

1 Volinia Township Planning Commission  
2 ADOPTED Minutes of the August 29, 2024 Meeting

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4 The Volinia Planning Commission held a special meeting on August 29, 2024, at 6:00 p.m. at the Cass  
5 County Road Commission offices, 240 N. O’Keefe Street, Cassopolis, MI.

6  
7 Present:

- 8 1. Bruce Butchbaker  
9 2. Frank Ross  
10 3. Jeff Steinkraus  
11 4. Denny Grice  
12 5. Randy Cuthbert, Chair

13  
14 Absent:

- 15 1. Dave Goodenough  
16 2. Ron Butts

17  
18 Also Present:

Catherine Kaufman, Township Attorney  
Bradley Kotrba, Township Planning Consultant  
Beth Middleton-Pompey, Township Zoning Administrator  
Chip Tokar, Natural Resources Management (NRM)  
Approximately eight members of the audience including Mary Fosdick, Brock Yordy, Nate  
Robinson, and Peg Yordy.

24  
25 The Pledge of Allegiance was recited.

26  
27 Call To Order –

28  
29 At Chairman Cuthbert’s request, Commissioner Butchbaker called the roll. Commissioner Butts  
30 and Commissioner Goodenough were not present at tonight’s meeting. All others were present.

31  
32 Approval of Agenda –

33  
34 Cuthbert asked Attorney Kaufman to discuss the purpose and agenda for this evening’s meeting.  
35 She explained that even though some Commissioners discussed a possible closed session for discussion  
36 before the meeting, the Planning Commission cannot go into a closed session at this meeting because  
37 she does not have a written legal opinion prepared to justify the reason for going into a closed session.  
38 She then walked the Commissioners through the purpose of this meeting: to review the staff reports  
39 written by Planner Kotrba and discuss them. She also noted that the applicant is present if the Planning  
40 Commission chooses to ask the applicant questions. Also, staff will supply the Planning Commission with  
41 further reports, specifically on the hydrogeological engineering review, and will be distributed the week  
42 before the meeting. Attorney Kaufman did mention that a public hearing will be scheduled for

1 Wednesday, September 19, 2024, at 6:00 PM at the Cass County Road Commissioner offices (340 N.  
2 O’Keefe Street, Cassopolis) and that a public hearing notification will go out, as required by statute to all  
3 the land owners within 300 feet of the property boundaries as well as being noticed in the local  
4 newspaper.

5  
6 Approval of the Minutes of the July 2, 2024 Regular Meeting and July 2, 2024 Closed Session –

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8 Cuthbert then moved to the approval of the July 2, 2024, Regular Meeting Minutes and the July  
9 2, 2024, Closed Session Minutes. Cuthbert asked if any of the Commissioners needed time to review the  
10 minutes of the July 2 sessions; no commissioner requested additional time to review the meeting  
11 minutes from both July 2<sup>nd</sup> sessions. Cuthbert then stated he would entertain a motion to adopt the  
12 regular and closed session meeting minutes from July 2, 2024. Grice motioned to adopt the regular and  
13 closed session minutes from the July 2, 2024, Planning Commission meetings as presented. Ross  
14 supported the motion to adopt the minutes as presented. Motion carried.

15  
16 Public Comment –

17  
18 Cuthbert informed the public that this was the time to address the Planning Commission with  
19 public comment and that each person would have three minutes to speak. There was no public  
20 comment, so Cuthbert moved to the next agenda item.

21  
22 Old Business –

23  
24 Discussion of High-Grade Materials Application for Extraction Operations Special Land Use  
25 Permit

26  
27 Cuthbert asked Attorney Kaufman how she would like to discuss the staff reports. Kaufman  
28 noted that Planner Kotrba will present his review of both staff reports to the Planning Commission.  
29 Kaufman stated that there are two separate reports: the first is dated August 8, 2024, which is the *final*  
30 *determination of completeness* report, and the second report is dated August 21, 2024, which is his staff  
31 report for the *complete review of the application materials* and comments therein pertaining to this  
32 review. Planner Kotrba will address the Planning Commission and walk the Commissioners through his  
33 reports. He is available to answer questions regarding the review materials and subsequent reports.

34  
35 Planner Kotrba addressed the Planning Commission and explained that he wrote a preliminary  
36 review for completeness report dated May 29 2024. However, because the applicant did not submit the  
37 final application and all attached materials until June 11, 2024, Mr. Kotrba held off his final  
38 determination of completeness until a later date to thoroughly review the materials. Kotrba explained  
39 that per Article 14 and Section 7.9 (A), all the materials listed in the Site Plan Review, Special Land Uses,  
40 and Extraction Operations must be submitted and accepted as a complete application before further  
41 Planning Commission review and that is crucial to have a thorough record of a review for completeness  
42 during the process. Kotrba then spent the next several minutes walking the Planning Commission

1 through the Completeness Report submitted on August 8, 2024, and all the items that the application is  
2 required to contain per Section 15.2 (Special Land Use applications), Section 7.9 (submission  
3 requirements for Extraction Operations), Article 14 (Final Site Plan submittal requirements), and Section  
4 2.6 (assurance of performance guarantees). Kotrba recited each submission item required, the required  
5 zoning submission section, and whether the item was or was not submitted. If the item was present in  
6 the application or noted on the plan(s), the location of that submission requirement was provided for  
7 the Planning Commission. Kotrba mentioned that some things were not included initially because the  
8 applicant would give them. After walking the Planning Commission through the application  
9 completeness report, Planner Kotrba felt that this was a complete application and that the minor items  
10 mentioned would be provided to the Commission at a later date. Therefore, he thought that the  
11 Planning Commission had a complete application submission from the applicant and that it could  
12 schedule a public hearing at a future date when they are so inclined and feel confident the material  
13 required has been submitted. Attorney Kaufman noted that the Planning Commission has the authority  
14 to request additional information throughout the process to make a more informed decision beyond the  
15 minimum requirements outlined in the Zoning Ordinance.

16  
17 Planner Kotrba then moved on to his application review report dated August 21, 2024, and walked the  
18 Planning Commission through the review of the Site Plan packet, the standards for site plan review, and  
19 the standards for special land use. He did note that he felt confident that the Planning Commission could  
20 determine that many of these items were satisfactorily met. However, several items had comments and  
21 observations that the Planner believes should be inquired into more by the Planning Commission.

22  
23 After proceeding through his summary of the site plan review and special land use standards, Planner  
24 Kotrba asked Attorney Kaufman if she would like him to walk the Planning Commission through the Very  
25 Serious Consequences items. Kaufman responded that she would like him to state only those six items  
26 for the Planning Commission. He then read off the six items, as defined by the Michigan Zoning Enabling  
27 Act, regarding very serious consequences for the impact of an extraction operation on the community.  
28 Kaufman and Kotrba stated that the Planning Commission must determine each of the serious  
29 consequences regardless of Planner Kotrba's comments on these items. Kotrba explained that his  
30 comments do not have a conclusion or determination, only observations or items that the Planning  
31 Commission may wish to converse about with the applicant and amongst themselves.

32  
33 At the conclusion of Kotrba's review of each report, Kaufman noted that if the Commission has any  
34 further questions for Kotrba or the applicant, this is the time to ask. Or, if the Planning Commission  
35 would like to take more time to review the materials and meet again at the next meeting on September  
36 19th, they can do so.

37  
38 One member of the public requested to comment. Kaufman responded that the public comment session  
39 on the agenda had already been completed; however, if the Planning Commission Chair would like to  
40 receive questions or comments from the public, they may do so. Cuthbert did acknowledge the member  
41 of the public and permitted her to speak. Her question was about the impact of the proposed use on the  
42 local water table and water resources that all other people in the areas also use. Cuthbert recognized her

1 concern and confirmed with Kotrba and Kaufman that the Planning Commission will be receiving a  
2 hydrogeological report from Dan Whalen, PE, a hydrogeological engineer at Williams & Works, Inc. from  
3 Grand Rapids at the September 19, 2024, public meeting. Kaufman also noted that these reports and all  
4 the application material are public information and are available for the public to review.

5  
6 Cuthbert then asked Kaufman if she could inform the public about the procedure for the next meeting,  
7 the public hearing. Kaufman explained that the meeting on September 19, 2024, at the Road  
8 Commission offices will be the required public hearing for this special land use, as outlined by the  
9 Michigan Zoning Enabling Act. Kaufman noted that the Planning Commission is required to hold a public  
10 hearing for this application and that all residents within 300 feet of the property will receive letters in the  
11 mail notifying them of the meeting and that a public hearing notice will also be published in the  
12 Marcellus News no less than 15 days before the meeting date. A member of the public asked if the  
13 Township could also publish in the Decatur paper as well. Kaufman stated that it would be up to the  
14 Township if they would like to publish in two different publications. She then explained that at the public  
15 hearing, each person would be able to speak, and usually, the speaker is provided three minutes or a  
16 stated amount of time to state their comment. However, at every Planning Commission meeting during  
17 this process, there will be a time for the public to comment because that is a requirement of the  
18 Michigan Open Meetings Act. Kaufman did reiterate that although the Planning Commission will hold the  
19 public hearing and that the work will be done at this Planning Commission level, it will be passed on to  
20 the Township Board in the form of a recommendation from the Planning Commission and that the  
21 Township Board will make the final decision for this application.

22  
23 Cuthbert asked the Planning Commission if they had any further questions for staff or the consultants.  
24 Steinkraus inquired whether this application, if approved, would be all-inclusive for all minerals that may  
25 be discovered on the site, in addition to just sand and gravel. Kaufman stated that a special land use  
26 permit approval would typically be all-inclusive for mineral extraction. However, it was noted in the  
27 application materials, as Kotrba stated in his review, that some other uses, such as temporary asphalt or  
28 concrete plants, may potentially be installed on-site. Therefore, if the Township Board approves the  
29 Special Land Use permit and the submitted Site Plan, any other items or uses should be recorded in the  
30 approval. So, it is critical for the Planning Commission and the Township Board to inquire and get on the  
31 record what will be done and, specifically, what activities will be performed on this site now and in the  
32 future. Kaufman said that the Township Zoning Ordinance permits an Extraction Operation approval  
33 period for only five (5) years, and then the applicant would have to come back for another approval. So,  
34 the applicant will attempt to get authorization to provide them with the greatest ability to use the site as  
35 they would like.

36  
37 Kaufman noted that this is a Special Land Use, and as such, even though it is identified in the district as a  
38 potential use, it must be reviewed more stringently. A special use application must satisfactorily meet all  
39 the standards outlined in the ordinance and may include any additional reasonable conditions applied to  
40 the approval of the permit. That's why it is essential to ask all the questions outlined in the planners'  
41 report so that all information is gathered and can be used to make informed decisions. Steinkraus then  
42 asked would handle the bond for the next thirty-plus years; Kaufman responded that the Township

1 Treasurer is responsible for handling the bond. Ross asked what is the likelihood that this site or another  
2 site operation may expand across the road and expand the overall area. Kaufman said there is no way to  
3 say at this time, but it is up to the property owner. However, she explained that under State law,  
4 additional standards are applied to gravel mines under the Zoning Enabling Act and that if it meets these  
5 standards and satisfactorily meets the very serious consequences test, the local authority should  
6 approve. It is written this way because it has been determined at the state level that gravel is only  
7 located where it is located and not everywhere. Therefore, if you have valuable resources identified and  
8 meet all the standards of the Zoning Enabling legislation, then the application should be approved. So, it  
9 is possible that if there is gravel here, another mine may open up nearby; we can't say it won't happen.  
10 The Commission asked no other questions. Cuthbert stated that he would seek a motion to adjourn the  
11 meeting if there were no other comments or questions.

12

13 New Business—None

14

15 Adjournment –

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17 Ross motioned to adjourn the meeting at 7:14 PM, seconded by Grice. The motion to adjourn  
18 was approved.

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