

MINNESOTA ENVIRONMENTAL QUALITY BOARD
MEETING MINUTES
Thursday, March 17, 2004
Pollution Control Agency Board Room

EQB Members Present: Robert A. Schroeder, Bruce Bomier, Sheryl Corrigan, Art Dunn, Brenda Elmer, Gene Hugoson, Matt Kramer, Susan McCarville, Dianne Mandernach, Gene Merriam, Glenn Wilson and Paige Winebarger

EQB Members Absent: Dana Badgerow, Jonathon Bloomberg, Jerome Deal, and Lt. Governor Molnau

Also in attendance were: Ronald Harnack for the Board of Water and Soil Resources and Sheila Reger for the Department of Administration

I. Adoption of the proposed Agenda for the November 18, 2004 meeting and Minutes from the October 21, 2004 Environmental Quality Board Meeting

Commissioner Mandernach made a motion that the minutes and proposed agenda be adopted and Commissioner Kramer seconded. The motion passed unanimously.

II. Executive Director's Report:

Michael Sullivan summarized the handouts to members. The handouts included: a letter from the Metropolitan Council, a map of the ag preserve area and a map showing the MUSA area in regard to the early termination of ag preserve status of land in Farmington by eminent domain action of Farmington ISD 192. There are also 2 letters to Judge Mihalchick in regard to the off road vehicle rulemaking process. The comments and rebuttal period ended March 16, 2005 on the rulemaking process and the administrative law judge will prepare his report in the next 30 days. We would expect to bring this proposal for final Board action by the June Board meeting.

Mr. Sullivan also updated Board members on the Xcel 345 kV transmission line. Hearings with Judge Klein presiding were held on four days in four counties the first week of March. We have received many comments on specific routes, double circuit reliability, and in regard to the fairness of the compensation issue. The hearing record closes on March 25th, the report will not be back from the hearing examiner until May so the route permit decision will probably be back in front of the Board by June.

Finally, in regard to the Monticello Dry Cask storage issue. The draft EIS scope has been prepared by your staff and is out for public comment. The scoping comment period ends on April 13th with public scoping meeting scheduled in Monticello on April 4th. Staff would hope that the scoping decision would come to the Board in May. The biggest issue there is the scope of state versus the national Nuclear Regulatory Commission jurisdiction particularly on health and safety issues and scope of alternatives that would be looked at and analyzed in the draft environmental impact statement.

III. Legal Counsel Report:

Legal Counsel: Dwight Wagenius stated that he had nothing on which to report.

IV. *GRE Cambridge Station, approximately 170 MW Combustion Turbine

Bill Storm, EQB staff, summarized that on March 11, 2005, Great River Energy (GRE) submitted to the Minnesota Environmental Quality Board (MEQB) a site permit application regarding the Cambridge Station. On February 28, 2005, GRE submitted to the Minnesota Public Utilities Commission (MPUC) a Certificate of Need (CON) application regarding the Cambridge Station.

Mr. Storm stated that GRE proposes to construct a 170 MW, natural gas-fired, simple cycle combustion turbine generator at its existing peaking plant site near Cambridge in Isanti County, Minnesota. The proposed facility will be located on a current generating site, approximately 13 acres in size, owned by GRE. The site currently has a 25 MW, fuel oil-fired, combustion turbine generator and associated substation.

Mr. Storm reported that on March 14, 2005 the EQB Chair accepted the application as substantially complete and notified the applicant in writing of that decision. The EQB Chair also elected to combine the general environmental review and requirements for the PUC for the site specific environmental review requirements into one document. GRE has requested that a joint hearing be held to consider both the CON and Site Permit applications. Joint hearings are permissible under Minn. Stat. § 216B.243, subd. 4.

Mr. Storm said that to supply natural gas to the facility, a ½-mile, 10 inch diameter lateral pipeline will be constructed to connect the Cambridge Station to the Northern Natural Gas Company's (NNG) existing interstate pipeline. The natural gas pipeline will be permitted through a separate process through the Federal Energy Regulatory Commission (FERC).

Upgrades to the substation and re-conductoring of three transmission lines that enter the Cambridge Station will be required. No change in voltage of the existing three 69 kV transmission lines is planned; therefore, no EQB HVTL routing permit would be required.

The staff recommends that the Board pass a resolution authorizing the holding of a joint hearing. Upon approval of the PUC of the application by GRE for Certificate of Need and the application for a site permit.

Chair Schroeder asked for discussion.

Commissioner Hugoson asked if any utility companies are constructing plants using anything but natural gas. Mr. Storm suggested that many companies view gas as being less controversial than burning other fossil fuels like coal. Commissioner Hugoson responded that gas is the desired choice for many reasons, however that use is causing demand problems and all the issues that go with it. He suggested that somewhere along the line someone is going to have to start looking at alternative energy sources for electrical generation.

Member Bomier stated that low sulfur oil was backup for many peaking stations. Mr. Storm responded that the peaking stations that he has handled have had fuel oil backup but this plant is not proposing fuel oil backup. There is however, a 25 Mw fuel oil combustion turbine on the site already.

Director Dunn stated that he was concerned about this issue and did raise the issue with MERP when the large power plants in the metro area were being converted from coal to gas. He said he understood from the PUC after they reviewed and analyzed the issue that there was a determination that it is not a significant issue relative to pricing but perhaps that issue should be reviewed again.

Chair Schroeder asked for additional discussion, there being none, that there is a resolution before the Board. Commissioner Merriam moved the resolution and Director Dunn seconded. Chair Schroeder called for a roll call vote which passed 11-0.

**RESOLUTION AUTHORIZING JOINT HEARING WITH PUBLIC UTILITIES
COMMISSION ON GREAT RIVER ENERGY PROPOSED CAMBRIDGE STATION
PROJECT**

WHEREAS, Great River Energy has applied to the Public Utilities Commission for a certificate of need for a natural gas simple cycle power plant to be located in Isanti County, Minnesota; and

WHEREAS, Great River Energy has applied to the Environmental Quality Board for a site permit for the project; and

WHEREAS, Minn. Stat. § 216B.243, subd. 4 authorizes the EQB and the PUC to hold a joint hearing on a proposed large energy facility, and

WHEREAS, A joint hearing is feasible, will be more efficient, and should further the public interest by allowing interested persons to participate in a single hearing, and

WHEREAS, Great River Energy has requested the holding of a joint hearing.

NOW, THEREFORE, BE IT RESOLVED that the Environmental Quality Board authorizes the holding of a joint hearing, upon approval of the Public Utilities Commission, on the applications by Great River Energy for a certificate of need and a site permit.

BE IT FURTHER RESOLVED, that the EQB Chair is authorized to act on behalf of the EQB to perform such tasks as are necessary to carry out this resolution.

**V. *Xcel Energy Route Permit for Buffalo to White 115 kV High Voltage
Transmission Line and the Yankee Substation in Lincoln County**

Larry Hartman, EQB staff, summarized that the Board is being asked to issue a route permit to Xcel Energy authorizing construction of a new 115 kilovolt (kV) high voltage transmission line (HVTL) and associated facilities extending from the Buffalo Ridge Substation located in Lincoln County on the east to the White Substation in South Dakota on the west, and a new Yankee Substation. The Minnesota

portion of the project is approximately 18.6 miles in length, while the total project is approximately 28 miles in length.

Mr. Hartman said the proposed project consisted of the following components, a) 115 kV transmission line and associated facilities connecting the Buffalo Ridge Substation in Lincoln County, Minnesota, to a new Brookings County Substation in Brookings County, South Dakota; b) an expansion of the Buffalo Ridge Substation, including two new 115 kV circuit breakers, one new 115 kV line termination and an upgrade to a three-position 115 kV ring bus; c) a new Brookings County Substation in Brookings County, South Dakota, which will be connected into the existing White Substation; d) a new 115 kV Yankee Substation midway along the new Buffalo Ridge to Brookings County transmission line to be located on one of five sites designated as Sites 1, 2, 3, 4, 5; and e) a 1.9 mile reroute of the existing Lake Yankton-Pipestone 115 kV transmission line, which will make it possible to remove a 1.4 mile segment of the line from the Hole-in-the Mountain Wildlife Management Area (HMWMA) and the Nature Conservancy's Hole-in-the Mountain Prairie (HMP).

Mr. Hartman said the structures will be single pole, galvanized steel structures from 80 to 95 feet in height depending on whether they will be capable of handling additional circuits. The project will require a new right-of-way of 45 feet when paralleling existing roadways or other existing rights-of-way and 75 feet when entirely new right-of-way is required.

Staff said the routing options were somewhat limited. Xcel proposed a route that runs basically along local roads and is comprised of Route Segments A, B, C, D, E and F in Minnesota and G and H in South Dakota. Only one alternative route was evaluated, called Route Segment J, which is an alternative to Route Segment E. Both are approximately 8 miles long. The route preferred by Xcel passes by fewer homes, requires less clearing and requires less crossing of wetlands than a route using Route Segment J.

Mr. Hartman said regarding the Yankee Substation that there were five sites proposed by Xcel Energy. The Yankee Substation will be designed to accommodate the Buffalo Ridge to Brookings County 115 kV line, up to four future high voltage transmission lines, and up to twelve 34.5 kV wind collector lines. Staff stated that Xcel Energy has a preference for sites 3, 4, and 5 because these sites are further away from homes and require less preparation for construction due to terrain. Xcel Energy has requested that it be authorized to continue to negotiate the sale of the land with the landowners at sites 3, 4, and 5, but that the EQB designate site 5 for the substation in the event negotiations are not successful.

Staff started working on this project on August 10, 2004, when Xcel Energy applied to the MEQB for a Route Permit for the proposed project. On August 19, 2004, the MEQB Chair accepted the application and began the review process. A public information meeting was held in the area, on September 22, 2004, and the MEQB accepted public comments on the scope of the Environmental Assessment (EA) until October 25, 2005. A final Scoping Decision was issued on November 8, 2004 and an Environmental Assessment was produced on January 16, 2005. Staff held a public hearing on February 3, 2005 in Hendricks, Minnesota and Alan Mitchell of the MEQB was the presiding hearing examiner. The comment period closed on February 18, 2005.

Mr. Hartman stated that the only issue that arose during the course of this proceeding has now been resolved. The issue involved Interstate Telecommunications Cooperative, Inc (ITC), which maintains telecommunication lines in the Lake Benton area, ITC expressed concerns about harmonic interference. ITC indicated that they have worked with Xcel Energy for several years to resolve this issue, but have not been successful. But Xcel Energy has pledged to work with ITC in selecting the location for the actual structures within the route approved by the EQB and to comply with any applicable standards.

Staff recommends that the Board issue a Route Permit to Xcel Energy for a 115 kilovolt transmission line and associated facilities. The route recommended is comprised of Route Segments A, B, C, D, E, and F. The staff recommends that the Yankee Substation Site be built on Site number 5, but that Xcel Energy be allowed to negotiate with the owners of sites 3 and 4 as possible alternative sites.

Chair Schroeder asked if there was a strong preference for Site number 5. Mr. Hartman responded that from a design viewpoint the site is easier to get transmission lines in and out, there is better road access but sites 3 and 4 will work also. The Chair then asked about harmonic interference. Mr. Hartman responded that inductive interference is not a common issue. It is not known whether the interference is attributable to wind turbines or design characteristics of the line. ITC has upgraded their telecommunications to a combination of fiber optics and copper wire and that also might have a bearing on this issue.

Director Dunn asked if the source of the problems caused by interference can't be solved, does Xcel have the ability to correct the situation, do they own the turbines. Mr. Hartman responded that Xcel doesn't own the turbines. Director Dunn suggested that if the turbines are the cause of the problem has Xcel committed to correcting something that they don't own. Mr. Hartman responded that it is hard to correct something they don't own. Whether it is the combination of feeder lines, long parallels or other things, many of the problems have been mitigated by going to fiber optic cables. The permit requires that they report back to the EQB on the progress of this problem.

Commissioner Corrigan asked if both Xcel and ITC will determine or predict the level of interference and how they will complete that task.. Mr. Hartman responded that the IEEE standard may be used to calculate the interference. Commissioner Corrigan stated that there is no dispute resolution provisions or related language in the permit, but the determination or prediction is part of the permit. Mr. Hartman responded that ITC is satisfied with the proposed language in the permit. Commissioner Corrigan asked if Xcel was satisfied.

Jim Alders, Xcel Energy, responded that his company has generally agreed with the proposed language in the permit to determine or predict the level of interference. There is a protocol in the IEEE standards that can be followed to do the calculations. Commissioner Corrigan asked about the remedy. Mr. Hartman responded that in the power plant siting rules there is also a procedure for amending or modifying the permit. Mr. Wagenius stated that when he reviewed the permit his understanding from staff was that Paragraph C is the remedy (IEEE standards are the remedy).

Commissioner Corrigan also asked for submission of As-builts after completion of the projects, say after 90 or 120 days. Mr. Alders responded that his company has no problem submitting the As-built plans but asked for 180 days and Commissioner Corrigan agreed.

Chair Schroeder asked if there were any more questions, there being none, said he was willing to entertain a motion. Director Dunn moved the resolution for the amended route permit per the discussion by the Board on March 17th and Commissioner Kramer seconded the motion. The Chair then called for additional discussion, there being none, asked for a roll call vote which passed 12-0.

RESOLUTION OF THE MINNESOTA ENVIRONMENTAL QUALITY BOARD
Designation of a Route and Issuance Of a Route Permit To XCEL ENERGY
For the Buffalo –White 115 kV High Voltage Transmission Line and Associated Facilities
And Yankee Substation In Lincoln County, Minnesota
MEQB Docket No. 04-84-TR-XCEL

BE IT RESOLVED, that the Minnesota Environmental Quality Board approves and adopts the Findings of Fact, Conclusions and Order designating a specific route for the Xcel Energy Buffalo-White 115 kV high voltage transmission line and associated facilities and Yankee Substation in Lincoln County, Minnesota, and issuing a Route Permit, as amended at the March 17, 2005 meeting, to Xcel Energy in accordance with the recommendation of the EQB staff.

BE IT FURTHER RESOLVED, that Robert A. Schroeder, Chair of the Board, is authorized to sign the adopted Findings of Fact, Conclusions and Order, and the Route Permit.

VI. Early Termination of Agricultural Preserve status of land in Farmington by Eminent Domain action of Farmington ISD 192

Jon Larsen, EQB staff, summarized the notice of intent by the Farmington School District to initiate early termination of agricultural preserve status of a parcel of land pursuant to an eminent domain condemnation for a site for a new high school. The relevant statute is the Metropolitan Agricultural Preserves Act under which a landowner establishes a restrictive covenant on land that is enrolled for agricultural purposes. It is a voluntary program for the landowner, requires that the land remain enrolled for at least eight years and provides certain benefits to the landowner for enrolling.

There are a number of actions possible in this case; one possibility is to terminate the preserve status through an eminent domain action. Pursuant to that there is a notice of intent sent to the Environmental Quality Board that provides for a 60 day period in which the Board could review the matter. Pursuant to the outcome of that hearing the EQB could further decide that they would defer that eminent domain taking for up to a year.

On previous occasions this type notice has been submitted to the EQB and in all previous instances the Board took no action, believing that early termination of Ag Preserve status was not unreasonable. In this case the facts appear somewhat different. The Metropolitan Council letter indicates their observation that the proposed project is inconsistent with the Farmington Comprehensive Plan, Land Use and growth policies, undesignated MUSA and capital improvement program; therefore the proposed project may impact the preservation of ag preserve. Council staff encourages Farmington ISD to work with the cities of Farmington and Lakeville to consider alternatives.

The Farmington Comprehensive Plan identifies this specific area as agricultural/urban reserve. It is meant to sustain farming operations in the area until 2020 or beyond, serving as an agricultural land buffer from development to the west in Lakeville. Placement of a new high school site centrally within this farm operation area, with no other contiguous connection to associated residential or typical suburban uses, represents a questionable use in the view of some.

Mr. Larsen stated that he prepared two sets of resolutions and findings of fact. One would order that the eminent domain process be desisted from and order a hearing and the other would essentially terminate the process.

Chair Schroeder asked if the result of this action is there is no longer existing an ag preserve isn't that an unreasonable effect. Mr. Larsen responded yes and that his interpretation would be that other agricultural lands or ag preserve lands could be in jeopardy of losing their status to developers. Staff then described with maps and a presentation that the area is agricultural in nature.

Commissioner Hugoson asked why the school isn't looking at property adjacent to development areas instead of agricultural areas. Mr. Larsen responded that he would like to defer that question to the school district.

Member Elmer asked for clarification, this would not be an issue if it were 2011. Mr. Larsen responded yes if the landowner decided not to reenroll in the ag preserve program. Member Elmer asked what the proposed timeline is for the high school. Mr. Larsen responded that the school district wanted to proceed with haste because of enrollment pressures.

Member McCarville noted that the city commented that development of a school on this parcel would preserve a more rural look than if the area was developed for something else later. Mr. Larsen responded yes, that had been stated but that the city's comprehensive plan gave the area an urban reserve status. Member McCarville asked what action the Board could take. Chair Schroeder responded that there were two potential actions, one would call for a hearing within 60 days to review the matter and the other would terminate the enrollment status.

Member Winebarger asked what the concerns of the Department of Agriculture are. Mr. Larsen responded that staff from the Department of Agriculture raised the inconsistencies with the Farmington Comprehensive Plan and the purpose of the ag preserve program. Commissioner Hugoson added that if the Board keeps granting exemptions to the program, there will be no meaningful ag preserve program. In this particular case if the development occurs, it will certainly have a huge impact on the agricultural operations surrounding the development.

Director Dunn responded that the most this Board could do is slow the process down by one year and within a year they could move ahead anyway. With or without our action we are not going to be able to stop this land from being taken out of ag preserve, is that correct. Chair Schroeder responded that is generally what will happen but that other sites could be evaluated during that year and 60 days for development. Legal Counsel stated that the process could be slowed by at least a year and 60 days.

Commissioner Merriam asked why a year and 60 days. Legal Counsel responded that if the Board decides the standard today is met which is, "does eminent domain have an unreasonable effect on the

ag preserve,” the Board would order the school district to desist from pursuing its eminent domain action for 60 days during which time a public hearing would be held. The standard there is the exercise of eminent domain contrary to the purpose of Chapter 473 and are there feasible and prudent alternatives to eminent domain action that have less negative impact on the ag preserve. The Board’s decision as a result of the public hearing could then be to order the school district to desist for an additional year. The statute is then silent as to what happens after that year.

Member McCarville stated that the property went into ag preserve in 1983 and so the property has been in ag preserve status longer than it had to be. Commissioner Hugoson said it was his understanding that the property is put into preserve but it can be extended beyond the eight years but at some point if the owner would wish to withdraw the property they can serve notice, and that has occurred but it is not to the point of taking effect.

Commissioner Hugoson also wanted to comment to Director Dunn’s comment earlier, the one thing that having a hearing and delaying the development for a year would do is to serve notice that terminating ag preserve is not automatic. He said he had serious concerns that the way the ag preserves is right now needs to be modified, because it is a case of either we have the program or we get rid of the program. There are too many ambiguities in the program for it to do the job it was intended to do. Director Dunn stated that he agreed with Commissioner Hugoson but that in this particular case, the process has not been initiated by the landowner.

Commissioner Corrigan asked what the public has been saying in regard to this issue. Mr. Larsen responded that there are few individuals involved and that he doesn’t have a good sense on what those folks think.

Mr. Larsen added that ag preserve status does not expire until a notice of termination is filed so there is no need to re-file at any interval. In this instance the owners had applied to take the land out of ag preserve status about three years ago.

Testimony:

Mr. Jeff Carpenter, Rider Bennett Law Firm, representing the Farmington School District, stated that he wanted to provide an overview of what has happened so far in the process. The Christensen farm is 150 acres and that the parcel that the school district is looking to acquire is roughly 110 acres of that farm. The property is located in west Farmington along the border of the City of Farmington and Lakeville.

Mr. Carpenter stated that the whole site has been in ag preserve status since March 1983 and that the property owners filed the termination notice in 2003 with termination in 2011. He also said that the property would remain in agricultural production through the 2005 growing season. What concerns the school district is that the Board could delay this process for well beyond that one year period and that could start to impact the school district’s schedule.

Mr Carpenter handed out a letter that the Christensen’s wrote that supported the building of the school and that this is a completely amicable agreement. The school district and the property owners entered into a purchase agreement in October, 2004 and it includes the condemnation procedures for trying to

bring the property out of ag preserves. What the school district is trying to do is to advance the time period a little bit to facilitate the school district's schedule. The school district commenced its condemnation in December, 2004 but would not take the property until the ag preserve is lifted.

Mr. Carpenter said the Farmington City Council in November, 2004, had agreed to conditionally grant an extension of the MUSA to the property under conditions of bringing the property out of ag preserves. On the Lakeville side the MUSA already abuts the property and the City of Lakeville has also indicated that they are willing to provide sewer and water to the site, if the school district requested that service. If the EQB delays access to the high school that is a serious issue and could add countless dollars to the school district in lost time, construction costs, etc.

Mr. Carpenter handed out two pictures showing the development in the area from the west edge of the Christensen property looking to the northwest and to the southwest toward the Spyglass and Ardmoor Developments. His point was that there was already development in the area.

Mr. Carpenter stated that Ms. Monica Kittock-Sergent would come forward and testify if there was a desire for input on the agricultural curriculum.

Commissioner Merriam asked if it was Mr. Carpenter's understanding of the Ag Preserve Law that the role of the EQB is simply procedural. Mr. Carpenter responded that he doesn't see the EQB's role as procedural at all. The Board has a determination role in this but the statutes speak to the role of the ag preserves and whether there is an unreasonable effect on ag preserves. Commissioner Merriam asked if the zoning authority, the school district and the property owner all wanted the project to happen then it would. Is it your understanding that the only thing the EQB can do is delay the project one year and 60 days? Mr. Carpenter said "that is my understanding."

Commissioner Corrigan stated that she didn't appreciate that the school district is prepared to wait the year and 60 days regardless of the Board decision and she also didn't think Mr. Carpenter respected the Board's authority. Mr. Carpenter apologized and said he certainly understands this Board's authority and meant no disrespect to the Board.

Member McCarville responded that she heard testimony from Mr. Carpenter totally different than the Commissioner. She heard that the school district has alternative plans and that they've put some thought into this issue.

Mr. Douglas Bonar, Director of Buildings and Grounds at ISD #192, stated that the search for property has taken over two years, two superintendents and two administrations. The land search committee has examined 30 parcels and the Christensen farm property met most of the criteria the search committee decided were most important. Mr. Bonar then summarized why the other properties were not as suitable for the high school. Some of the problems with the other parcels were the water table, a 36" gas main, and one parcel was located in a wetland area. He also stated that the district is in competition with other developments in the area.

Commissioner Hugoson asked if other negotiations had taken place with other property owners. Mr. Bonar replied that this is the second negotiation on purchase for property that has taken place. Commissioner Hugoson asked how much of an impact does the traffic of the high school enter into

your discussion as where to locate the facility. Mr. Bonar replied that traffic is recognized as part of the search committee's consideration. Commissioner Hugoson stated that the preference would be to locate the high school somewhere away from residential to avoid the conflict of traffic and there isn't much traffic in the farm area so that becomes a logical solution. Of course you need to keep in mind that the school would disrupt agricultural traffic to move in an orderly manner especially during the times students arrive at school and during athletic events. Mr. Bonar replied that the committee duly recognized there would be some disruption.

Mr. Terry Donnelly, representing Donnelly Farms and a member of the search committee for the high school, came to answer questions that the Board might have. He suggested that farms in his area are being squeezed by development, and that it will be just a matter of time before development encroaches on his farm. The reality of the situation is that there is no perfect site for the high school, all the parcels that have been looked at have problems. The Twin Cities is growing and will extend into the area.

Commissioner Hugoson asked if there were other farmers that use Flagstaff for farm traffic. Mr. Donnelly said that there was one other farm on the north end that used Flagstaff for farming traffic but that the Donnelly Farms are about 98% of the traffic.

Mr. Brad Meeks, Superintendent of I.S.D. 192, handed out a Power point presentation regarding the need for additional school facilities in the Farmington School District. Using census data, he summarized population growth in the area will continue through 2029. Mr. Meeks stated that the elementary school will exceed capacity in 2006, the middle school exceeds capacity now and that the high school will exceed capacity in 2008. Mr. Meeks stated that public discourse about the school site issue is not a hot topic.

Commissioner Corrigan asked if, when he had the discussions with folks in the area, were they aware that the site was in an ag preserve status. Mr. Meeks responded that he believed the folks did understand that the land in question was in ag preserve status because it was openly discussed at board meetings. During those discussions it was brought up that there was a process to go through with the EQB.

Mr. Harnack asked what the impact would be if the land is released from ag preserve? Mr. Meeks responded that releasing the land would have an effect. Mr. Harnack asked what effect the ag preserves had relevant to decision making as they looked at alternatives. Mr. Meeks responded that it was a concern because of the protocol and procedures that they needed to follow.

Member McCarville asked about the Angus site and whether they would accept another school building on that property. Mr. Meeks responded that he did a survey in the area and they were concerned about building a high school there.

Mr. Meeks went on to say if there was a delay, an alternative plan would be made but all schools in the district are connected. If one part of the construction project is delayed it will have a ripple effect through all the schools.

Chair Schroeder stated that there are two potential resolutions for the Board to consider.

Commissioner Merriam said that he had been involved when the Ag Preserve Act was enacted he is dismayed to the degree in which it has warped but he moved the resolution for ordering a hearing on the ag preserve status and Commissioner Hugoson seconded the motion.

Commissioner Wilson stated one of the hardest jobs that any school district or developer has is finding a site. Having an option on an undeveloped area is certainly a benefit and easier to accomplish in a community than to reverse that process. If the area was developed today the disruption and objection would be significantly greater.

Commissioner Hugoson stated that he had no doubt that a project this size would have to go on ag land but his concern is it is going on ag preserve ag land. What this action does is minimize what the ag preserve program is about, in the first place. The Commissioner offered an amendment to the resolution being considered. The amendment describes what the impacts might be on ag preserve land in the area, if this project proceeds.

Chair Schroeder asked if Commissioner Merriam, who made the motion, was comfortable with his amendment and he said he was.

Member Bomier recused himself from the vote because of a conflict of interest.

Legal Counsel Wagenius said the authority may be implicit in the resolution but he thought the Board should add a paragraph to the resolution: "Be it further resolved that the EQB Chair is authorized to act on behalf of the EQB to perform the tasks that are necessary to implement this resolution."

Chair Schroeder asked Commissioner Merriam if he had a problem with the express language, the Commissioner said no. The Chair asked for further discussion, there being none asked for a roll call vote. The motion failed 4 to 5 with 1 abstaining.

Member McCarville moved the resolution to terminate ag enrollment status on the property and Commissioner Wilson seconded the motion.

Commissioner Corrigan asked whether the Findings of Fact would be amended to include the amendments offered by Commissioner Hugoson to the resolution. Commissioner Hugoson said that it would not be pertinent to this resolution.

Chair Schroeder asked for discussion, there being none asked for a roll call vote. The motion failed 5 to 4 with 1 abstaining.

Chair Schroeder asked Legal Counsel to describe where the Board is after the second vote. Legal Counsel Wagenius stated that the Board made decisions on the two resolutions. By operation of law the period that the Board can act expires on March 21 on this issue so the School Board can proceed the way it plans to proceed.

Chair Schroeder asked for a motion to adjourn. Commissioner Corrigan moved to adjourn and Commissioner Wilson seconded the motion.

Member Bomier notified the Board that he was resigning from the Board and Vice Chair position.