

1 Volinia Township Planning Commission

2 ADOPTED Minutes of the January 15, 2025 Meeting

3
4 The Volinia Planning Commission held a regular meeting on January 15, 2025, at 6:00 p.m. at the Cass
5 County Road Commission offices, 240 N. O’Keefe Street, Cassopolis, MI.

6
7 Present:

- 8
9 1. Bruce Butchbaker
10 2. Jeff Steinkraus
11 3. Denny Grice, Ex Officio
12 4. Randy Cuthbert, Chair
13 5. Dave Goodenough
14

15 Absent:

16
17 None
18

19 Also Present: Catherine Kaufman, Township Attorney
20 Bradley Kotrba, Township Planning Consultant
21 Beth Middleton-Pompey, Township Zoning Administrator
22 Dan Whalen, Township’s Consulting Hydrogeological Engineer
23 Chip Tokar, Applicant’s Representative, Natural Resources Management
24 Amber Hoover, Applicant, High Grade Materials, Inc.
25 Gaetan Gerville-Reache, Applicant’s Legal Counsel
26

27 Approximately 15 members of the public were in attendance.
28

29 The Pledge of Allegiance was recited.
30

31 **Call To Order –**
32

33 The meeting was called to order at 6:00 PM, and Chairman Cuthbert’s request, Commissioner
34 Butchbaker called the roll. All Planning Commissioners were present.
35

36 **Approval of Agenda –**
37

38 Cuthbert stated that he would like to have the agenda reflect that, after some thought and
39 discussion with one or two other Planning Commission members, they would like to hold a meeting
40 dedicated to reviewing the update of the Cass County Master Plan. Cass County is presently updating its
41 existing Master Plan, and they placed the Volinia Township’s Master Plan into the County Master Plan as

1 a component. Commissioner Grice confirmed this, and therefore, they feel that a meeting should be
2 scheduled to give sufficient time to go through the County Master Plan updates and ensure that the
3 County Master Plan reflects what the Township's Master Plan contains. He asked the Planning
4 Commission if this was okay, and they unanimously agreed it was prudent. So, if this agenda and
5 scheduling future meeting dates at the end of this meeting were acceptable to the other Commissioners,
6 he would entertain a motion to approve the agenda. Commissioner Grice motioned to approve the
7 January 15, 2025, Volinia Township Planning Commission meeting agenda, which Commissioner Ross
8 supported. The motion carried.
9

10 **Approval of the Open Session Minutes of the November 25, 2024, Special Meeting –**
11

12 Chair Cuthbert said they would review the November 25, 2024, open session meeting minutes. If
13 there were no amendments or edits to the minutes, he would entertain a motion to adopt the regular
14 meeting minutes of the November 25, 2024, Volinia Township Planning Commission. Commissioner
15 Buttbaker motioned to adopt the regular meeting minutes of November 25, 2024, Volinia Township
16 Planning Commission; Commissioner Grice supported. The motion carried.
17

18 **Approval of the Closed Session Minutes of the November 25, 2024, Special Meeting –**
19

20 Chair Cuthbert asked the Planning Commission to review the closed session meeting minutes of
21 the November 25, 2024, Volinia Township Planning Commission. If no amendments or edits were to be
22 made to these minutes, he would entertain a motion to adopt them. Commissioner Ross motioned to
23 adopt the minutes of the November 25, 2024, Closed Session Meeting of the Volinia Township Planning
24 Commission; Commissioner Buttbaker supported. The motion carried.
25

26 **Opening a Closed Session Meeting with the Township Attorney (6:07 PM) –**
27

28 Cuthbert stated that at this time, the Planning Commission would go into a closed session
29 meeting with the Township Attorney to discuss the written legal opinion dated January 15, 2025, and he
30 would entertain a motion to go into a closed session. Grice motioned that the Planning Commission
31 meet in closed session under Section 8(1)(h) of the Michigan Open Meetings Act, pursuant to Section
32 13(1)(g) of the Michigan Freedom of Information Act, to consult with our Township Attorney regarding a
33 written legal opinion. Ross supported this motion. Roll Call vote:
34

35 Buttbaker – Aye

36 Steinkraus – Aye

37 Butts – Aye

38 Ross – Aye

39 Grice – Aye

40 Cuthbert – Aye

41
42 Butts – Absent

1
2 Motion carried.
3

4 **Close the Closed Session Meeting with the Township Attorney (7:27 PM) –**
5

6 Cuthbert called the meeting back to order to re-open the open session of the Planning
7 Commission meeting at 7:27 PM; Commissioner Goodenough motioned to close the closed session and
8 re-open the Planning Commission meeting, supported by Commissioner Ross, motioned carried.
9

10 **Old Business (Deliberation of High Grade Materials Special Land Use Application) –**
11

12 Chair Cuthbert opened the session and asked the County Road Commission's Managing Director,
13 Robert Thompson, to speak. Bob Thompson introduced himself to the Commissioners, and he and
14 Zoning Administrator Middleton-Ridley said they had met and discussed a couple of things to provide to
15 the Planning Commission tonight. First, the Director was provided with the proposed haul routes. He was
16 asked to verify the current Pavement Surface Evaluation and Rating (PASER) system that the Road
17 Commission uses to determine the existing road conditions and when it is time to perform maintenance.
18 Second, she asked if Mr. Thompson could provide the Planning Commission with the cost that the
19 County would incur to maintain these route roads to meet the Class A (All-Season) road standards. Mr.
20 Thompson confirmed this. He reported these estimates to the Commissioners:
21

22 1.5 miles of Decatur Road currently has a PASER rating of 6, and to update to the "3R" regulation
23 standards would cost the County approximately \$1.26 million. 0.92 miles of Bond to Decatur doesn't
24 maintain a PASER rating currently, and to bring it up to a "3R" standard would cost approximately \$1.214
25 million. 2 miles of Glenwood to Bond currently has a PASER rating of 6, and to update to the "3R"
26 standards would cost approximately \$276,000. Finally, the 4 miles of Dewey Lake to Glenwood currently
27 is PASER rated as a 6 and would cost \$552,000 to maintain. Thompson indicated that a current rating of
28 "6" is considered pretty good and is very common. The scale goes from 1 to 10, 10 being the best. This
29 amount isn't necessarily for the driving surface per se; it would be engineering the integrity of the road
30 base materials and construction to provide a good surface road that could handle heavy truck traffic. He
31 confirmed that all these quoted numbers are not costs expected from the Township to pay, and these
32 improvements would happen over time, as budgeted, through regular road/highway maintenance
33 projects. He wants to reiterate and calm the concern that this damage to the roads would cost the
34 Township. This would not happen, and the Township wouldn't be responsible or obligated to cover these
35 costs. Cuthbert asked how long this construction would take, and Thompson confirmed that this would
36 take about 5-7 years to complete. Ross asked Thompson to estimate how often the roads would have to
37 be repaved with the proposed amount of truck traffic quoted in the applicant's studies. Thompson stated
38 that if the roads discussed were upgraded, the road would likely be a ten to twelve-year investment,
39 which would only need to be lightly maintained. However, ten or twelve years down, the more intensive
40 work would have to be done, at least an overlay.
41
42

1 He feels that the information the applicant has given them isn't a high volume of numbers. In
2 other words, it isn't a high volume load that would concern the Road Commission more than what they
3 currently experience around the County with all the different mines. The Road Commission looks at
4 numbers compared to all the other areas of the county and finds that Cass County experiences a much
5 higher volume of traffic from personal and truck traffic in different parts of the county. And they have
6 been maintaining these adequately. Therefore, the proposed numbers here with this application do not
7 jump out as a significant concern to us at the Road Commission, even after implementing the new use.
8 He isn't trying to play down the concern the Commissioners may have. However, roads are the Road
9 Commission's day-to-day business, and factoring in the Commission's history and amount of experience,
10 this application doesn't create a significant concern that they cannot handle. He also wanted to state
11 that when the applicant initially approached the Road Commission to designate potential haul routes,
12 they had considered using Marcellus Highway into Dowagiac City limits and then north on M-51. Still, the
13 Commission tries to be good neighbors, and they figured that with the greater volume of local traffic,
14 higher number of residents along these roads in town, and the fact that the trucks would be traveling
15 through town, they approached the City with this idea and the City was not happy that this might come
16 about. So, the Commission worked to find an alternative route north from Marcellus Highway. The Road
17 Commission reminded the City of Dowagiac that the City does not maintain those roads, which the
18 County maintains. Therefore, it would be the responsibility of the County and not the City Streets
19 Department. He didn't want to take that route off the table, but when the Road Commission is planning
20 decades out, they have to look at ways to benefit the County network system and improve Dewey Lake
21 Street, and in the long term, it would be better for the County to improve Dewey Lake Street. Cuthbert
22 asked if the Road Commission considered taking Decatur Road directly into the City of Decatur because
23 this seemed like a better route. Thompson stated that this is logical because Decatur Road is one of the
24 County's heavier traffic routes for heavy traffic. But he wanted to remind the Planning Commissioners
25 that Decatur Road North would take the traffic into another county (Van Buren County) before hitting M-
26 51. If the Commissioners remembered the history of Decatur Road North of the Cass County line in Van
27 Buren County, it would be a significant challenge for the Van Buren County Road Commission because
28 there is little to no base under that road, and it sinks continuously. Therefore, the extra weight proposed
29 would destroy that road. It would be a continuous hassle for the Road Commissioner to repair that road,
30 which is so costly and significant every couple of years. If he were implementing a temporary route right
31 now to get to M-51, he would route all traffic down Decatur Road onto Marcellus Highway and straight
32 into the City to turn onto M-51 and travel out.

33
34 Chair Cuthbert asked Dan Whalen if he would walk through his updated review for the Planning
35 Commission. Whalen introduced himself and said that this most recent memo primarily has two main
36 points: the groundwater withdrawal amounts and its potential effects on neighboring private water
37 wells. Second was the opening of the aquifer for a slurry pit, which can potentially affect the water
38 quality of the neighboring private water wells. Regardless of his concerns, EGLE has reviewed the
39 application and issued two permits; the first is the use of the aquifer to wash the gravel and receive the
40 discharged slurry water and also issued a permit concerning the volume of groundwater withdrawal of
41 over 2 million gallons per day measured over 12 hours. The theory is that as the water is withdrawn from
42 the aquifer, it washes the gravel and drains back into the aquifer through the slurry pond and filters back

1 into the water system. This equates to their determination that the aquifer has no net withdrawal,
2 except for minor loss, such as evaporation. This means that his initial concerns regarding the drinking
3 water supply are now monitored under the auspices of the Department of Environment, Great Lakes,
4 and Energy (EGLE). However, it should be reassuring to the Planning Commission that monitoring will
5 happen. He is uncertain how or how often EGLE will monitor, nor what they would be monitoring. He
6 feels that the water quality should be monitored, and a contingency plan should be implemented to
7 address this. The copies of the permits supplied to the Township don't include the conditions applied to
8 the permit, and it would be appropriate for the Township to have a full copy of the permits with
9 conditions imposed by EGLE to understand what the approvals required. Overall, his opinion of the
10 vulnerability of the groundwater resource to both contamination and overall quality of the groundwater
11 concerning this proposed operation. Therefore, the operator should approach this site with care. Other
12 concerns Whalen had in previous reports have all been addressed by the applicant in their current plans,
13 and he feels they are acceptable. He received the most recent well testing done by the applicant's
14 groundwater consultant, which appears to be typical of this region of the state. Hard water with high
15 iron and mineral content is usual for this area. If the groundwater quality changes to the effect that it
16 impacts the health of the neighboring private well drinkers, a contingency plan should be in place. He
17 also feels that if there are changes in the elevation of groundwater levels that affect the designed
18 performance of the neighboring private wells, a contingency plan should be in place.

19
20 Cuthbert thanked Whalen for his presentation. Ross then commented on the reclamation plan
21 and the inclusion of the artificially created ponds that were used on-site for the mine. The plan calls to
22 leave these ponds and not fill them in. He stated he was unaware of this and reached out to the
23 applicant's environmental consultant (Lakeshore Environmental) and spoke with the applicant's
24 representative and author of their submitted studies to see if she was aware that these ponds, which are
25 open to the aquifer were to remain after reclamation, she stated she was not aware of this. Ross
26 explained to her his concern because if the property owner begins farming the property once again after
27 reclamation, pesticides, and fertilizer could run off into these ponds and infiltrate the aquifer,
28 compromising the local drinking water supply that this was an issue. He mentioned that she agreed with
29 him and that this would be a concern. Tokar confirmed that the applicant's representative, Emily, from
30 Lakeshore Environmental, contacted him after Ross spoke with her to inform him of Ross's concern. Still,
31 he is unsure why she would claim that LEI was unaware that ponds would remain on the site after
32 reclamation. He will have to circle back around with her to find out more. Tokar stated that if the
33 Planning Commission was concerned about runoff potential, engineered deflecting berms could be
34 constructed around the ponds to prevent this runoff from entering the pond water.

35
36 Cuthbert then asked Kaufman to read through the Michigan Zoning Enabling Act verbatim.
37 Kaufman then began with the first finding that the Planning Commission has to determine if there are
38 Valuable Natural Resources on the property, and she read through the MZEA qualifications for what is
39 considered valuable. Quoting that no ordinance shall prevent the mining of natural resources on the
40 property unless very serious consequences shall result from mining those natural resources and that
41 natural resources shall be considered valuable for the purposes of this section of the statute if a person
42 by extracting the natural resources can receive revenue and reasonably expect to operate at a profit. So,

1 any person that is going to challenge a zoning decision under this section of the statute has to show
2 initially that there are valuable natural resources present on the property, that there is a need for those
3 natural resources by the person or in the market served by the person, and that no very serious
4 consequences would result from extraction by mining those natural resources. So, the Planning
5 Commission must first deliberate on whether there are valuable natural resources on this property,
6 keeping in mind the definition of valuable natural resources as defined under the Michigan Zoning
7 Enabling Act. This means that those resources are valuable, and through extracting those resources, the
8 person can receive revenue and expect to operate at a profit. So, given all this information that has been
9 presented by the applicant and entered into the record and all the information that the Township's
10 consultants have provided and entered into the record, there is evidence that valuable natural resources
11 are available on this property.

12
13 Ross believes that valuable natural resources are present from all the information received and
14 presented on both sides. But he has a question for the applicant. How deep did the initial soil boring go
15 to analyze this data again? Were borings only taken on this particular 134 acres, or did the applicant also
16 make additional borings on other surrounding property? Kaufman asked the Planning Commission if they
17 felt that the applicant could please restate where in the application the information regarding soil
18 borings and other studies are located in the application packet. Tokar replied that no other soil borings
19 were performed outside this 134-acre site. Kaufman located the information in LEI's hydrogeological
20 study and asked the Planning Commission to use this location in the application as a reference during
21 their deliberation. She believes that boring information was presented in this study. Tokar confirmed this
22 and all the other places given in the application packet. Such as the plan cross sections, which show the
23 depth of the borings, drawn on the site plans, the information defining the extent of the material
24 discovered, and the amount or volume of calculated material is also noted on the site plans, which he
25 recalls is about 4.0 million cubic yards of material. It is also referenced in the market analysis and the
26 needs analysis. Ross asked how many metric tons that is, and Tokar responded that a metric ton is about
27 0.9 short tons, multiple cubic yards by 1.5 to convert to short tons, so about 5 or 6 short tons, and then
28 you would multiply that by 0.9 to get metric tons. Tokar stated that there are roughly about 1.5 tons per
29 cubic yard. And the market rate for a metric ton of material is around \$11, so the math can be calculated
30 from that.

31
32 Kaufman asked if the Planning Commission would like to decide whether the property contains valuable
33 natural resources. Cuthbert commented that he thinks they need more time to consider. Goodenough
34 disagreed and felt there was plenty of evidence to suggest that there are valuable natural resources on
35 the property. Buttbaker motioned that the property does contain valuable natural resources, which
36 Ross supported. No further discussion happened. Motion carried.

37
38 Kaufman then stated the second finding that the Planning Commission needs to determine is that there
39 is a need for these valuable natural resources from this property by the person (in this case, the
40 applicant) or in the market served by the person. So basically, the Commission has to determine if there
41 is a need for these valuable natural resources by the person or the market served by the person.
42 Cuthbert wasn't sure how they were aware of this. Kaufman responded that they can ask the applicant

1 to explain their need for these valuable natural resources. At one point, she thinks the applicant spoke to
2 this question a few months back and that the information was also presented in the presentation by the
3 applicant and submitted to the record back in October or November. Grice asked if Ms. Hoover could
4 summarize her presentation on the need for the material. She said she would happily do this for the
5 Planning Commission. She stated that this was discussed during the first few meetings, which was a
6 while ago. Their company requires this particular type of material discovered on this property so we can
7 produce it themselves and not rely on outsourcing this material for their regional concrete plants. This is
8 why they are dedicated to investing so much time and money into this project because the need for
9 them is high when it comes to quality control; when they can control the materials that comprise the
10 final product, they can produce an overall higher quality product because it can be easily monitored in
11 house. Because of these specifications for the final product, outsourcing for aggregate material and
12 establishing a competitive price is challenging to control. If they can control the quality of the aggregate
13 materials, they can provide a much more competitive price to the consumer. The material discovered at
14 this property is the material they need to create high-quality final products. Ms. Hoover stated that this
15 pit under review would primarily supply the Kalamazoo and Benton Harbor markets. She also discussed
16 that this isn't just a number about volume but also that quality control specs from contracts are getting
17 much stricter and that if they are not the primary producer for their final product, it is more difficult to
18 have quality control. Cuthbert asked if Kaufman could reread the second MZEA question.

19
20 Grice asked capacity questions about their existing inventory amounts and wished he had more
21 information to determine their sufficient inventory numbers and the area's needs. Counselor Gerville-
22 Reache answered that this is a market question and that it isn't necessary as a local question but must
23 meet the test of the area market or the person. The Commission thanked Ms. Hoover for explaining this
24 further to them. Cuthbert asked if anyone had any other questions or if the Commission needed more
25 time to think. Goodenough thinks that it is well stated that the applicant and market have needs that this
26 site would support and that it would be ridiculous to continue to try and demand exact numbers and
27 figures to try and further decipher if they actually do have a need. He thinks this is obvious and finds Ms.
28 Hoover's statements and answers acceptable. He stated that this is his own opinion, though.

29
30 Goodenough motioned that the answers and evidence provided by the applicant meet the findings that
31 there is a need by the person or market for the valuable natural resources found at this property;
32 Steinkraus supported this. Cuthbert asked if there was any other discussion on this. Butchbaker
33 commented that the evidence supplied by Mr. Thompson of the Road Commission has assured him that
34 the roads will not be impacted to the extent that he first feared, this helps him greatly.

35
36 The motion Passed 5-1, with one opposed.

37
38 Cuthbert opened public comments.

39
40 Wayne Township resident commented that if the Road Commission is willing to send the traffic into
41 Dowagiac instead of using (James Griggs) Glenwood Avenue.

1 Brock Yordy asked about the Township's reaction time and the importance of listening to the residents
2 and informing the public about water levels.

3
4 Tyler Augst, MSU Extension, discussed his responsibility to provide a 2025 update and promote specific
5 planning and zoning education.

6
7 **New Business –**

8
9 **Meeting Scheduling.**

10
11 The Planning Commission agreed that the next meeting to discuss this application would be Monday,
12 January 27, 2025, at 6 PM at the Road Commission offices.

13
14 The Planning Commission also set a date to review the proposed Cass County Master Plan on February 4,
15 2025, at Volinia Township Hall.

16
17 **Adjournment –**

18
19 Butts motioned to adjourn the meeting at 9:00 PM, seconded by Steinkraus. The motion to
20 adjourn was approved.