

MINUTES

Mountrail County Planning and Zoning Commission May 29, 2018

Mountrail County South Complex 8103 61st St NW Stanley, ND 58784

Chairman Sorenson called the meeting to order at 8:30 a.m.

In Attendance

Board members present: Charlie Sorenson, Roger Hovda, Trudy Ruland, Arlo Borud, Gary Weisenberger, Linda Wienbar, Tom Bieri and Joan Hollekim.

Also present were, Nate Sem, Planning & Zoning Administrator, Jana Hennessy, Mountrail County Road & Bridge Engineer, Wade Enget, Mountrail County States Attorney, Lori Hanson, Mountrail County Tax Director, Teresa Captain, Mountrail County Deputy Tax Director, and Heather Greenlee, Mountrail County Deputy Auditor.

Public attending were Gene & Penny Moe, Rick Hovda, Jeff Meyers , Brett Brothers of North Water LLC, Paul Dvorak of Martin Construction, Garrett Houghton of Gravel Products, Landon Eskew of Highline Water LLC and Mike Childs of Bakken Water Resources Inc.

Absent were Bill Klug and Liz Hollowell, Planning & Zoning Administrative Assistant.

Approval of Agenda

Chairman Sorenson requested a motion to review and approve the current meeting agenda.

Commissioner Hovda moved to accept the agenda as is. Commissioner Borud seconded. Upon roll call, all present voted yes. Motion carried.

Applicant/Landowner: Eugene & Penny Moe and Ben Miller, landowners

Location: 120 acre tract of land described as the S½NE¼, SE¼NW¼ of Section 30, Township 156 North, Range 94 West (**Myrtle Township**)

Number of certified mailing receipts provided: 2

North Dakota Temporary Permit: None

Purpose: Sell water for fracking

Present: Gene & Penny Moe

Discussion: Mr. Moe stated they would be selling water as soon as they get their ND Temp water permit. They would be using only flat hose. Lori Hanson, Mountrail County Tax Director asked about the point of diversion.

Outcome: **Approved with contingencies.**

Motion: Moved by Commissioner Hollekim, seconded by Commissioner Borud to approve the zoning request filed by Eugene & Penny Moe and Ben Miller, landowners, for a variance permit to pump water from an unnamed slough for fracking on a 120 acre tract of land described as the S½NE¼, SE¼NW¼ of Section 30, Township 156 North, Range 94 West (**Myrtle Township**) contingent upon receiving the ND State Temp Water Permit, adhering to the terms and conditions of the ND State Temporary Water Permit, only using flat hose, landowners being contacted regarding hose placement and adhering to Mountrail County Road & Bridge temporary ROW Use requirements as Eugene & Penny Moe and Ben Miller have met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent on Eugene & Penny Moe and Ben Miller complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

Applicant/Landowner: Gravel Products Inc., Landowners

Location: 80 acre, more or less, tract of land described as the E½NW¼ of Section 29, Township 156 North, Range 90 West (**Palermo Township**).

Number of certified mailing receipts provided: 3

North Dakota Temporary Permit: ND2018-18734

Purpose: Pump water for washing aggregate

Present: Garrett Houghton with Gravel Product Inc.

Discussion: Mr. Houghton stated they would be washing aggregate for different gravel projects. Mr. Houghton stated they have holding ponds that they return the water to after using it and the ground filters the water back to the original slough. Commissioner Hollekim asked about the point of diversion, as the legal description on the ND State Temp water permit is different from the legal description on the application. Mr. Houghton stated they would be transferring the water to the pit and the lay flat hose would come out of the NE¹/₄NW¹/₄, so he used a larger legal to include where the hose was going to be laid. Gravel Products Inc. owns all the land affected.

Outcome: Approved with contingencies

Motion: Moved by Commissioner Hovda, seconded by Commissioner Ruland to approve the zoning request filed by Gravel Product Inc., landowners to pump water from an unnamed slough for washing aggregates on a 80 acre, more or less, tract of land described as the NE¹/₄NW¹/₄ of Section 29, Township 156 North, Range 90 West (**Palermo Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit ND2018-18734 valid May 1, 2018 through Nov 30, 2018 and only using flat hose as Gravel Product Inc. has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent on Gravel Product Inc. complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

8:36 Public Hearing *Variance Permit* **Highline Water LLC/Howell**

Applicant/Landowner: Highline Water, LLC in concurrence with Clayton Howell, landowner

Location: 160 acre, more or less, tract of land described as the NW¹/₄ of Section 13, Township 156 North, Range 91 West (**Idaho Township**).

Number of certified mailing receipts provided: 5

North Dakota Temporary Permit: ND2018-18455

Purpose: Pump water for fracking

Present: Landon Eskew of Highline Water LLC

Discussion: Mr. Eskew stated they would be using flat hose and no trucks. Vice Chairman Weisenberger asked if there were culverts there for them to cross the road. Mr. Eskew stated there were and they are working with Mountrail County Road & Bridge to get the permits needed to use them. Mr. Eskew stated they would also be working with Idaho Township Chairman to get permission from them as well.

Outcome: **Approved with contingencies.**

Motion: Moved by Commissioner Bieri, seconded by Vice Chairman Weisenberger to approve the zoning request filed by Highline Water LLC, in concurrence with Clayton Howell, landowner, for a variance permit to pump water (*ND State Temp Water Permit ND2018-18455*) from an unnamed slough for fracking on a 160 acre, more or less, tract of land described as the NW $\frac{1}{4}$ of Section 13, Township 156 North, Range 91 West (**Idaho Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit ND2018-18455 valid April 13, 2018 through April 12, 2019, only using flat hose, landowners being contacted regarding hose placement, no digging allowed in the area due to the Air Force HICS cables, getting Township approval and adhering to Mountrail County Road & Bridge temporary ROW Use requirements as Highline Water LLC has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent on Highline Water LLC complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

8:39 Public Hearing *Variance Permit* **North Water LLC/R Vesey**

Applicant/Landowner: North Water, LLC in concurrence with Roger Vesey, landowner

Location: SE $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 9) of Section 18, Township 155 North, Range 89 West (**McAlmond Township**).

Number of certified mailing receipts provided: 5

North Dakota Temporary Permit: ND2018-18136

Purpose: Pump water for fracking

Present: Brett Brothers of North Water, LLC.

Discussion: Mr. Brothers stated they do this yearly and there is an in-ground infrastructure there that they will be tying into. That system belongs to EOG. No trucks or flat hose will be used.

Outcome: Approved with contingencies.

Motion: Moved by Commissioner Borud, seconded by Commissioner Hollekim to approve the zoning request filed by North Water, LLC in concurrence with Roger Vesey, landowner, for a variance permit to pump water (*ND State Temp Water Permit ND2018-18136*) from Shell Lake for fracking on SE $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 9) of Section 18, Township 155 North, Range 89 West (**McAlmond Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit ND2018-18136 valid Dec 27, 2017 through Dec 26, 2018, only using flat hose if not using EOG's pipeline, landowners being contacted regarding hose placement and adhering to Mountrail County Road & Bridge temporary ROW use requirements where necessary as North Water, LLC has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent on North Water, LLC complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call, all present voted yes. Motion carried.

8:42 Public Hearing *Variance Permit* **Martin Construction Inc.**
/Hagen, Smith, Anhour, Lundt.

Applicant/Landowner: Martin Construction Inc. in concurrence with Shirley & Charles Hagen, Lavonee Smith, Lori Anhour, & David Lundt, landowners

Location: 40 acre, more or less, tract of land described as the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 20, Township 158 North, Range 89 West (**Crowfoot Township**)

Number of certified mailing receipts provided. 3, need one more.

Purpose: Pump water from an unnamed slough for road construction

ND Temporary Water permit: none

Present: Paul Dvorak with Martin Construction Inc.

Discussion: Mr. Dvorak explained the road projects that they are doing and they plan to use the water for dust control. Commissioner Hovda stated the application has the landowners listed as a trust. Lori Hanson, Mountrail County Tax Director stated the land is listed as a life trust and we should have the signatures of all landowners. Jana Hennessey, Mountrail County Road & Bridge Engineer stated Martin Construction Inc., hired by the Air Force and being paid by Federal

Highway funds, is helping the Air Force as well as Mountrail County as Martin Construction Inc. is doing the much needed road repairs. Chairman Sorenson asked if Mr. Dvorak could get the rest of the signatures. Mr. Dvorak stated it is in the process now and expects them all by the end of the week or so.

Outcome: Approved with contingencies.

Motion: Moved by Vice Chairman Wiesenberger, seconded by Commissioner Bieri to approve the zoning request filed by Martin Construction Inc., in concurrence with Shirley & Charles Hagen, Lavonee Smith, Lori Anhour, David Lundt, Nichole Hase & Ashley Kremer, landowners, for a variance permit to pump water from an unnamed slough for road construction on a 40 acre, more or less, tract of land described as the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 20, Township 158 North, Range 89 West (**Crowfoot Township**) contingent upon receiving a copy of the ND State Temporary Water Permit, adhering to the terms and conditions of the ND State Temporary Water Permit, all landowners signing the application and permit as Martin Construction Inc. has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent upon Martin Construction Inc. complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call vote, all present voted yes. Motion carried.

8:45 Public Hearing

Variance Permit

*Martin Construction
Inc. / Terry Stave*

Applicant/Landowner: Martin Construction Inc. in concurrence with Terry Stave, landowner

Location: 40 acre, more or less, tract of land described as the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27, Township 157 North, Range 88 West (**Stave Township**)

Number of certified mailing receipts provided: 2

Purpose: Pump water from unnamed slough for road construction.

ND Temporary Water permit: ND2018-18722

Present: Paul Dvorak with Martin Construction Inc.

Discussion: Mr. Dvorak stated this is the second part of the project.

Outcome: Approved with contingencies.

Motion: Moved by Vice Chairman Wiesenberger, seconded by Commissioner Borud to approve the zoning request filed by Martin Construction Inc. in concurrence with Terry Stave, landowner, for a variance permit to pump water (*ND State Temp Water Permit ND2018-18722*) from an unnamed slough for road construction on a 40 acre, more or less, tract of land described as the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27, Township 157 North, Range 88 West (**Stave Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit Number ND2018-18722 valid May 1, 2018 through October 31, 2018 as Martin Construction Inc. has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent upon Martin Construction Inc. complying with all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call vote, all present voted yes. Motion carried.

8:48 Public Hearing Variance Permit Martin Construction/Mau.

Applicant/Landowner: Martin Construction Inc. in concurrence with Ernest & Sharon Mau, landowners

Location: 40 acre, more or less, tract of land described as the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, Township 158 North, Range 88 West (**Lowland Township**).

Number of certified mailing receipts provided: 5

Purpose: Pump water from unnamed slough for road construction.

ND Temporary Water permit: ND2018-18845

Present: Paul Dvorak with Martin Construction Inc.

Discussion: Mr. Dvorak stated this is the last part of the project.

Outcome: **Approved with contingencies.**

Motion: Moved by Commissioner Borud, seconded by Commissioner Hovda to approve the zoning request filed by Martin Construction Inc., in concurrence with Ernest & Sharon Mau, landowner, for a variance permit to pump water (*ND State Temp Water Permit ND2018-18845*) from an unnamed slough for road construction on a 40 acre, more or less, tract of land described as the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, Township 158 North, Range 88 West (**Lowland Township**) contingent upon the terms and conditions of the ND State Temporary Water Permit Number ND2018-18845 valid June 1, 2018 through November 30, 2018 as Martin Construction Inc. has met all criteria as set forth in Article IV, Section V of the Mountrail County Zoning Ordinance and is further contingent upon Martin Construction Inc. complying with

all other terms and conditions of the Mountrail County Zoning Ordinance. Upon roll call vote, all present voted yes. Motion carried.

**8:51 Public Hearing Variance Bakken Water Transfer Ser/ Debertin,
Olson & Winermute**

This application was tabled in March and must be un-tabled to proceed.

Motion: Moved by Commissioner Ruland, seconded by Commissioner Hollekim to un-table the zoning request filed by Bakken Water Transfer Services Inc., in concurrence with Richard Debertin, David Debertin, Kyle Debertin, Tanja Olson & Tamara Wintermute, landowners, for a variance permit to pump water from Shell Creek for fracking on a 40 acre, more or less, tract of land described as the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, Township 152 North, Range 90 West (**Parshall Township**) to move forward with the application. Upon roll call, all present voted yes. Motion carried.

Applicant/Landowner: Bakken Water Transfer Services Inc., in concurrence with Richard Debertin, David Debertin, Kyle Debertin, Tanja Olson & Tamara Wintermute, landowners

Location: 40 acre, more or less, tract of land described as the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, Township 152 North, Range 90 West (**Parshall Township**)

Purpose: Creek water for fracking

Present: Mike Childs with Bakken Water Transfer Services Inc.

Discussion: Commissioner Hovda asked if Mr. Childs had seen the creek recently. Mr. Childs stated he was heading down there after the meeting. Commissioner Hovda asked Rick Hovda, landowner, if he had seen the creek. Mr. Hovda stated it is lower than normal. Chairman Sorenson asked if all signatures were present. Nate Sem, Planning & Zoning Administrator stated they were. Chairman Sorenson asked how Mr. Childs what he was going to do with the landowners that had concerns. Mr. Childs stated EOG would handle that. Chairman Sorenson stated Mountrail County is an agricultural county first and that is why he asked the question. Commissioner Hovda asked if EOG had plans of pumping from that site if approved today. Mr. Childs stated tentatively.

Rick Hovda, landowner, stated there is not enough water in Shell Creek, with them using the creek to water their pastures, for any nonagricultural use. If it continues to get warm, the creek will dry up and then there will not be water for any use.

Commissioner Bieri asked if the Water Resources Commission monitors sites. Commissioner Hovda stated no. A person would just report to them how much water they used. Commissioner Ruland stated it was important that landowners get on record of their concerns on water permits from Shell Creek. Commissioner Hollekim asked Mr. Hovda if he had contact the State. Mr. Hovda stated he did and was told they would monitor the situation. Commissioner Borud stated it was important for Mr. Hovda's cattle to have enough water. Commissioner Hollekim stated the points made are very legitimist concerns to not approve this permit.

Outcome: Denied

Motion: Moved by Commissioner Hovda, seconded by Commissioner Borud to deny the zoning request filed by Bakken Water Transfer Services Inc. in concurrence with Richard Debertin, David Debertin, Kyle Debertin, Tanja Olson & Tamara Wintermute, landowners, for a variance permit to pump water from Shell Creek for fracking on a 40 acre, more or less, tract of land described as the NW¼NW¼ of Section 9, Township 152 North, Range 90 West (**Parshall Township**) due to the drought conditions. Upon roll call, all present voted yes. Motion carried.

Approval of Building Permits

Permit No.	Name/Address of applicant	Legal Description	Sec	Township	Range	Township Name	Building type
2011	Bakken Transload 8836 62nd St NW Ross, ND 58776 bwentz@bakkentrasload.com 701-690-1831	S½SE¼	20	156	92	Ross	Pole barn
2012	Jacob Wilson PO Box 1444 Stanley, ND 307-299-6467	SW¼SW¼ Knife River Valley Estates	1 Lot 9	155	92	Alger	Single Homestead
2013	Wade Williamson Jr 3590 72rd Ave NW PO Box 239 Parshall, ND 58770 701-898-0054	NW¼ Govt Lot 4	6	151	89	Banner	Addition To House
2014	Mattson Construction 4321 E Burdick Expy Minot, ND 58701	NW¼SW¼	5	151	90	Fertile	Owner: Doug

	701-852-3293 tim@projectdelivery.com		Lot 1				Johnson Shop
--	--	--	-------	--	--	--	--------------

A discussion was held on Section 6, Township 151, Range 89 in Banner Township being inside Parshall zoning authority.

Motion: Moved by Commissioner Hovda, seconded by Commissioner Hollekim to approve building permits 2011 to 2014. Upon roll call, all present voted yes. Motion carried.

Approval of Minutes

Motion: Moved by Commissioner Hovda, seconded by Commissioner Hollekim to approve the May 29, 2018 minutes as corrected. Upon roll call, all present voted yes. Motion carried.

Staff Concerns

- Brendle’s Bay Update - Nate Sem, Planning & Zoning Administrator reported he visited the site and there are campers still in Brendle’s Subdivision with no signs of those landowners starting to build. The landowners with camper have received Cease and Desist notices previously. The Board received a list of building permit granted in 2017. Each of the building permits were discussed to identify the landowners still not in compliances. Mr. Meyers shared his concerns about those landowners still having campers. Wade Enget, Mountrail County States Attorney stated those building permits will not be extended if no building is evident. Commissioner Ruland stated the definition of active building should be tighter. Mountrail County States Attorney Enget stated he would work with Nate Sem, Planning & Zoning Administrator to draft a letter for those people with building permit expiring soon.
- Wade Enget, Mountrail County States Attorney asked the Board if they had any comments on the TUP, hose placement permit and/or checklists. A discussion was held on the pump and hose placement. Jana Hennessy, Mountrail County Road & Bridge Engineer stated that Road & Bridge has a Temporary ROW Use Permit that must be applied for to place the water hose. This is only for county roads and unorganized townships. Chairman Sorenson reminded that Mountrail County’s easements take precedence. It was agreed the Planning & Zoning hose placement checklist would be handled administratively with no fee. The temporary use permit would be handled like a variance permit needing to be published with landowner notifications. The fee for the TUP would be \$250.00. Wade Enget, Mountrail County States Attorney stated he would create the

ordinance for the TUP and the checklists. Commissioner Ruland stated it would be best to make the hose placement checklist handled administratively to encourage compliance. Commissioner Hollekim asked if Planning & Zoning ordinances would need to be changed to include these new permits and checklists. Wade Enget, Mountrail County States Attorney stated this process would most likely be placed under agriculture district. Chairman Sorenson stated this process could effectively be placed under all zoning districts.

Board Concerns

Commissioner Ruland asked about the outcome of the 15 campers sitting in a gravel pit. Nate Sem, Planning & Zoning Administrator stated he hasn't been able to get ahold of them. Chairman Sorenson stated it was Central Specialties campers in Fisher's Sand & Gravel's pit. Wade Enget, Mountrail County States Attorney suggested Planning & Zoning Administrator Sem should follow up with them to get the camp(s) into compliance.

Vice Chairman Wiesenberger recommended a swift solution to the Brendle's Subdivision RV situation.

Wade Enget, Mountrail County States Attorney outlined some of the issues with the White Earth Bay subdivision. Seems several residents did not know where the road easements were and built too close.

Commissioner Borud asked about the old Solberg place north of Stanley on Highway 8, which now has three campers on it again. Commissioner Borud recommended Nate Sem, Planning & Zoning Administrator check the location out.

Commissioner Wienbar asked about the rig mats located by Palermo and how the affidavit was coming. Wade Enget, Mountrail County States Attorney stated he will work with Nate Sem, Planning & Zoning Administrator to get the affidavit ready.

Commissioner Wienbar also asked about Stanley Blaisdell RV park. She stated they are piling up garbage on the north side. Commissioner Ruland stated their CUP is expired. Chairman Sorenson stated Planning & Zoning should look into that.

Commissioner Hollekim requested a list of "soon to expire" conditional use permits be generated regularly to keep Planning & Zoning Board aware. Nate Sem, Planning & Zoning Administrator stated that can be done.

Wade Enget, Mountrail County States Attorney stated he would verify Parshall's boundary to see if they have a mile or half mile and let the Board know.

Commissioner Ruland recommended Planning & Zoning look at Sanish Subdivision being rezoned to residential as that what it is supposed to be. Commissioner Borud asked about the road right of way boundaries, as it is clear there are things in the highway right of way now. Commissioner Hollekim stated Road and Bridge has maps showing that.

Next Meeting

Next regular meeting of the Mountrail County Planning & Zoning Board is **Monday June 25, 2018** at 8:30 am at the Mountrail County South Complex, 8103 61st St. NW Stanley, ND 58784.

Meeting adjourned at 10:20 a.m.

Approval

Accepted and approved this 25th day of June 2018

Charlie Sorenson, Chairman
Mountrail County
Planning & Zoning Commission

Liz Hollowell
Administrative Assistant
Planning & Zoning