

**Plan Commission  
87 Galligan Road  
Gilberts, IL 60136  
Meeting Minutes  
December 8, 2010**

**Call to Order**

Chairman Hagen called the meeting to order at 7:00 p.m.

**Roll Call/Establish Quorum**

Roll call: Members present: Commissioners McHone, Borgardt, del Vecchio, and Hacker, and Chairman Hagen. Vice Chairperson Davidowski arrived at 7:02 p.m. Also present were ex-officio Biver and Administrator Keller. For members of the audience please see the attached list.

Not present were Commissioners Fatigato, Zoerhoff, Sullivan and ex-officios Brown and Mills.

**Approval of Minutes**

**A motion was made by Commissioner Borgardt and seconded by Commissioner del Vecchio to approve the minutes from November 10, 2010.** Vote: 4-ayes (Commissioners McHone, del Vecchio, and Hacker, and Chairman Hagen). 0-nays. 1-abstain (Commissioner Borgardt). Vice Chairperson Davidowski wasn't present at this time.

A brief clarification was made regarding the detached garages that were referenced on page 5, the second paragraph under Communications.

**New Business**

**Public Hearing: Amending a Special Use Permit for Elgin Recycling-Continued from November 10, 2010**

**A motion was made by Commissioner Borgardt and seconded by Commissioner del Vecchio to reopen the public hearing.** Vote: 6-ayes (Commissioners McHone, Borgardt, del Vecchio, and Hacker, Vice Chairperson Davidowski and Chairman Hagen). 0-nays. 0-abstain. Motion carried.

Mark Schuster, attorney from SBFKS&V located in Elgin, IL, stated that he had a number of witnesses and exhibits that he was going to be presenting before the Plan Commission. He proceeded to call the first witness to the podium.

William Dettmer, CBO of International Codes Consultants and Inspections, Incorporated, stated that he has been working for the company for 16 years, and he has been in the line of business for 40 years. He has measured sound levels approximately 100 to 200 times. He measured the sound levels emitted from 46 East End Drive on December 6 and December 7. On each of these two dates, Mr. Dettmer tested the noise level on two

occasions. The equipment was previously used and had been calibrated in October 2010. The readings were done on December 6, 2010 from 10:00 a.m. – 10:30 a.m., and then again from 1:35 p.m. – 2:20 p.m. On December 7, 2010 readings were done from 10:30 p.m. – 11:30 p.m., and again on the same day from 1:00 p.m. – 2:00 p.m. Mr. Mark Schuster proceeded to distribute a summary of Mr. Dettmer's findings to the Plan Commission, which for the record is labeled Exhibit 1. According to his findings, Mr. Dettmer stated that on the 4 separate occasions that he did the readings, he found that there were several violations to the Village Code in relation to the section relevant to the sound. He did review the Village Code before taking the readings. He proceeded to explain to the Plan Commission how he interpreted the Village Code. Mr. Dettmer explained Section 13.3-5 Noise from the Village Code. He stated that he started with 74 decibels as the Village Code baseline. Using 13.3-5, 2 "Table Corrections," he proceeded to add 5, subtract 5, and subtract another 5. After those calculations, he determined that the new baseline was 69 decibels.

The following are the results of the readings:

- 1<sup>st</sup> Reading – 5 out of 7 were above the allowed limit
- 2<sup>nd</sup> Reading – 10 out of 10 were above the allowed limit
- 3<sup>rd</sup> Reading – 12 out of 15 were above the allowed limit
- 4<sup>th</sup> Reading – 30 out of 34 were above the allowed limit

Mr. Dettmer stated that during one of the tests he felt the ground shake.

He then explained where he was standing while recording the tests. He was approximately 5 feet from the fence line on the south side of the commercial building. All of the readings were done from the same spot.

Mr. Schuster stated for the record that out of the 66 total readings, 57 were above the limit.

Commissioner McHone questioned whether the device used measured the sound in the air or from the ground. Mr. Dettmer's response was in the air. He restated that he felt the ground shake, but he didn't have a device to measure the sound waves through the ground. His main goal was to deal with the sound in the air.

Mr. Dettmer explained again how he used the table from section 2 under 13.5-5 Noise to determine the baseline for the sound level. He added that all of the recordings were taken once the meter stopped moving, and he wasn't between two structures when he took the measurements. Administrator Keller added that Village staff do not have the expertise demonstrated by Mr. Dettmer.

When asked by Vice Chairperson Davidowski, Mr. Dettmer informed the Plan Commission that he teaches building inspectors how to use the testing equipment. There aren't any regulations on where to stand while taking the tests, and for these readings the buildings were low structures, a fence was present, and there were low wind speeds at the recording times.

Mr. Dettmer added that the Village refers to the American Standard Association in the Code, but the year isn't referred to. If the Village did refer to a year, then he would have been required to refer to that year while interpreting the law.

Chairman Hagen asked Mr. Dettmer whether he spoke with Chief Building Inspector Swedberg. The response was no. He did read his memo regarding the noise tests. Chairman Hagen added that he felt Chief Building Inspector Swedberg's results were significantly lower. Mr. Dettmer stated that there could be a difference due to the date of the tests, the conditions, and the times they were taken. Mr. Schuster said that he didn't find the results significantly different. He said that Mr. Swedberg's readings ranged from 60.2 decibels to 79.4 decibels.

The baseline will always be 69 decibels for Elgin Recycling.

Administrator Keller asked Mr. Dettmer if the noises coming out of the business were typical of other businesses in industrial areas. The response was yes. When asked if he felt the Village's Code was out dated, Mr. Dettmer said he felt it could use some improvement.

Ben Anstett of Geneva, IL took a video surveillance. The still photos he took from the video were entered as exhibits. Exhibit 2, Group A, a set of 38 pictures, was distributed to the Plan Commission. Below some of the pictures were comments written by Mr. Anstett. He proceeded to explain what was happening in a few of the photos. Photo # 31 shows a white semi truck blocking the driveway to Mr. Tim Polk's property. Photo # 12 shows a school bus being delivered for recycling.

Mr. Anstett stated that he completed 10 days of observations. If trucks couldn't enter the facility right away, they would park on East End Drive. They would sit anywhere from a few seconds to several minutes. One truck parked on East End Drive for 30 minutes. Many drivers would let their trucks idol. The driver would enter Elgin Recycling, go back to the truck, and then drive into Elgin Recycling. According to the original special use granted to Elgin Recycling, vehicles are supposed to wait on Elgin Recycling's property, not on Village streets. If someone were to complain, the complaint would go to the police department or to the building inspector.

Mr. Anstett added that there was photo evidence of cranes picking up “white goods.”

Next, Exhibit 2, Group B was distributed to the Plan Commission. He worked 40 hours over a 10 day period to gather these photos. The original special use states that all material must be placed inside overnight or in covered roll off containers. Photo #10 shows a roll off container that can be seen from Mr. Polk’s property, and the salvage was left uncovered. Mr. Anstett stated that he waited until no one was working in the yard before he took the photos, and he did have a night vision camera. A few of the Plan Commissioners commented on how multiple photos had the same date and time labeled on them. Mr. Anstett said that he remained stationary while he scanned the yard with the camera. Any still photos that were taken from the recorded video within a minute would have the same time labeled in the corner.

Then Exhibit 2, Group 3 was distributed to the Plan Commission. Photo #1 shows a truck that was dismantled inside the scrap yard of Elgin Recycling. The process took over 40 minutes. Photo #8 shows Elgin Recycling taking in a refrigerator. Photo # 14 and 30 show water heaters being taken in. The crane would pick up the product, and then drop it. Dust would fly in the air and float onto Mr. Polk’s property. Photo # 19 shows an industrial air conditioning unit. Mr. Anstett tried to measure the amount of dust that settled onto Mr. Polk’s property. He laid a tarp on the ground. However, it got wet due to the weather, so the dust and debris couldn’t be measured.

He added that employees began working in the yard before 6 a.m. He said that he also felt the ground shake at times.

Tim Polk, the contract purchaser for the property to the north of Elgin Recycling, stated that he purchased a meter to complete sound readings. He completed the tests on December 6 and 7, 2010. He stood in the same spot as Chief Building Inspector Swedberg did while taking readings. The device used was bought from Radio Shack, and it’s the only one they carry. The readings he took on December 6, 2010 ranged between 75 and 90 decibels. The readings he took on December 7, 2010 ranged between 78 to 86 decibels. He took photos as well showing open debris on the yard, open debris over night, trucks parked on East End Drive, a vehicle blocking the driveway to Mr. Polk’s shopping Center, and torches cutting a metal trailer apart in the yard. He added that it was his opinion that Mr. Dettmer stood 25-30 feet from the fence, not 5 feet as Mr. Dettmer thought.

Mr. Polk stated that he never noticed Elgin Recycling taking in “white goods” until he viewed Exhibit 2, Groups A, B, and C. He added that dust is constantly in the air. He has 9 tenants in his buildings, and he has received noise and vibration complaints from them. Mr. Polk has observed noise and vibrations as well. He added that a few of

Chief Building Inspector Swedberg's readings show that Elgin Recycling is in violation of the noise ordinance.

Richard House of Geneva, IL made observations at Elgin Recycling before the start of the Plan Commission. He pulled into the main entrance of Elgin Recycling. A truck went around him, dumped a large load. Then a claw proceeded to pick up the debris. He was then informed that he needed to remove himself from the property. When asked, Mr. House stated that he thought the property was paved. There was a cement area for weighing trucks. Mr. Polk added that he was unsure whether the property was paved.

Mr. Schuster informed the Plan Commission that they could deny the petition to amend the special use. Once Elgin Recycling complies with the original special use, then Elgin Recycling could petition to amend the special use to accept white goods.

Commissioner del Vecchio asked Mr. Polk whether Elgin Recycling was in business when he purchased his property. The response was no. Mr. Polk is concerned that his tenants may not renew their leases. He added that he follows the Village Code, and he would appreciate if other businesses did as well.

In Mr. House's opinion Elgin Recycling is a processing plant, not a recycling plant because they are tearing apart vehicles. Administrator Keller stated that the Village doesn't have a way to distinguish between a recycling plant and a processing plant. He added that the Village doesn't have a definition of a recycling center either. The original special use granted to Elgin Recycling was consistent with a previous special use granted to another recycling center in the Village.

Mr. Schuster said that at a previous meeting, Mr. Conroy stated that crushing wasn't being done outside of the building. It is Mr. Schuster's opinion that crushing is occurring outside.

Steven Schultz, owner of Tessororf Mechanical on Center Drive stated his concern for ground pollution, if vehicle engines are being torn apart. He said that there should be special containers to hold the oil, and he is concerned that the proper steps aren't being taken to remove the oil.

Mr. Schuster stated that there hasn't been any evidence of an adequate plan ever being put in place for proper containment of oil and "white good" components.

Commissioner Hacker asked if anyone witnessed leaking of fluids during the observation. The response was no.

**A motion was made by Commissioner Borgardt and seconded by Commissioner McHone to close the public hearing.** Vote: 6-ayes. (Commissioners McHone, Borgardt, del Vecchio, and Hacker, Vice Chairperson Davidowski and Chairman Hagen). 0-nays. 0-abstain. Motion carried.

Commissioner Borgardt and McHone feel that Elgin Recycling has been in violation of the Village Code and their original special use.

Commissioner Hacker stated his concern for Elgin Recycling not being in compliance with their original special use and his concern for the noise.

Commissioner del Vecchio stated that she feels the Village should look into the hours of operation, if any oil or gas is being spilled, the trucks parking on East End Drive, and the noise.

Vice Chairperson Davidowski questioned how it is known that “white goods” have been properly removed.

**A motion was made by Commissioner Hacker and seconded by Vice Chairperson Davidowski to recommend to the Village Board denial of the amendment to the special use permit for Elgin Recycling.** Vote: 6-ayes. (Commissioners McHone, Borgardt, del Vecchio, and Hacker, Vice Chairperson Davidowski and Chairman Hagen). 0-nays. 0-abstain. Motion carried.

#### **Old Business**

There wasn't any old business to report.

#### **Communications**

.Attorney Tappendorf and Administrator Keller will be hosting a training meeting available to the Plan Commission members and possibly other members in neighboring communities in late May or early June.

#### **Adjournment**

There being no further business to discuss, **a motion was made by Commissioner Borgardt and seconded by Commissioner McHone to adjourn the meeting at 8:42 p.m.** Unanimous Voice Vote: all ayes. Motion carried.

Respectfully submitted,

Karen Danca, Recording Secretary