

OFFICIAL PROCEEDINGS OF THE COUNTY BOARD
WASHINGTON COUNTY, MINNESOTA
NOVEMBER 7, 2006

The Washington County Board of Commissioners met in regular session at 9:00 a.m. in the Washington County Government Center, County Board Room. Present were Commissioners Peterson, Kriesel, Pulkrabek, Stafford, and Hegberg. Absent none. Board Chair Pulkrabek presided. Also present were James Schug, County Administrator; Molly O'Rourke, Deputy Administrator; George Kuprian, Assistant County Attorney; Doug Johnson, County Attorney; Linda Krafthefer, Assistant County Attorney; Don Theisen, Director of Transportation and Physical Development; Ann Pung-Terwedo, Sr. Planner; Dennis O'Donnell, Sr. Planner; Dan Papin, Community Services Director; Richard Bachman, Community Services Division Manager; Cindy Rupp, Community Services Division Manger; Mary Farmer-Kubler, Community Services Supervisor; Josh Beck, Planner; Barbara Dacy, Housing and Redevelopment Authority Executive Director; Kevin Corbid, Director of Property Records and Taxpayer Services; Jennifer Wagenius, Property Records and Taxpayer Services; Lowell Johnson, Director of Public Health and Environment; Sheriff Steve Pott; Kay McAloney, Human Resources Director; Mjyke Nelson, Information Technology Director; and Steve Nelson, Public Information Coordinator II.

The Board recited the Pledge of Allegiance.

COMMENTS FROM THE PUBLIC

The Board Chair asked for comments from the audience; none were heard.

CONSENT CALENDAR

Commissioner Peterson moved, seconded by Commissioner Hegberg to adopt the following Consent Calendar:

1. Approval of the October 17 and 24, 2006 Board meeting minutes.
2. Approval to amend Washington County's 2003 and 2004 Annual Action Plans canceling the City Walk housing project in the City of Woodbury and amending the 2006 Annual Action Plan by reallocating those funds between the Twin Cities Habitat for Humanity in the City of Woodbury's Bailey's Arbor development and the Washington County Owner Occupied Rehabilitation Deferred Loan Program.
3. Approval to accept grant funds from the Department of Human Services to assist in operating the Washington County Child Protection Citizen Review Panel.
4. Approval of Amendment Number Two with Two Rivers Community Land Trust to add \$78,023 in 2006 CDBG funds to acquire and rehabilitate an additional two homes.

November 7, 2006

5. Approval of the 2007 contract with Stivland, Inc. (dba Harbor Shelter and Counseling Center) to provide shelter services for male youth.
6. Approval of Contract Amendment Number Two to the Human Services, Inc. contract to add cost of living rate increases to three grants and to add funds for housing subsidies from the State.
7. Approval of contract with Total Software Solutions, Inc. for enhancements to the recording system utilized by the Department of Property Records and Taxpayer Services.
8. Approval of site license agreement with the City of Forest Lake for the use of space on the water tower and property at Outlot A of Southview Addition near Highway 61 and 210th Street North as a public safety antenna site.

The foregoing Consent Calendar was adopted unanimously.

PUBLIC HEALTH AND ENVIRONMENT

Commissioner Peterson moved to enter into an agreement with Shawn Svendson-Cates, for onsite county employee wellness activities. Commissioner Kriesel seconded the motion and it was adopted unanimously.

PUBLIC HEARING – SURVEY AND LAND MANAGEMENT

Appeal by John Lindell of the Planning Advisory Commission's Decision for a Renewal of a Mining Conditional Use Permit to Tiller Corporation for One Year

The Board Chair presented a brief overview of the procedure for today's public hearing to consider an appeal by John Lindell of the Washington County Planning Advisory Commission's decision for a renewal of a Mining Conditional Use Permit to Tiller Corporation for one year. The Board Secretary confirmed that the notice of public hearing was published in the legal newspaper.

Ann Pung-Terwedo, Senior Planner, reviewed her memo of October 31, 2006 responding to the appeal by John Lindell regarding the Tiller Corporation Conditional Use Permit renewal for one year. She also reviewed the past, current, and proposed mining operations for this site. In 2005 when the current permit was to expire, Tiller Corporation submitted an application that had a different phasing plan than was indicated in the 2000 plan. Tiller wants to mine into the groundwater now rather than in Phase 5 which it had originally planned. Since 2000, Carnelian-Marine Watershed District is a permitting agency and New Scandia Township must approve a mining plan prior to submission of an application to Washington County. County staff had concerns regarding the groundwater issue, and hired Barr Engineering to look at the mining plan in the winter of 2006. All of these reviews have taken a significant amount of time, which county staff

November 7, 2006

had not anticipated. Based on these joint efforts, Tiller Corporation has requested to renew their existing permit for one year based on Phase 1 of the permit that was issued in 2000. This will allow Barr Engineering, the Carnelian-Marine Watershed District, the Forest Lake-Comfort Lake Watershed District, New Scandia Township, and Washington County adequate time to review and address the next five-year phase of the Tiller Corporation mining operation.

Ms. Pung-Terwedo reviewed staff's response to Mr. Lindell's appeal as outlined in her memo dated October 31, 2006. She stated that it is staff's recommendation to approve a one-year renewal to Tiller Corporation for their existing mining permit, until August 31, 2007, based on the following condition: Tiller Corporation has submitted a reasonable timetable for approximate approval dates from Carnelian-Marine Watershed District, Forest Lake/Comfort Lake Watershed District, and New Scandia Township. She stated that county staff will continue to work with New Scandia in their transition from township to the City of Scandia. All background studies and files relating to the Tiller mining operation will be provided to the City.

Commissioner Hegberg asked which watershed district this mining operation is located. Ms. Pung-Terwedo stated it is in both watershed districts, Carnelian-Marine and Forest Lake/Comfort Lake.

Commissioner Stafford asked what is the exact date Tiller's permit was granted in 2000 and the date they came in for renewal? Ms. Pung-Terwedo stated they were approved for their permit in March of 2000 and the permit was proposed to expire in April of 2005.

Commissioner Pulkrabek stated this mining operation has been in operation for over a year without the proper permitting? Ms. Pung-Terwedo stated that is correct. Commissioner Pulkrabek asked if that was Tiller's fault? Ms. Pung-Terwedo stated this has never happened before. Initially, county staff stopped that process at the beginning when they got the application knowing that these other agencies needed to review the proposal for the mining into the groundwater. Since they were last permitted, the county Development Code has changed by requiring permits from other agencies as well as the township prior to the county receiving a completed application. At that point she does not believe that Tiller knew they had to get those other permits. At the same time the county was looking at the issue and knew the background on the groundwater issue. The county hired Barr Engineering to review the background data on this operation going back to the 1980's.

Commissioner Pulkrabek asked, in her opinion, has Tiller Corporation done anything to prolong this application process or withheld information. Mr. Pung-Terwedo stated she did not believe so.

Commissioner Kriesel asked if Tiller Corporation closes down this fall what date would that be? Ms. Pung-Terwedo stated she believes they will be shutting their operation down for the winter in a couple weeks. Commissioner Kriesel stated beginning January 1, the City of Scandia will take over the permitting of that

November 7, 2006

operation and the county will not be involved in that permitting operation. Ms. Pung-Terwedo stated that is correct.

Jim Schug, County Administrator, stated there is some confusion about the permit date. In the Board packet it indicates that the mining permit was issued on May 9, 2000, is that the date it became effective? Ms. Pung-Terwedo stated yes, that is the date it became effective.

George Kuprian, Assistant County Attorney, addressed the Board's concern about operating without a permit. The way the county ordinance is written is that as long as they apply before their permit expires, they can continue the operation until the county affirmatively acts to terminate that permit. So Tiller was actually operating under the old permit as long as they were cooperating.

Commissioner Stafford stated that is the crux of this whole thing, whether or not this corporation was operating without a permit. He believes there are two expiration dates, one in the memorandum and the one the County Administrator is referring to says a permit was issued on May 9 which means five years later it would expire on March 9. He was told that Tiller came in April to reapply. How would they be in compliance?

Mr. Schug stated the permit would expire on May 9 of 2005 and Tiller came in April of 2005. Ms. Pung-Terwedo stated the county puts a date in the permits. The county will look at the time when they write those permits, when it is presented to the Planning Advisory Commission and actually put an expiration date in there, sometimes it may be a little later after the Commission takes action.

John Lindell, 11240 218th Street, Scandia - He is a neighbor to the Tiller Mining Corporation and is concerned about the water and the new plan to go below the water table and the government response to that plan. He is concerned about the impact it will have on wetlands, water level of lakes and opening it up for all sorts of pollutants. He was not aware that if the county approves the extension, the county will be finished with this. The county will not look at it or do anything with it and will only share information it has with Scandia. He believes the county has the expertise and ability and it should take care of this matter. To do that, he believes the county should require Tiller to file their application and deal with it before the end of the year. He participated in Scandia's incorporation proceedings and they have no budget, no regulations, and they are going to start working on it. They are way behind. There was no awareness that they were going to have this all dumped on them. The question is has Tiller properly followed the law in obtaining a permit application, and the County Attorney stated that the previous application continues, which raises the question why is an extension asked for. Tiller is a big corporation, they know the rules and the laws and there shouldn't be any confusion. He has asked for copies of the application from Tiller and is repeatedly told that the permit will be issued soon. Now, he read in the papers here that something was filed, but it wasn't given to him, so he does not believe it was anything official. He feels something bad will happen at

November 7, 2006

this site. He believes that government frequently messes things up. His preference would be that Washington County address it. The county has the expertise and believes it could order Tiller to file their application within five to ten days and deal with it by the end of the year.

Commissioner Kriesel asked if Mr. Lindell was aware that the extension does not allow Tiller to go into the water table? Mr. Lindell stated he was aware of that.

Gregory Korstad, Larkin Hoffman Daly & Lindgren and representing Tiller Corporation, stated this is his fourth permitting process for Tiller in New Scandia. The issue in the beginning of this operation was groundwater protection, wetlands protection, and water quality protection. Barr Engineering did an extensive investigation of groundwater interaction between this pit operation and nearby wetlands and a lake some distance away. This facility has been reviewed by the Minnesota Pollution Control Agency, the Carnelian-Marine Watershed District, Washington County consultants, and they have had their own internal consultants' review what has transpired. The universal conclusion has been that this facility has no impact on groundwater, surface waters, and is an environmentally benign facility. Since that time Tiller Corporation has again re-permitted this facility on an approximate five year basis. Applications have been submitted on a five-year interval, but as you see from the staff report it has in the past taken more than five years to get a permit out because of the extensive scrutiny that this facility has received. Tiller is again re-permitting this facility. The operations plan for this facility has not physically changed, but the timing has changed. The proposal is that in the next permitted phase the operation will go into the groundwater table rather than waiting until the final permitted phase of the operation. The problem Tiller faced in March of this year when it first approached county staff with an application of re-issue that permit application is that it included the re-phasing to get into groundwater earlier rather than in the final phase and was met with a significant level of scrutiny by staff who in consultation with Tiller Corporation staff discussed how this operation would be reviewed. Tiller was advised that they needed to get approval from the Carnelian-Marine Watershed before staff would consider its application to be complete enough to present to the Planning Commission. Tiller went to Carnelian-Marine Watershed District and were advised that they have a new set of regulations and were getting into the process of land use regulation in connection with mining facilities and told them that all the work that had been done by Washington County, the MPCA and all the conclusions that had been reached by other agencies in the past was going to be completely revisited and that was going to be done at substantial expense and it would take a significant amount of time to complete. Tiller Corporation reluctantly has been cooperating with Carnelian-Marine and working on that complete re-evaluation of what is easily determined to be a facility that doesn't require this extensive level of subsequent re-evaluation. The problem Tiller is facing today is that the county has an ordinance that somebody else gets to control whether the county can act on an application for a permit. So, the circumstance that Tiller is in is the one the County Attorney described, that under the county code Tiller's application that was submitted gives the company the right to continue to operate in accordance with its present permitting. The Planning Commission looked at that and instead of just relying on the code, this was reviewed by the Planning Commission, they had extensive discussion and concluded that it made sense to continue to operate this

November 7, 2006

facility under the current set of regulations. What will happen in the next several weeks is outlined in the timetable that was in the Board packet. There will be further work with Carnelian-Marine to get everybody on the same page as to what the circumstances of this facility are. Tiller Corporation's position is the Planning Commission made a rational decision and based that decision on an evaluation of the circumstances existing today and an evaluation of the public interests in making sure that there is an opportunity to give everybody who has an interest the ability to have an input into the permitting process. He urges that the County Board affirm the Planning Commission's decision to issue the permit for another year and during that time the permitting process will continue to move forward.

Commissioner Stafford asked about the timing of the remainder of this year's operation. He understands that the facility shuts down for a period of time over the winter. Mr. Korstad stated the facility doesn't produce product for a considerable period of time during the winter. There will be people doing maintenance work at the facility.

Commissioner Stafford asked when that begins? Mike Caron, regulatory manager for Tiller stated that typically the season runs from mid-April to mid-November. Right now, their plans would be to stop processing on November 17, but there will still be activities at the site as Mr. Korstad mentioned.

Commissioner Hegberg asked if Scandia Township gives them an annual permit. Mr. Caron stated that is correct. They meet with Scandia every March and last March they did issue the annual permit.

Commissioner Hegberg stated that would be under the current phase. It is his recollection that Tiller is about 12 to 13 feet above the water table. Mr. Caron stated that the permit requires them to maintain a 10 feet separation and that is what they maintain. They have a licensed surveyor go out and survey the mining phase every year with the elevation and they submit that to Washington County as well as Scandia Township.

Commissioner Peterson asked if that information is conveyed to both watersheds? Mr. Caron stated this is the first time, as far as permitting, they have exchanged information with the watersheds. They have had the watersheds out for tours of the facility and will in the future convey that information to them.

The Board Chair asked for further comments from the public; none were heard.

Commissioner Stafford stated that based on the latest information that the renewal application was made in April, Mr. Lindell is saying that he has had no documentation of that. He asked that Mr. Lindell be provided a copy. Ms. Pung-Terwedo stated they would make him a copy.

The Board Chair asked for further questions from the Board; there were none. The Board Secretary indicated that she had received all documentary evidence.

November 7, 2006

Commissioner Hegberg moved to close the public hearing. Commissioner Peterson seconded the motion and it was adopted unanimously. The public hearing was closed at 9:42 a.m.

Commissioner Stafford stated the big issue to him when the Board packet came out was the question of compliance with the ordinance. Once the right issue dates and application dates were identified, it took away the bulk of his concerns over the decision that the Planning Commission made. The Board has comments from Mr. Lindell opposing the operation and it has a letter from at least one other neighbor stating that Tiller has been a good neighbor. In a couple of days Tiller will be shut down for the winter, and on January 1 the City of Scandia will take over. He does not know what else the county could do to intervene with the process because Tiller will not be in operation and the responsibility for the license will be out of the county's hands.

Commissioner Stafford moved to affirm the Washington County Planning Advisory Commission's approval to renew a mining conditional use to Tiller Corporation for one year. Commissioner Peterson seconded the motion and it was adopted unanimously.

Commissioner Peterson stated she feels comfortable with this permit and the water quality because there are two active watersheds that will be reviewing the process. In addition, the county will still be mindful of what is going on with the groundwater.

COMMUNITY SERVICES

Barbara Dacy, Housing and Redevelopment Authority Executive Director, presented proposed upgrades to the Parkside Apartments in Cottage Grove including the following items: new furnaces; security cameras; emergency lighting; entry systems security; carbon monoxide alarms; and improved entry access. The funds for these proposed repairs and upgrades will come from the Community Development Block Grant in the amount of \$300,000.

Commissioner Peterson moved to approve subgrantee agreements with the Washington County Housing and Redevelopment Authority to rehabilitate Parkside Apartments in the City of Cottage Grove. Commissioner Hegberg seconded the motion and it was adopted unanimously.

GENERAL ADMINISTRATION

Mr. Schug reported that the county recently received notification that the Minnesota Board of Pharmacy was changing rules governing handling of medications in jails. They are proposing that counties not be permitted to return unused medications for credit. Washington County did an analysis and it would probably cost over \$15,000 a year and other counties had the same concerns. Because of a timing issue they had to

November 7, 2006

submit a comment to the Board of Pharmacy asking that they hold a public hearing. Lowell Johnson, Director of Public Health and Environment, wrote a letter to the Board asking for a hearing. When the hearing is scheduled, written comments will be brought to the Board for approval. The only condition under which the medications could be returned for credit would be if there were 24 hour nursing services. The cost of nursing staff would greatly exceed any savings the county would get.

Mr. Schug announced that Jay McLinden, Anoka County Administrator, passed away this past weekend. A memorial service will be held on Wednesday in Blaine.

COMMISSIONER REPORTS – COMMENTS – QUESTIONS

Commissioner Hegberg reported he has had calls from organizations to place a memorial for veterans at the Forest Lake Service Center/Library. The memorial would be paid for by the organizations.

Commissioner Peterson stated there had been discussion about selling stepping stones in the Big Marine Park Reserve to those who would like to honor loved ones who have died in a war, and these stepping stones would be a part of the memorial for servicemen and women. She suggested asking the organizations if they would like to put in cement benches in the gathering areas along all the buildings in memory of all the veterans. These could be for persons who have served as medics, nurses, law enforcement and firemen who have lost their lives.

Commissioner Hegberg reported on a meeting he attended with the Housing and Redevelopment Authority to discuss a Senior Housing project in Forest Lake. A non-profit is looking at putting something in there. He had always thought that property near transit centers should be maintained for special needs or seniors. He was happy to see the Walker Methodist Group was looking at that area.

Commissioner Hegberg congratulated Commissioner Kriesel for the speaker, Chaplin Major John Morris, who addressed the League of Local Governments meeting on October 30. He brought home important points related to veterans who are returning home from Iraq.

Commissioner Pulkrabek reminded everyone to go out and vote today.

BOARD CORRESPONDENCE

Board correspondence was received and placed on file.

November 7, 2006

ADJOURNMENT

There being no further business to come before the Board, Commissioner Peterson moved to adjourn, seconded by Commissioner Kriesel and it was adopted unanimously. The Board meeting adjourned at 10:30 a.m.

BOARD WORKSHOP WITH PROPERTY RECORDS AND TAXPAYER SERVICES

The Board met in workshop session with the Department of Property Records and Taxpayer Services to discuss proposed 2007 property taxes. No business was transacted and the public was welcome to attend. Present for the workshop session were Commissioners Peterson, Kriesel, Pulkrabek, Stafford, and Hegberg. Also present were Jim Schug, Molly O'Rourke, Kevin Corbid, Joanne Helm, Jennifer Wagenius, and Melinda Kirk.

Bill Pulkrabek, Chair
County Board

Attest:

James R. Schug
County Administrator

