2 are wetlands considered public waters.

B. Kennedy said that they needed to address the issue, and the applicants applied for the permit to DNR on September 14th according to a letter he received today.

Christina Brusven, Ron Peterson, Peter Manstik was present.

Ms. Brusven gave the background of needing the wetland replacement plan.

J. Volz asked if any turbines were moved do to the review of the wetlands.

Ms. Brusven said no turbines were moved. Several access roads were moved to minimize the impact.

Mr. Manstik said turbines were move for other reasons. The turbines tend to go on high ground so they do not tend to impact wetlands.

R. Bauer asked about Exhibit 1A, where wetland B is located.

B. Kennedy said there is an existing road there with a culvert.

C/B. Overby opened the discussion to public comments.

Kristi Rosenquist said that some of the turbine locations have moved so how can we have access roads when we don't know where the final turbine location is. Premature to issue a CUP when you don't know where the turbines are going to be. Until anything is settled with the state the county WECS ordinance applies. The PAC has the county ordinance for setback, so how can you issue a CUP for a project that doesn't meet setbacks.

Mary Hartmann from Olmstead County read through DNR comments regarding the avian mitigation plan and how it related to wetlands.

Bob Rosenquist said granting a CUP to AWA doesn't have a good record. It is a pattern on how they have misled. Why would we facilitate disturbing the wetlands until these issues are taking care of. Talked about stray voltage.

Ed McNamara said that some of the wetlands are in the Belle Creek Watershed. Read the Belle Creek Watershed docket adopted in 1971. The Belle Creek Watershed supervisors have not acted on this.

Daniel Stussy Minneola Township. Read letter from son John Stussy. Wetlands are important.

Rochelle Nygaard said that the landowners signed contracts at one time. Her understanding is that some of the landowners on this list will not allow the developer on their property. This is challenged with the appeal and not appropriate to be granted at this time. Does the staff have signed agreements?

B. Kennedy said that there is a wetland banking form that is signed by various parties and sent to the state.

Ms. Nygaard asked if the landowner needs to sign on it.

B. Kennedy said no, just the applicant.

Ms. Nygaard said that Belle Creek does not have an agreement with the developer for road access.

Draft

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
SEPTEMBER 23, 2011 MEETING MINUTES**

B. Kennedy said when they reviewed the plan the assumption was that the agreements was in place. He deals with the agent and the applicant.

Bill O'Reilly Belle Creek asked if the people that own the land have to sign off.

B. Kennedy said that one of the conditions was the signed form.

Mr. O'Reilly clarified that John Doe doesn't have to sign anything.

M. Wozniak said that when something is applied for we ask for the landowner's signature, or the lease or easements. In this case the applicant provided copies of lease agreements.

Steve Groth read letter from Ann Buck who raised issues of changing turbine layout, inadequate avian/bat plan.

Erin Logan asked questions about a wetland on her property and which classifications. She has a wetland on her property and there is a road.

B. Kennedy explained.

Ms. Logan said that there is a road across from her wetland. She requested for a condition #3 for wetland infill will not change the runoff profile to adjacent landowner property, will not affect adjacent properties and mitigation of nonconformance will be the burden of the landowner and the applicant. Who is Mark Ward? If there is mitigation needed she wants those people to be accountable. Because one of these wetlands is listed as being in the Cannon Valley Watershed. #4 in compliance with art 32 sec 7 3A.2 add wetland replacement siting is conducted in same watershed and Goodhue County. Does a CUP require annual review.

M. Wozniak said generally not, it can be.

B. Kennedy said that he follows up with permits he issues.

C/B. Overby would the issues be with the TEP panel rather than the county ordinance.

B. Kennedy said that the ordinance spells out how the replacement can go. The state says that they can be in the same bank service area which is the entire se mn river basin. Dodge County bank is already established. The army corps of engineers prefers when you are dealing with something this small to work with a bank because replacement sites don't work.

Ms. Logan said there are clearly wetlands missing from the map and include some verbiage to protect landowners that are choosing not to participate.

Steve Groth said accountability on Sept 1st went home and there is an active eagles nest in his tree there was a helicopter right over the eagles nest. Asking to deny the conditional use permit to hold them accountable.

Paul Reese asked about granting wetland replacement for buried powerlines in the past.

B. Kennedy said that wetland replacement is not needed for buried powerlines. There is an exemption from the rule. This particular plan is for the road.

Mr. Reese said that the collector lines have to be grounded. This would be a very good condition to ensure that it is grounded far enough away from the wetland. Do you need DNR permits before County permits.

Draft

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
SEPTEMBER 23, 2011 MEETING MINUTES**

B. Kennedy said before work starts not before this though.

Rick Conrad said this needs to be denied at this time. They are in a legal battle with the Township and the County. Would you grant a CUP to someone who is not in compliance in any other situation.

With no public comment it was motioned by B. Schafer and seconded by R. Allen to close the public comments. Motioned carried 8-0.

R. Allen asked about the watershed that McNamara brought up.

Mr. Peterson said he looked and was not aware Belle Creek had rules.

B. Kennedy said up until yesterday he didn't know about them either. The replacement plan was copied to the district.

B. Overby asked about clarify.

B. Kennedy said that he put the letter together for the County, and as soon as he sent it he realized there was 1,000 square feet that was located in Belle Creek Township. It meets the state requirement.

R. Allen asked about the impact in Belle Creek.

C/B. Overby asked about turbine sitings and determining how the roads are going to go.

Ms. Brusven said that sites are an attempt to respond to the site permit that was issued in August. These are final subject to changes from the Commission. If anything were to change

Mr. Manstik said that you can't be in cannon river watershed in Goodhue county either.

J. Volz asked about the timing.

Ms. Brusven said that the was a miscommunication between them and staff of when the amended application needed to be in to meet the notice requirements by hours. They need to keep moving.

C/B. Overby asked staff about the notification.

M. Wozniak said that there was confirmation that it was published in Saturday September 17th Republican Eagle.

Ms. Brusven said that we delineated the area of impact.

J. Volz asked about the proposed conditions.

Mr. Manstik said that there needs to be faith in staff and Mr. Kennedy that he will do his job and follow up.

Mr. Peterson said that the withdrawl forms have all been signed we are waiting for the Corp signature.

J. Volz wanted clarification for the impact to adjoining landowners.

Mr. Manstik said they are already required to do the things they are suggesting.

Ms. Logan clarified her conditions. She wants erosion control monitored at the County level.

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
SEPTEMBER 23, 2011 MEETING MINUTES**

M. Wozniak said that there are provisions for reviewing site plans for erosion and sediment control concerns.

R. Allen asked if the development agreement has been signed by all parties.

Ms. Brusven said yes.

Ms. Logan said that the second condition was in relation to our prioritization on how we replace wetlands.

C/B. Overby asked if the same watershed.

B. Kennedy said that the TEP panel is himself, Willie Root, Mike Tenney and the Corps. Our first item on the list was to make sure that we use the credits in the county first. The bank in the county didn't want to sell.

T. Webster clarified Ms. Logan's concern was not only that erosion would affect their wetland, but also that it would dry up.

B. Kennedy said that it would fall under a couple different scenarios.

S. Betcher stated suggested conditions

L. Feuling said that they can build roads without impacting any wetlands.

Ms. Brusven said that some was landowner preference another consideration wanted to align with existing road configuration.

J. Volz asked if they have resolved the issues with the landowners.

Ms. Brusven said that the issues we have

Mr. Manstik said that he has a couple issues but nothing that affects wetland impact.

J. Volz asked about the buried power lines and adequate grounding.

Ms. Brusven said that the state commission electrical engineer.

C/B. Overby asked if SWCD is involved in that.

B. Kennedy said that boring and trenching are the only things that are the only things impacting wetlands.

T. Webster why the special meeting and we're hurrying. The applicants state they need to keep a timetable. As a group we have been conservative with issues before us. There are several issues that still need to be resolved. If this were any other entity for a CUP before they had their entire package done I find it hard to think we would just digest it. He has a problem putting this process forward.

C/B. Overby said that we have done several conditional use permits when the project isn't done. If it followed the rules and fit the regulations in some instances the projects never get going.

J. Volz said the issues about the avian/bat studies.

Ms. Brusven said that avian bat protection plan is part of the site permit. That work is under way and on-going. The wetlands before you do not have any species of special concern in them. They are two separate issues.

Draft

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
SEPTEMBER 23, 2011 MEETING MINUTES**

B. Schafer said the road access for the townships that are in the footprint. Is there any potential the road access will change.

Ms. Brusven said the road access were given to the County. The road access permits have been applied to Belle Creek Township. We haven't gotten any feedback from them. We are not anticipating problems. We hope there aren't any changes but we haven't gotten a response from them.

T. Webster asked about Minneola Township for roads.

Mr. M said to their knowledge Minneola Township is contemplating whether to participate and feels they are engaged and responsive.

B. Schafer clarified the landowner issue.

Ms. Brusven said the easement is a public recorded document.

M. Wozniak reviewed the staff recommendation.

B. Overby read the additional condition as suggested by S. Betcher.

J. Volz brings up the issue of the landowners being held responsible.

S. Betcher says that there is a separate issue of enforcement. You can say what we have is fine, you can say the applicant is responsible, or you can say the applicant and the property owner is responsible.

M. Wozniak said that typically with a CUP or other ordinance, when enforcing, we would first address the issue with the applicant, then if they were not responsive the landowner would be next.

C/B. Overby said if the mitigation would be covered.

Ms. Logan said we don't know who AWA is.

Ms. Brusven said that Mark Ward is the director, National Wind is the developer, Westwood is a contractor for.

Mr. M said that there will be many representatives from AWA Goodhue will be here during the construction process. The SWIP reviews are frequent and important.

J. Volz said she concerns T. Websters concern on the timing. That gives her discomfort.

C/B. Overby said that we have passed conditional use permits when not everything is done. There is a timing issue here they said.

Ms. Brusven said the process is quite extensive and quite long, we have been working with Mr. Kennedy for more than a year. We have been working on this with the TEP panel and this working toward a final product.

M. Wozniak said that AWA had submitted an application previously including the TEP panel recommendation. They were also affected by the state shutdown. As far as the willingness for the Planning Advisory Commission to do a special meeting. This is an option for any applicant if they are willing to pay an additional fee.

R. Allen asked what happened to tabling until the lawsuit or the reconsideration was resolved.

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
SEPTEMBER 23, 2011 MEETING MINUTES

- M. Wozniak said we are required to make a decision within 60 days and can be extended to 120 days.
- R. Bauer asked if there was different wetlands impacted we would be back again.
- Mr. M said that we don't expect any changes to the wetland replacement plan.
- B. Kennedy said that a & b of the TEP panel recommendation have been met.
- R. Allen asked if we could put the request to the Board with no recommendation.
- B. Schafer said that PUC comes back and makes amendments to their permit this essentially gets put in a drawer.
- M. Wozniak said that this permit would be based on this permit this use. They would not have the right to cross it for other reasons if the wind project would go forward.
- S. Betcher said that there is no stay to the site permit and they can go forward with the project.
- B. Schafer said when we approved our ordinance we chose not to have regulatory authority over 25 MW.
- L. Feuling asked if S. Betcher's recommended motion could be added.
- S. Betcher said other conditions could be added as well.
- M. Wozniak said that in 2008 there was a project where the credits were purchased outside of the county.

²Motion By J. Volz Seconded by B. Schafer to recommend to the Goodhue County Board of Commissioners to approve the Conditional Use Permit for the AWA Goodhue, LLC, and Wetland Replacement Plan related the AWA Goodhue LLC Wind Energy Project (see attached Parcel Information for Proposed Wetland Fill Impacts) to avoid and minimize wetland impacts and to ensure that unavoidable wetland impacts (0.225 acres) are replaced properly, subject to the following conditions:

- 1. Unavoidable wetland impacts shall be replaced at a ratio of 2:1, thus 0.45 acres are needed for replacement per AWA Goodhue LLC, AWA Goodhue Wind Project – Minnesota Wetland Conservation Act Application (9/6/2011).***
- 2. Conformance with the recommendations of the Wetlands Technical Advisory Panel (TEP) as follows:***
 - a. No activity will take place on this project until the application for withdrawal of Wetland Credits Form is signed by all parties listed including the Wetland Bank Administrator.***
 - b. Financial assurance of \$4000 to be deposited in the Goodhue County escrow account and earmarked for wetland restoration. This set aside fund is to reassure that the temporary wetland impacts affected by this project will be restored.***
- 3. Plans and structures for runoff management and wetland mitigation shall be designed and maintained so as not to decrease or increase the flow of water from the property within the project boundary to adjacent property.***

- T. Webster asked if we could ask for comment from the township and the Belle Creek Township.
- B. Kennedy said that they received notice of the plan, they have until September 30th to respond.
- M. Wozniak said that should you act on this it would go to the County Board on their October 4th meeting.

Draft

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
SEPTEMBER 23, 2011 MEETING MINUTES

L. Feuling asked about Minneola.

T. Webster said it doesn't have to do with the wetland.

Motion carried 6:1.

ADJOURN:

Moved by B. Schafer seconded by R. Bauer to adjourn the September 23, 2011 Planning Advisory Commission meeting at 8:57 p.m. Motion carried 7-0.

Respectfully Submitted,

Kristi Gross
Recording Secretary

**PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
SEPTEMBER 23, 2011 MEETING MINUTES**

MOTIONS

¹ APPROVE the September 23, 2011 agenda. Motion carried 7:0.

² Recommend the County Board APPROVE the Conditional Use Permit for the AWA Goodhue, LLC, and Wetland Replacement Plan related the AWA Goodhue LLC Wind Energy Project (see attached Parcel Information for Proposed Wetland Fill Impacts) to avoid and minimize wetland impacts and to ensure that unavoidable wetland impacts (0.225 acres) are replaced properly, subject to the following conditions:

1. Unavoidable wetland impacts shall be replaced at a ratio of 2:1, thus 0.45 acres are needed for replacement per AWA Goodhue LLC, AWA Goodhue Wind Project – Minnesota Wetland Conservation Act Application (9/6/2011).
2. Conformance with the recommendations of the Wetlands Technical Advisory Panel (TEP) as follows:
 - a. No activity will take place on this project until the application for withdrawal of Wetland Credits Form is signed by all parties listed including the Wetland Bank Administrator.
 - b. Financial assurance of \$4000 to be deposited in the Goodhue County escrow account and earmarked for wetland restoration. This set aside fund is to reassure that the temporary wetland impacts affected by this project will be restored.
3. Plans and structures for runoff management and wetland mitigation shall be designed and maintained so as not to decrease or increase the flow of water from the property within the project boundary to adjacent property.

Motion carried 6:1