

**MINUTES FOR SPECIAL MEETING AND PUBLIC HEARING
TURTLE RIVER TOWNSHIP BOARD
March 25, 2021 – 7:00 PM**

Attending:	Bruce Hasbargen, Beltrami County Engineer	Sam Christenson, Township Supervisor
	David Hanson, Beltrami County Attorney	Craig Forte, Township Supervisor
	Tom Barry, County Administrator	Bryan Campbell, Township Supervisor
	Jim Peters, Township Attorney	Rita Chamblin, Township Zoning
	Tanya Hanson, Township Clerk	Jan Johnson, Township Zoning
	Ann Nistler, Township Zoning	Donna Zelinsky, Township Treasurer
	Kevin Williamson, Township Supervisor	Mr. & Mrs. Mike Norden, Citizens
	Craig Gaasvig, County Commissioner	Marie Kistler, Township Supv. Chair

Attorney Peters gave an overview of the reason for having this special meeting: The township has had an ordinance since 1976 which was amended in 1996 which includes the need for Conditional Use Permits in certain circumstances. Is Beltrami County grandfathered in on the gravel pit on Parcel 48.00100.00 or does Beltrami County require a Conditional Use Permit to operate the mine?

Attorney Peters explained that a Conditional Use Permit is a legal document which allows land to be used with terms and conditions indicated in the document. The CUP runs with the land and its timeframe is indefinite unless there is an abandonment or violation or revocation. Legal nonconformity is the same as being “grandfathered in”. If the mine was established before the ordinance was adopted, the mine would be allowed to continue operating the way it has been. Two issues to be determined in this case are (1) is the pit really grandfathered in, or (2) did Beltrami County continue to operate it or was it abandoned at some point. Questions to be answered are: (1) Did the gravel pit exist and was it being used prior to the Ordinance adoption in 1978? If not, and there is no evidence of grandfather rights then a CUP is required. Substantial evidence must be shown that the mine was being operated at that time. There is also the issue of expansion and enlargement of the mine – if the mine is operational and is grandfathered in, the mine can be expanded. Additionally, if there is evidence of continuing activity even if it stopped a year or maybe two, the mine can continue operating.

Several Beltrami County GIS aerial photos were looked at from 1976 and 1991 comparing mining operations.

Turtle River Township is in the process of amending their ordinance. An additional option that could be considered is an Interim Use Permit (IUP) which is very similar to the CUP except that it has an expiration date.

The township met with the County in August 2020 and followed up with them in October regarding this matter. The County indicated they didn’t need a CUP. The township asked for documents to support their decision and the County said there are no documents. The County was then invited to this meeting for further discussion. Attorney Peters indicated that Courts have been consistent and protective of township rights regardless of the years that have gone by.

Issues to be answered by the County: (1) Is there substantial evidence of the mine in the 1970's prior to the ordinance to prove they are entitled to being "grandfathered in", and (2) Has the County stopped mining in the last 40 years for a long enough period that they have lost their "grandfather" rights?

Things the township can do:

- (1) Ask the County to Comply and secure a Conditional Use Permit
- (2) Negotiate a "Memorandum of Understanding" – both parties would enter into a written agreement of general understanding. This is a non-binding agreement.
- (3) No action by the township

The township should adopt written Findings of Fact and Conclusions following this meeting to document the decision on any of the options.

County Board Involvement: The meeting was opened to the County for discussion. Tom Berry, the County Administrator, spoke representing the County and indicated that the County Board met last week regarding the mine issue and that they are at this meeting to observe and listen. They feel the County has a legal, nonconforming use of the gravel pit and it is not subject to the ordinance and no CUP is required.

Public Input:

Mike Norden - Resident of neighborhood near the Beltrami pit that has a CUP. The County has been a good neighbor. Why wouldn't they be good neighbors at the new pit as well? The township wants some control over what happens in the township during strip mining operations. When owners abandon a pit it leaves a mess for residents. Get a CUP and operate like everyone else.

Rita Chamblin – Resident and Zoning Board member. Does not understand why the County doesn't want to have a good relationship with township. We ask residents to follow rules. The County needs to also. It hurts the township when the County says they don't need a CUP. She is disappointed with the County with their decision in this relationship.

Jan Johnson – Resident and Zoning Board member. Beltrami County has a CUP at their other gravel pit location apparently with no problems. If there have been no hardships or issues caused by that CUP for the County it is hard to understand why a CUP at the second pit location would be any different.

The township is representing the County and the township residents. The public hearing is closed.

Sam Christenson, Township Supervisor, explained that the 1976 aerial photo shows a lighter area which the County contends was the beginning of the gravel pit. The 1991 aerial photo of the same area (15 years later) shows the area has been revegetated. Mr. Christenson's career has involved doing timber sales and the 1991 photo shows the boundaries of a timber sale. Areas have grown back and if it had been mined there would not be regrowth. Mr. Christenson has had considerable experience in college working on aerial photos and it is his opinion this area shows timber sale activity and not gravel mining activity. The County has been a good neighbor with no current issues. However, what happens when

an independent contractor is given permission by the County to mine the pit and they don't use the same standards and rules as the County currently does, ie rock crushing, etc.

Mike Norden stated society is getting larger and larger. More and more regulations are required. The new County pit should have the same rules as the current County pit. All Turtle River Township pits should live by the same rules and regulations specified in the CUPs.

Attorney Peters suggested that the Board of Supervisors should report the input of this meeting to the citizens, analyze the photos and revisit additional information from this meeting. He also stated CUPs and IUPs can have conditions of restoration. Reclamation is a common thing in current ordinances.

Marie Kistler made a motion to close the meeting, seconded by Sam Christenson. Roll call: Marie – Yes, Sam Christenson – Yes, Kevin Williamson – Yes, Bryan Campbell – Yes, Craig Forte – Yes.

This matter will be put on the April 2021 Board of Supervisors Meeting Agenda. Members should spend some time thinking about the information presented at this meeting and allow the County to respond and make a statement of their intentions and the Township can respond to that.

Marie Kistler
Board Chair

Jan Johnson
Deputy Clerk