

VILLAGE OF NORTH UTICA

Meeting of the Planning Commission
801 South Clark Street
North Utica, IL 61373
December 20, 2011 at 7:00 p.m.

AGENDA

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. 7:00 Public Hearing
 - 1.) Petition of Illinois Sand Company regarding property located in Utica Township; sections 11 & 12, seeking zoning of properties as A-1 and approval of Special Uses to allow operation on an industrial business (mining and quarry) and approval of variances.
- V. Approval of Minutes – October 6, 2011
- VI. Old Business
- VII. New Business
- VIII. Public Comment
- VII. Adjournment

Posted 12-16-11

**MEETING WILL BE HELD AT WALTHAM ELEMENTARY SCHOOL -
SOUTH CAMPUS GYMNASIUM LOCATED AT:**

248 W. CANAL ST., UTICA, IL 61373

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801 South Clark Street

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December 20, 2011 at 7:00 p.m.

MINUTES

At 7:11 pm, the meeting of the Planning Commission was called to Order by Chairman Tom Guttilla who then led the Pledge of Allegiance. Roll Call was taken by Village Clerk Laurie Gbur. Present at the meeting was as follows: Chairman Guttilla and Members Doug Gift, Eugene Drzewiecki, Warren Munson and Bill Fry. Also present at the meeting was Village Attorney Herb Klein, Village President Fred Esmond and the entire Village Board of Trustees; Alvarado, Jereb, Bimm, Pawlak, Skoog and Schrader.

At 7:13 pm, Member Doug Gift recused himself from the proceedings.

Attorney Klein presented a summary of the Rules of Procedure for the Public Hearing, a summary of the Petition and Agenda(s) for such, and the requirements of the Village Ordinance. A copy of all was provided to each participating Planning Commission Member and each Village Board Member. It was noted that there would be a Public Hearing for the Petition of the Zoning of property by Illinois Sand Company for property located in Utica Township, sections 11 & 12 seeking zoning as A-1 and for the approval of Special Uses and associated Variances to allow operation of an industrial business (mining and quarry).

Attorney Klein further explained that there would then be a Joint Public Hearing with the Planning Commission and the Village Board of Trustees regarding the proposed Annexation Agreement; after which the Village Board of Trustees will have a Special Board Meeting to consider a vote on the Petitions. The procedure of setting all three meetings the same night; the Planning Commission, Joint Public Hearing and the Special Board Meeting has been utilized in the past.

Attorney Klein then stated, "All Rules of Procedure will apply during all proceedings; it will be a fair Hearing and all relevant testimony will be allowed. Bad behavior will not be tolerated and those individuals will be asked to leave. The Petitioners had a right to file a Petition with the Village of North Utica and will be allowed to present their evidence. Objectors will be given the chance to speak and present their evidence. Rebuttal of testimony will take place. General Public Comment will be allowed. All individuals wishing to speak shall state their name and full address."

It was motioned by Member Fry, seconded by Member Drzewiecki to adopt the Rules of Order as they were presented.

All in Favor

Motion Carried

Attorney Klein stated that Attorney John Duncan would be representing the Petitioner; Illinois Sand Company. Attorney George Mueller would be representing the Objectors.

Attorney Klein then presented the following items as Exhibits:

Village Exhibit #1 – Legal Notice published December 2, 2011 in the News Tribune for the Public Hearing(s) beginning at 7:00 pm on December 20, 2011.

Village Exhibit #2 – An Affidavit signed by Village Clerk Laurie Gbur regarding the posted Agenda and Change of Location Notice. It was posted at the Village Hall, Waltham School and on the Village's Website.

Village Exhibit #3 – An Affidavit signed by Village Engineer Kevin Heitz that on November 29, 2011 three signs of notification of the Public Hearing(s) were posted on the property in prominent locations.

Village Exhibit #4 – Notice of Hearing(s) with Certified Mailing receipts, were sent to Utica Fire Protection District Trustees; Utica Library Trustees; Utica Township Board of Trustees; sent on December 2, 2011.

Notification to LaSalle County Conservation and LaSalle County Engineering were sent on December 9, 2011.

Village Exhibit #5 – Mailing receipts of 2 unclaimed and 17 signed Certified Mail receipts were entered as an Exhibit.

Village Exhibit #6 – The results of the Natural Resources Survey were entered as an Exhibit. It shows that there is no record of impact of State / endangered species or any issues with water reserves.

Village Exhibit #7 – A property owner, Mr. Don Irwin, provided consent to the Village regarding the Annexation and use of the property. Mr. Irwin supports the Petitioners.

Village Exhibit #8 – Names of the parties being represented by Attorney George Mueller; approximately 50 people.

All of the above Exhibits were admitted into evidence with no objections.

Attorney George Mueller, representing the Objectors stated,

“Ms. Kayla Crowther completed a FOIA request and turned it in at the Village Hall. At that time she was told that the Maps were not available.”

“There were two unclaimed notices for Certified Mailing therefore, the proceedings should be dismissed.”

“The Notice for Public Hearing(s) dated December 2, 2011 and published in the News Tribune stated that the Meetings would be held at the Village Hall. A new location for the Meetings should have required a new Public Notice.”

“The Village has not complied with Notice of the Hearings.”

“North Utica is not Home Rule.”

“It is required that Notice be given to all property owners in this case within 250 yards of property in question.”

“Failure to give proper Notice to the Neighbors should require a continuation of the Hearings. “

“There are 6 parcels of land however the Village only posted 3 signs notifying of the Public Hearing(s).”

Attorney Mueller then closed by stating that the Planning Commission should dismiss the Hearing and Continue at a later date.

Attorney John Duncan, representing the Petitioners stated:

“Utica is Home Rule.”

“All Procedures have been followed to give proper Notice for the Public Hearings.”

Attorney Klein addressed the issues and stated:

“The Village did provide Notice. The location was moved 16 days in advance; the change in location was sent to Ottawa Daily Times, News Tribune and WLPO. Also, a Utica Police Officer remained at the Village Hall to direct people to the Waltham School location.” At that time, Utica Police Officer Keven Wolfe was sworn in by the Court Reporter to testify to this.

“The Village of North Utica became Home Rule in 2006.”

“Notice was provided and State Statute was followed; Notice was given at least 15 days before the hearing as required by IL Statute.”

“All Permit Applications were included in the filing of the Petition.”

“Village Ordinance requires signs posted on the property that is subject of the Petition and the signs were displayed in 3 prominent places.”

“The Village has made several copies of the Petitioner’s Binder of information and promptly responded to all requests for information.”

“The Village did provide Notice to the Taxing Bodies as required by law; however, they are not required to pick up their mail. The Village can’t be held responsible if someone doesn’t pick up their mail; the Notice was sent.”

Attorney Klein then asked the Planning Commission to consider Dismissing or continuing the Hearing as requested by Atty. Mueller.

Attorney Mueller stated that based upon the show of people in the audience, he feels there is a lack of awareness and a continuance should be granted.

Attorney Duncan stated that the proper Notice was give and a large number of people were informed which is the purpose of the Public Hearing.

Member Fry asked if any advance meetings had been held without Notice as required by law. Attorney Klein answered, “No.”

Attorney Klein stated that the Planning Commission would have to consider the Motion to Continue the Hearing or Dismiss.

Attorney Mueller stated that the Objectors would like the meeting recessed so that they have additional time to prepare.

It was then motioned by Member Munson, seconded by Member Drzewiecki to deny the dismissal of the Meeting of the Planning Commission.

3 Yes (Drzewiecki, Munson, Fry)

Motion Carried

It was then motioned by Member Drzewiecki, seconded by Member Munson to deny the Continuance of the Meeting of the Planning Commission.

3 Yes (Drzewiecki, Munson, Fry)

Motion Carried

PETITIONER:

Attorney John Duncan was sworn in by the Court Reporter.

Attorney Duncan provided a brief summary of the Illinois Sand Company Petition for Annexation and Zoning of property. Illinois Sand Company is a subsidiary of Illinois Cement Company. The Mining and Quarry business being proposed is not new to North Utica; the activity is very familiar to Utica. Present and representing the Petitioner as follows:

Wayne Emmer, President of Illinois Cement Company; Eugene Hodges, Vice-President of Illinois Sand Company; Jerry Essel of parent company Eagle Materials; and Frank Green.

Mr. Wayne Emmer, President of Illinois Cement Company was sworn in by the Court Reporter. He provided information about his background and experience both personally and professionally. Mr. Emmer has been the President of the company for 13-14 years and has spent a long time in the Mining industry. Illinois Cement Co. also maintains good ratings with MSHA and no lost time accidents. Illinois Cement Company received an award for Contractor of the Year.

Mr. Emmer then spoke about Frac Sand; it is a valuable resource and the granules are pure silica quartz. Illinois Cement understands the mining industry and has been in business since 1974. The demand for this product has skyrocketed; the demand is so far ahead of the supply that this would not hurt other companies in the area. The frac sand is used in places like Texas; and there are developments in New York, New Jersey and Ohio. This type of mining would complement our marketing portfolio.

Emmer then presented a Power Point display; it demonstrated the annexation plat of parcels of land acquired for operation. It showed the zoning requests for A-1 Zoning, a site plan for the most efficient means of extract, and the means to transfer product from the site onto Rt. 6 and then the route to the barge terminal. It also showed the 2 step process for the mining of the sand; a wet process and a dry process.

It showed Pit Phase #1 – open the pit and extract the product. Then to the hydrosizer plant, then to settling ponds, then to be loaded on to the trucks and the route to remove from the site by truck.

Emmer then stated that all Mining activity is controlled by MSHA. IDNR controls the Mining and reclamation plans. Blasting is strictly controlled and Illinois Cement standards are currently more rigid than the State of Illinois. Water discharge is also controlled by the IDNR whereas air emissions are controlled by the IEPA/EPA. Illinois Cement Co. lives with this type of control every day and is very proud to maintain a very strong track record.

Emmer then stated that there will be berms built to help with the reduction of noise and dust. Road dust will be addressed when needed by water trucks. Blasting will take place during weekdays and rarely on a Saturday, in the event that weather doesn't allow the blasting on the regular schedule. A professional blasting company will be used and all blasting will be monitored and recorded by a sizemograph. Decibels are not to exceed 133 however; Illinois Cement Co. is typically at 125 decibels. Emmer also spoke about limestone vs, Sandstone and its' relation to the size of a blast.

Emmer then spoke about the effect the mining operation would have on wells; Illinois Sand Co. has a proposed Well Agreement to protect neighboring wells. This is for properties within a ½ mile radius.

Truck routes were also discussed. The route for removing the product from the site would be to access Rt. 6, turning east toward 13th road and then south to Cargill (Barge Terminal). In a typical day, 8 – 16 loads per hour, working 2 shifts per day, with the 3rd shift being designated as Maintenance. There will be no truck traffic through Utica and nothing on 2803rd road or on E. 12th road. The traffic study performed shows only a moderate increase in traffic.

Attorney Duncan then stated that Illinois Sand Co. will cooperate with the County and the Village to repair roads and make improvements.

Berms will be 15ft in height with vegetation and will be built in stages following the progress of the operation.

Member Fry asked if there will be landscaping or grass.

Emmer responded that the details aren't complete yet, but grasses and trees are being considered.

Chairman Guttilla asked if the berms would only be located along Rt. 6.

Emmer responded that this is the intention with phase #1.

Chairman Guttilla asked about the amount of overburden.

Emmer stated uniformly 100 ft.

Attorney Duncan asked Mr. Emmer about the additional benefits to berming.

Emmer responded that the berms diminish noise, dust and line of sight for visual effects. It also provides security to the site instead of it being wide open.

Attorney Duncan asked Mr. Emmer about the employment benefits.

Emmer stated that they will be creating 70

new jobs directly as full time employment. They will be good paying jobs and this would also create approximately 160 indirect jobs according to the economic impact analysis that was completed.

Member Fry asked if they would be local jobs and if it would also create other jobs.

Emmer stated, "yes because of the multiple daily runs, etc. Local individuals would be hired at Illinois Sand Company and they hope to have the site running by summer/fall 2012."

Attorney Klein asked about the salary & benefits of such jobs.

Mr. Emmer stated that the approximate pay scale would be \$50,000 - \$70,000 and the employees would be hired locally.

Attorney Duncan stated that there would be initially jobs created in Contracting while the site is beginning.

Chairman Guttilla asked how many shifts there would be daily.

Emmer stated 3 shift. 2 Shifts would be operations and 3rd shift would be maintenance.

Emmer also stated that these would be good jobs for the local area. Illinois Sand would be a good corporate citizen and a good neighbor.

They will make a donation to the Village in the amount of \$400,000 and they will also be donating the purchase of a new Maintenance Department Truck with snow plow to further aid in the maintenance of the road.

Member Fry asked how they came up with \$400,000 as the donation amount.

Emmer stated that this was the number that they are offering to the Village.

Member Fry asked about the last quarter's profits of Eagle Materials and the amount of the proposed donation to the Village with regard to the amount of their overall profits.

Attorney Duncan responded that impact fees are paid in certain cases, and since there are not impact fees in this case, this would still provide a financial benefit to the Village.

Attorney Klein then stated that the Village charges an impact fee of \$1,500 per acre. The Petitioner however will not be hooking up to any Village water or Sewer. This donation is being proposed to the Village as an alternative to that and could be used toward the improvements of water/sewer and road. In lieu of an impact fee, Illinois Sand Co. would make a donation to the Village in the amount of \$400,000 and the purchase of a Maintenance truck with a snow plow.

Village Engineer Kevin Heitz was sworn in by the Court Reporter. He has worked with the township to determine who would be responsible for plowing the roads. (2803rd and 11th)

Mr. Emmer then stated that the land reclamation project would require IDNR approval. He also stated that if someone transferred from Illinois Cement Co. to work at Illinois Sand Co., this would still create 1 new position, thus increasing the local jobs in the community.

Attorney Klein then stated that the Planning Commission could now ask questions of Mr. Emmer.

Chairman Guttilla asked about the water supply being used for the operation.

Emmer stated that they would drill a well and that there is water already in the sand itself as well. It would be discharged from the processing plant and the run off would be regulated by NPDES for discharge.

Chairman Guttilla asked about the project timeline and if there is approximately 100 ft. of sandstone.

Emmer stated that its' possible that there is 60 ft. of sandstone at the top. The coarse sand is more valuable at the top.

Member Fry asked about the Well Agreement and if they would also consider agreements with the land/property owners for their property.

Emmer stated that he does not anticipate such agreement at this time.

Chairman Guttilla asked about the borings and the water table.

Emmer stated 30 ft. down; Attorney Duncan stated that most of the wells are 175 ft. – 300ft. deep.

At this time, Attorney Mueller began a cross examination of Mr. Emmer regarding the previous testimony. He questioned the contiguity of the land, the size, and reasons for seeking annexation. He also questioned the environmental impact, reclamation plan, variances, and setbacks.

The meeting was given a short recess beginning at 10:15 pm.
The meeting reconvened at 10:30 pm. Additional Cross Examination by Attorney Mueller resumed. Atty. Mueller asked about the mining process, permits required, traffic impact, well agreement, soil conditions, and existing field tiles and water drainage.

With no further questions, Attorney Klein stated that it would be open to other people from the Public to ask questions now.

Thomas Kelly Dempsey, 1085 N. 2803rd Road, Utica, IL 61373
Mr. Dempsey asked Mr. Emmer about the cubic feet of coal are present at the Illinois Sand site, the sound of alarms at the site and the location of berms.

Boo Herndon, 1523 Zinc. St., LaSalle, IL 61373
Mr. Herndon asked Mr. Emmer if the jobs created would be Union Jobs.

Michael Prather asked questions about the well agreement.

Attorney Klein stated that with no additional questions, Attorney Duncan can redirect.
Attorney Mueller stated that he would like to finish with this witness.
Chairman Guttilla asked if there was any redirect.
Attorney Duncan stated that he did not, and Chairman Guttilla asked for a motion to recess and reconvene the meeting on January 4, 2012.

It was motioned by Member Fry, seconded by Member Munson to recess the Public Hearing until January 4, 2012 at 5:30 pm. The Meeting will be held at Waltham School – 248 W. Canal St., Utica, IL 61373. It was also agreed by all parties and announced that the Joint Public Hearing on the Annexation Agreement and the Special Village Board Meeting would also be held at the same date, at the same location, immediately following.

All in favor
Motion Carried

Meeting adjourned at approximately 11:20 PM.

Respectfully submitted,

Laurie A. Gbur
Village Clerk