

SAUK COUNTY BOARD OF ADJUSTMENT
November 17, 2011 Session of the Board

PRESENT: Linda White, Chair
Dan Kettner, Vice Chair
Robert Roloff, Secretary
David Allen
Henry Netzing

ABSENT: None

STAFF PRESENT: Dave Lorenz
Gina Templin

OTHERS PRESENT: See Registration slips

Chair White called the session of the Sauk County Board of Adjustment (BOA) to order at approximately 9:00 A.M. The Chair introduced the members of the Board, explained the procedures and the order of business for the day. The staff certified that the legally required notices had been provided for the scheduled public hearing. The certification of notice was accepted on a motion by Netzing, seconded by Allen. **Motion carried, 5-0.**

The Board adopted the agenda for the November 17, 2011 session of the Board on a motion by Roloff, seconded by Kettner. **Motion carried, 5-0.**

Motion by Allen, seconded by Netzing, to adopt the October 2011 minutes. **Motion carried, 5-0**

COMMUNICATIONS: None.

PROPOSED HEARING SCHEDULE FOR 2012. The Board discussed the proposed schedule as presented. Motion by Netzing, seconded by Allen. **Motion carried 5-0.**

APPEALS:

A. Milestone Materials (SP-29-11) requesting a special exception permit pursuant to s.7.05(2)(l)19 to modify a special exception permit to authorize the continued operation of a quarry by a new operator/owner. This property is located in the Agricultural district, on real estate described as: part of the SE ¼, NW ¼, and the N ½, SW ¼, section 28, T12N, R5E, Town of Excelsior, tax parcels 010-1024, 1025 & 1026 currently owned by Union Pacific Railroad Co.

Dave Lorenz, Environmental Zoning Technician, appeared and gave a brief history and background of the property and permitting, as well as photos and a video of the site. He spoke of correspondence from the Town of Excelsior, Exhibit IV 1-2. He then recommended conditions to be placed on the appeal if the request were approved.

White asked if there were any complaints about the mine, other than the railroad cars blocking the highway. Lorenz stated that he isn't aware of any issues other than the train.

White asked about the Village of Rock Springs being notified, as they are not listed on the exhibit letter. Lorenz stated they were contacted.

John Montgomery, Mathy/Milestone, applicant, appearing in favor of the request introduced staff dealing with the quarry in various positions. He spoke of a power point presentation and then discussed the booklet provided to the Board. He gave a background and history of the company using the power point.

Roloff asked about two letters from Union Pacific and the reference to the closing of the sale of the property and if that has occurred. Montgomery stated it has not happened yet, and is schedule to close on December 15th.

Montgomery stated that they are requesting a 10 year permit and there is no restriction in the county ordinance on the number of years for a permit. He reviewed a map of the property and the parcels that are being purchased where the main part of the quarry and material is located. He confirmed that they have no plans to continue rail loading and will all be loaded and transported by truck.

Kettner asked if the railroad will have any property in its possession in this area. Montgomery stated the railroad will still retain property, including the tracks and the rail, as well as a couple parcels west of the rail. Milestone is only purchasing properties east of the rail. He spoke of a roadway easement to get access to the site from Union Pacific.

Kettner asked if any property would be retained by the railroad that could be used for rock or quarrying. Montgomery stated he is not sure.

Roloff asked about the easement road. Montgomery stated that it is the existing road used for access next to the Town hall.

White asked if they have met with the Village. Montgomery stated they have not met with the Village at a formal meeting but has spoken to the Village President. He stated they will meet with them after the closing takes place.

White asked why that contact hasn't been made prior to this. Montgomery stated that it is due to timing, if they don't own the property there isn't anything to discuss. He also stated that the main part of the quarry is not in the Village, it is located in the Town.

Kettner asked about the 3 million tons of material in the quarry floor and if they are planning on going deeper. Montgomery stated they plan to go deeper, as the floor is at an elevation of 803 and they plan to take it to 725. He also stated that processing will happen onsite and then be trucked out.

Montgomery continued that operations will start in the spring of 2012.

White asked about the 300,000 tons being taken out over the course of 7 months and how many truck loads a day. Montgomery stated that will be about 100 truckloads a day.

Tony Tomashek, VP Milestone, appearing in favor, stated that the presentation that is being given today is the same information that was provided to the Town of Excelsior Board and Plan Commission. He also stated they are asking for the same conditions that the previous operators had.

Their equipment will be moved in and out as needed, rather than staying permanently. He stated they will have 5 or 6 sismographs initially, but will also maintain the 2 areas that the previous operator used.

Kettner asked about a limit to the amount of explosives used or sized and the regulations. Tomashek stated he will address that shortly and continued with the blasting, crushing and processing process. It is also not their intent to expand the quarry outside of the areas that are currently already disturbed.

Kettner confirmed that there will be no other removal of overburden. Tomashek stated that is correct, they will not be removing any overburden. He spoke of areas already reclaimed and the area of byproduct being removed and that area being reclaimed.

Tomashek stated they are requesting the same operational hours as the previous hours as well as asking to do minor maintenance and repairs after the posted hours.

Kettner asked about the blasting hours. Tomashek stated that you have to do blasting during daylight hours, and most of their blasting will happen in the later morning, early afternoon hours.

White asked what operational hours the plants have that the material will be taken to. Tomashek stated that he believes 6 a.m. to 9 p.m. He also stated their typical loading hours are during the day. He then continued to review the blasting requirements, as well as the noise of the crushing equipment. He stated that most of the crushing and blasting will happen in the back part of the quarry. The haul roads will have dust controlled by water.

John Montgomery, reappearing in favor, spoke of fencing around the facility, truck routes which will be Highway 136 and will not use Town roads as haul routes.

White asked where the tonnage is hauled from currently. Montgomery stated they are using some of their own rock from Fox Ridge, some from other sites from outside of the County, such as in Columbia County.

White asked what percentage of their work is done in the county. Montgomery stated about 1/3 of it. 14,000 trucks would be used for the 300,000 tonnage to be hauled.

Kettner asked about the water that does exist in the quarry now is pumped out how often. Montgomery stated it is pumped out in the spring and then periodically as needed after that. He also spoke of a sump pump located in the quarry and then the water is pumped to the Baraboo River.

Kettner asked if the water is tested before pumping begins for any pollutants. Montgomery stated he is unsure if it is tested now, but it is required by the WPDS permit on the discharge. He also reviewed Federal, State and Local requirements and permits required for their operation. He also addressed the reclamation permit and plan. He spoke of new real estate property taxes being paid, as Union Pacific is exempt from paying real estate property taxes, which would add 220 acres of property to the tax rolls. He also discussed the community involvement that the company is involved in.

White asked how much is given back to the community in grants over the course of a year. Montgomery stated it varies, but is in the five figure range, anywhere from \$20,000-\$50,000.

Kettner stated that it is estimated that the life of the quarry is at 30 years, what happens at that point, what will the property look like. Montgomery referred to the reclamation plan, and the idea of being a deep lake, with the high walls being left in place with benches, as well as using the topsoil that is still existing to generate stabilized soil to grown vegetation. He also spoke of the removal of byproducts where vertical walls of quartzite will be found.

Kettner asked that at that time when plantings and soil renovations are occurring, as well as the lake, does that create an attractive nuisance and will a fence remain in place forever or will this be someplace that will pose a danger to the younger people of the community. Montgomery stated the security fence will be long term and spoke of the birm and road that surround the high-wall and those things will stay in place, as described in the reclamation plan.

White spoke of the reclamation plan, extracting from March – November, but the BOA request states April – November and asked about the operational plan and a discrepancy. Montgomery stated that depends on the weather in the spring.

Roloff asked about the conveyors no longer being in operation with this permit. Montgomery stated they will be removed, as well as all the equipment that is there and bring in their own.

Lori Hasenbalg, appearing in opposition, read from a speech prepared for the meeting. (Copy of speech will be filed with the request in the Department.) The speech addressed a background of the quarry, previous operator and operations, background of communications with the previous owners, the County, the Village, the Town Board and other neighbors. She also spoke of the changes between the previous Special Exception permit granted and the new request by Milestone Materials. She asked for advance written notification of 1 mile radius of blasting. She spoke of the use of trucks versus the rail use for transporting. She also spoke of the hours of operation and the requested changes that would be beneficial to the public interest. 6 a.m. – 6 p.m. Monday – Friday are requested hours. No Saturday, Sunday or holiday operations. She concluded with the relationship she had with the previous quarry operator and the request by the Town of Excelsior.

White asked how far away she is from the main quarry operations. Hasenbalg stated she is about ¼ mile away. White asked if she has received notifications in the past and the previous quarry operator and asked about the most obtrusive noise. Hasenbalg stated the blast is startling, however, the constant every day noise of crushing, conveyor belting and back up beepers at night.

White asked if that continued at night. Hasenbalg stated in the beginning it was bad, however, the last 3 years have been better.

White asked if you compare this to other noises, what it is like. Hasenbalg stated that the decibel level is allowed to be at 90 decibels, but it an annoying constant noise, summer hours provided for beeper used later at night.

Roloff asked about the 4 conditions requested in her presentation and the similarity between those and the letter from the Town of Excelsior and if the Town discussed the hours of operation. Hasenbalg stated that it was discussed, but not something the town acted on.

Peter Murray, County Board Supervisor District 11, appearing in opposition to the request, stated that the switching of trucks from rail and spoke of some inconsistencies in the plan versus the testimony.

He spoke of the monitoring of truck traffic and where the loads will be taken, as well as issues with the truck drivers and the safety of the haulers once they are out of the quarry. He spoke of the willingness to meet with the Town and Village on an annual basis, and believes it should be monthly as their operational plan is a significant change from what has taken place at the quarry in the past. He also requested that the permit not be more than 5 years and that the hours of operation be limited and maintenance not be done unless it is during operational hours. He spoke of the town hearing and the testimony being that there would be 2 new jobs only, as the rest of the employees already work for the operator. He stated that he agrees with Ms. Hasenbalg and the problem with his constituents not being able to meet during the day due to work schedules. He then spoke of the rules of the Board having meetings only when there are more than 1 applicant and asked the Board to define when the meetings are.

White stated that typically when they don't meet, the applicant is asked if they are ok, but when only applicant is due to meet, the Board typically does not meet due to the financial impact on the County. She also asked about the monthly meeting versus annual meeting. Murray stated that due to the changes it needs to be discussed more regularly as the quarry operates. He spoke of the rural nature.

White asked if the previous owner has been amicable with the locals have had questions or if they came to meetings. Murray stated he isn't sure.

White asked if there are any other operations from this applicant in his area. Murray stated there is not.

Matt Messmer, appearing in opposition, stated he wanted to reinforce the request for hours of operations from 6 a.m. to 6 p.m. and the truck traffic and other operations into the evening so they can enjoy the rural areas. He stated he is also concerned with the roads and the truck traffic, in the local area the road damages from quarrying truck traffic, who is responsible for fixing the state highway. The state is not taking into account the extra traffic in their rotational planning for updating and fixing the roads. He also asked for the permit to be only for 5 years and provide the citizens the control and balance so that the applicant but the citizens can also be successful and protect the resources in that area.

White asked about the maintenance done by the past operator. Messmer stated they did do maintenance but they kept it to a minimum. He spoke of the proposed traffic of trucks coming and going every 6 minutes.

White asked if the maintenance is as intrusive so if they adjusted the hours of operation is it a compromise of maintenance after hours of operations. Messmer asked that the type of maintenance be identified and the low noise and low intrusive maintenance to be done afterhours, and take into consideration of the movement of equipment and such be done during regular hours of operation.

White read from the list of people who registered in opposition to the applicant, but did not wish to appear and speak.

John Montgomery, reappearing.

Kettner asked about a timetable of how operations go through the day and what takes place, such as crushing, trucking, etc. and when it happens.

Montgomery spoke of the spring schedule. He stated that the removal of stockpiles and byproducts, the removal of old equipment and clean up of buildings. Once that is done the drilling, blasting and rock crushing would start, which could be approximately June of 2012. He also stated that the drilling and blasting would start in the spring, the crushing and stockpiling after that. The trucking out of the site will not match the crushing and the crushing will not go on 140 days out of the year, as the trucking will.

Roloff asked about how he feels about the request from the Town of Excelsior conditions on the new operation. Montgomery stated they requested a 10 year permit, but told the Town that they could survive with a 5 year permit, but feels that their past performance should speak for that.

Roloff asked if they had a representative at the Town meeting. Montgomery stated they did. He also stated that they will not be running trucks on the Town roads.

Roloff asked about the change in operational hours requested. Montgomery stated they would like to see the hours of operations stay as they have been given in the past. They don't anticipate using all the hours, but would like them in place so they don't have to come back where they need to run more hours.

White asked about a route plan for hauling. Montgomery stated they tend to stay on State highways for all of their trucking. The State takes care of the maintenance on the State roads, however the main town roads that will be used is Pit Road and Fox Hill Road, which have maintenance agreements with the Town to fix the roads.

White asked for an estimated number of hours that maintenance will take place at the pit. Montgomery stated that they hope it is zero, however, it is a portable piece of equipment they can take it inside to work on, however welding and such would be done outside.

Kettner restated his request for a time table of the day and what hours of the day the crushing would be done, when would trucking start and finish.

Tomashek stated that the crew would arrive at 6 p.m., start the generators and let equipment warm up, 6-7 start the motors and belts on equipment and between 6:45 and 7 aggregate would start crushing and washing until about 5-6 and then shut down and maintain the equipment. Trucks would haul between 7 and 7:30 at night. The drill rig would come and go and work in the same hours, the equipment will run and warm up and then start production.

Kettner asked about the hours of 6-6, would that request interfere with drilling crushing and trucking. Tomashek stated it would for the portable nature and have the crusher there for a shorter period of time but run longer during the day, rather than run shorter during the day and have the crusher there. He addressed maintenance would be repair of a tire or welding a piece of equipment.

Diane Chalmers, Village Board of Rock Springs, state that she is here to gather information and take it back to the Village Board. Stated they are concerned about the truck traffic and felt that the local residents have good questions.

White asked if the Village has ordinances against jake-braking. Chalmers stated she isn't sure, but thinks they do.

Kurt Muchow, Town of Excelsior Board and Plan Commission, appearing as interest may appear, stated that they discussed this at the Plan Commission meeting and the objective of the meeting was to educate the members to provide an informed decision to the Town Board. He spoke of the public hearing held by the Town and the same presentation was made, as it was today and the public were given the opportunity to express input. After the public hearing the Plan Commission and Town Board met, and the recommendation that has been forward to the Board is what came out of that process. He also spoke of the comprehensive plan and the discussion of nonmetallic mining and the spirit of the plan is that if they want roads and an active dairy industry, we need them. However the focus is to ensure that the location and operation of the quarries are placed to minimize the impact on the residents and the infrastructure. As they went through their process that is what they used to come up with the conditions. He also spoke of control and balance.

Netzinger asked about problems with the Township roads and the truck traffic on Highway 136. Muchow stated that any truck coming to or leaving the quarry not be allowed to use town roads. It is not just their trucks, but the trucks contracted or coming to pick up material. He spoke of the road maintenance expense by the Town and the significant road damage caused by hauling and the cost to the Town. Netzinger stated that he understands, but we need materials.

Muchow stated the quarry is located on a good highway system and would not be a burden to use only the State highways.

Hasenbalg, reappearing in opposition, stated that condition I in SP-22-98 addressed the railroad, but the Board could be a condition if the haulers use a road not allowed. She also stated she has confidence in the process and feels there are permits in place and monitoring being done, but no one can monitor the noise falling below the 90 decibel point. She stated she would compare the noise of living next to the industrial park, outside of the blasting. She spoke of checks and balances and feels there would be less opposition to quarries if there is less operation during the day.

Seeing as no one else wished to speak about the special exception request, Chair White closed the public portion of the hearing on the special exception permit at approximately 10:40 a.m.

White asked for opinions on changing the hours of operations.

Allen stated these are compatible with other hours of operations throughout the county.

White stated that this is the only quarry right next to the village, however they have a good reputation. She stated for a new operation, she feels that a 5 year timeframe is better. She also feels a history.

Netzinger agrees with the Town's conditions. He addressed controlling the trucks and speed on the highways and that is what the Sheriff's dept is for and suggesting that the operator do is irritates him. The material is necessary and is a real plus for down the road for blacktop production and feels the quarry will save taxpayers some money. He also agrees with the 5 year permit and as far as meeting monthly, they are available daily if there are any problems. He feels the train traffic is worse than the truck traffic.

White discussed some of the conditions from the 1998 permit and things have changed. She also said she feels they should notify neighbors within a ½ mile of any blasting.

Roloff stated he feels the application meets all the criteria that the county ordinance requires. All conditions be copied and sent out listed in detail on the decision letter.

Motion by Roloff, seconded by White, to grant the special exception permit to allow the continued operation of an existing quarry by a new owner/operator in the Agricultural District, with the conditions listed by Conservation, Planning, and Zoning; the conditions listed in the 1998 decision of the Board, listed within the new decision, not merely referenced; incorporating the conditions that the Town of Excelsior has requested; ½ mile notification for blasting a week a head of time, Milestone Materials being the operator; reference to changes in the 1998 decision letter being the reclamation plan prepared by Pinnacle Engineering, dated May 2008, and the emergency standard be due to nature.
Motion carried 5-0.

Meeting adjourned at 10:50 a.m.

Respectfully submitted,

Robert Roloff, Secretary