

MARION COUNTY PLANNING COMMISSION

RECORD OF PROCEEDINGS

July 27, 1998

Chairman Eileen Sieger called the meeting to order at 7:30 p.m. Sieger apologized to everyone for the inconvenience of having to postpone the July 23 meeting, because there was not a quorum. She said this is the first time in the history of the planning commission that this has happened.

Roll Call was answered by Sieger, Eldon Pankratz, Clark Wiebe, Terry Eberhard, Dean Fincham and Don Fruechting. Jo Helmer, Marquette Eilerts and Bob Unruh were absent. Herb Bartel was also in attendance.

Sieger announced that a written request was received for a continuation of Item 5 on the agenda, an application for Myron Schmidt for a rezone pending from agricultural to rural residential. This application will be included on the August 27, 1998, meeting agenda.

Sieger asked for corrections to the minutes of the May 28, 1998 meeting. Sieger had two corrections. On the first page, Eberhard made a motion to approve the minutes of the April 23 and 30 meetings, and Sieger asked that the words "with corrections" be added. On the last page, Sieger asked that the same meeting title be used above her signature, as is used on the front page. There were no other corrections or questions. Sieger asked for corrections to the June 11, 1998 meeting. Sieger had four corrections. On the front page, she requested the meeting title only include the "Marion County Board of Zoning Appeals." On the second page, Sieger requested her name replace Kaup's name, as the person who showed two large notebooks of exhibits. On the second page, the word "accept" is to replace the word "record," where Unruh made a motion to "accept" Kaup's report. Sieger also requested the meeting title above her signature on the second page, read the same as on the meeting title on the front page. There were no other corrections or questions. Sieger asked for a motion to accept both sets of minutes, with corrections. Eberhard made a motion to approve both sets of minutes, with corrections, and Fincham seconded the motion. In favor: 6, opposed: 0, motion carried.

Item 4: Application for Martha Krispense for a variance for a rental, or home business, and rezone pending from agricultural to rural residential. This property is in Gale Township, across from the Krispense home. Krispense showed aerial photographs, and sketches she drew. She said her family has farmed the land in question, for 18 years. She said they preferred to buy just

the farmland, but it was not for sale without the two homes included. Krispense said her family plans to sell 10 acres with the two buildings on it. Thoughts were to ask for a variance for either a rental home, or a home business, she explained. Yet, she added, certain businesses such as a day care or a night club, would not be acceptable. She said there is ready access to rural water, and the property has two driveways. Eberhard asked Krispense if she would accept a variance for a rental, and leave it at that. She said she would, but explained the idea for a home business began because the home is set up for a butcher shop. Krispense said she really did not want open-ended approval for any home business. She said the double-wide trailer on the property has been there 15 years. Sieger asked if anyone from the public wished to speak to this application. No one commented. Sieger closed the public hearing for this application.

Item 6 - Application for Dawn Buchanan for a rezone pending from agricultural to rural residential. This property is located in Lehigh Plat, north of Lehigh. Lyle Leppke gave the presentation for Buchanan. Leppke explained that the property's north boundary is an established hedge row, the south boundary follows a creek, and there is a waterway which flows to the creek. He said Buchanan wishes to sell the 10.12 acre property, and this is the reason for the rezone request. Leppke said the property has a new well, which tests good, and that fees have already been paid and the property is signed up for rural water. Bartel said the fact that Buchanan bought the property without getting a zoning change, is not a problem because no permits were requested. Sieger asked about setbacks, and Leppke said there was plenty of room. Pankratz asked Bartel if it is a problem zoning the property, since it meets 10 acre minimum requirements, and Bartel said no problem. Sieger asked for any further comments concerning the application. There were no other comments or questions. Sieger closed the public hearing for this application.

Members decided to act on both applications, before proceeding to agenda Item 7, an Operating Agreement for Martin Marietta Aggregates.

Item 4 - Wiebe repeated for clarity, there are two homes on one 10 acre tract, and without a variance for a rental, it would need to be a 20 acre tract. The survey of the property involves 10 acres. Sieger asked Bartel if he recommends this application, and he said yes, he already did at a previous meeting. But, Bartel added, if the owners sell off the double-wide and remove it, he would not want a rental as a new unit. Sieger suggested including the word "existing" to cover this concern. Sieger asked for any further discussion on this application. There was no further discussion, so Seiger asked for a motion. Pankratz made a motion to approve a variance and a rezone from agricultural to rural residential, allowing the rental of the existing double-wide for a residence. Fincham seconded the

motion. In favor: 6; opposed: 0; motion carried.

Item 6 - Sieger asked if anyone had any questions about this application. Fruechting asked Bartel if there were any negative concerns with this application. Bartel said he recommends it and feels it is time to do it. Wiebe asked if setbacks are sufficient, and Bartel said yes. Eberhard made a motion to approve a rezone from agricultural to rural residential, as surveyed. Pankratz seconded the motion. There was no further discussion. In favor: 6; opposed: 0; motion carried.

Item 7 - Operating Agreement for Martin Marietta Aggregates. Sieger reminded everyone that this is just a rough draft, so it needs to be looked at critically, to see if any changes need to be made. Sieger said members also have copies of an operating agreement that was drawn up in 1990 between Martin Marietta and Douglas County, to use as a comparison. Members began with #1 of the operating agreement for Marion County. Fincham asked if the Conditional Use Permit is only in effect for 10 years, what happens if Martin Marietta is not finished in that amount of time? Bartel explained they could reapply, to continue. Pankratz asked what about a delay in beginning their operations, and Bartel said he understands they are ready to go. Eberhard asked why not look at the Douglas County agreement, which is much more detailed? Bartel explained the Marion County agreement was drawn up from points made at the public hearing. It was decided to end the sentence of #1 after "ten (10) years." No changes were made to #2. It was decided that air quality standards should be added to #3, similar to what is included in the Douglas County agreement. On #4, the words, "and future" are to be added after "All existing." The days of the week, "Monday through Friday," are to be added to #5. Wiebe asked about restricting building permits to 600 feet from the quarry operations boundary. It was decided to delete part of #6, beginning with "600 ft." through "the Schroeder family." No changes were made in #7. Bartel explained this is covered in the permit the quarry has to get for discharge. On #8, Wiebe questioned the amount of the bond, and asked how many tons per acre of limestone are available. Bartel said #8 and #9 are assuring compliance. Pankratz asked what would trigger liability to need the performance bond, and Bartel explained any item in the agreement, except personal property damage. Bartel added the county would have to show there has not been performance. Wiebe suggested, and it was agreed, to change the bond amount to a \$500,000 total performance bond, with \$100,000 of the total performance bond to be an actual bond and also \$10,000 shall be a cash bond. On #9, Fincham questioned if there should be a time limit on reclamation. Bartel explained the process is to put the cover back and re-seed. Wiebe suggested, and it was agreed, to keep the amount the same on #9, but add that \$10,000 shall be a cash bond. Wiebe also believed the amount needs to be higher on #10. It was decided to change the \$10,000 amount to \$100,000, of which \$25,000 shall be a cash bond. The \$10,000 amount in the last sentence of #10 shall also be changed to \$25,000. No changes

were made on #11. It was decided to add the sentence, "There will be no selling of the top soil," to #12. On #13, the words "Insurance" and "current" need to be interchanged. Fincham asked about ending the sentence on #11 after the word "landfill." Bartel recommended leaving it as written. Sieger asked for any further additions or deletions. There were none. Sieger said after the suggested changes are incorporated in the wording, there could be copies available for review in the courthouse, and any comments in writing could be accepted, although the public hearing on the matter is closed. Sieger added that comments could be reviewed before members make a recommendation to the county commission for final approval. Sieger asked Bartel if the county commission could make changes if they wish, and have the operating agreement reviewed by legal counsel. Bartel said county commissioners have the final say, and may make changes if they feel it necessary, and that the agreement should be reviewed by legal counsel. Wiebe said this procedure would also give Martin Marietta a chance to respond, as well as the public, and give everyone a chance to address some of the issues. Sieger asked about a time limit, and Bartel said 10 working days is customary. Sieger asked if legal counsel should review it before it goes to the county commission, but Bartel said no, the county commission has the last word and are responsible for signing the agreement. The written comment period was set to begin August 3, for 10 working days, to August 17. Members agreed to this, by consensus.

Before adjourning, Sieger asked members to be aware of a lawsuit filed July 7 by M.S.W., Inc., although she said a hearing date has not been set. Sieger said this is for members information, not for discussion. Bartel said a lawsuit filed by the state against the Grosse brothers, who are represented by Russell Mills, has been requested by Mills to move the case to a federal court. Fruechting made a motion to adjourn the meeting, and Eberhard seconded the motion. In favor: 6; opposed: 0; motion carried. Meeting adjourned at 9:35 p.m. The next meeting is scheduled for August 27, and Sieger reminded everyone if they cannot attend, please call and let her, or Karen, know.

MARION COUNTY PLANNING COMMISSION



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Eileen Sieger,  
Chair