

September 8, 2019

Dear Commissioners,

I would like to start this long letter by saying thank you for your public service. Your work for us can be challenging and demanding at times. I hope you also find it rewarding.

The recently posted agenda for your September 10th meeting includes a resolution #19-029 [Resolution], proposed by Julie Runkel, to postpone your decision concerning an EIS in the matter of the Wolf Creek Autobahn proposal [Project]. I am unfamiliar with your meeting format and do not know whether you will entertain public comments on agenda items at the September 10th meeting; therefore, I am writing you with my thoughts on this Resolution.

Please know that opposition to this Project goes beyond a “Not In My Backyard” knee jerk response to development. This is a matter of life and death. You read in the MPCA Review and Comment on the Project that *"Noise is a pollutant, and mounting evidence suggests that exposure to excess environmental noise is associated with a variety of adverse health effects. Chronic exposure to environmental noise has been associated with stress, heart disease, stroke, weight gain, and diabetes. It is therefore imperative to seriously consider noise levels from proposed projects and potential impact on nearby residents and the users of the development."* (My emphasis) Therefore, my framing this as a matter of life and death is not mere hyperbole and I trust you will consider my opinion with this in mind.

Although the developer’s noise pollution study was stunningly incomplete and flawed, its computer modeling showed that the noise outside the Project would exceed Minnesota regulations. If you find the Wenck noise pollution modeling results credible, you should deny further consideration to the Project in order comply with Minnesota Rules. (Minn. R. ch. 7030.0030).

If you find that the developer’s noise pollution study was not credible, you should order an EIS to scientifically, objectively explore the noise pollution associated with this Project. According to Minnesota Rules “[a]n EIS shall be ordered for projects that have the potential for significant environmental effects.” (Minn. R. ch. 4410.1700). Given the ominous warning in the MPCA Review and Comment, mentioned above, it would be hard to argue that this Project does not have the potential for significant environmental effects. The

reason Minnesota waived noise guideline compliance for pre-1996 racetracks was that racetracks essentially cannot meet the requirements and had to be either grandfathered or become an enforcement nightmare.

Ordering an EIS is a straightforward action that provides more time and more information. The vague postponement Resolution indicates a desire for more time and more information; however, the time allotted is merely 30 days unless the developer agrees to more time. Thirty days is not enough time to “reasonably obtain” information lacking in the noise pollution study. (See Minn. R. ch. 4410.1700 Subp. 2a).

Thirty days is not enough time because there is nothing to salvage from the Wenck noise pollution study. Your current situation is not just a simple matter of insufficient information as contemplated in the statute. (See Minn. R. ch. 4410.1700 Subp. 2a). The County requires an entirely new study performed by qualified engineers who are free from bias in favor of the developer. The following facts about Wenck’s work are either admitted or cannot be disputed:

- The study omitted any consideration of 5,000-person events, go-kart track, internal traffic, skid pad, 300 villas, commercial enterprises, building operations, or the RV Park.
- The study did not include data from actual racetracks similar to the Proposal. In spite of readily available actual data on vehicle noise, none was used in the report.
- The input parameters for the computer modeling such as speed, acceleration, turns, and number of vehicles on each track or all tracks were not adequately disclosed.
- The source decibel level was arbitrarily set and reset when original arbitrary decibel level failed to produce compliance.
- The most favorable test results shown in the study were not actually modeled, but rather, extrapolated.
- The L10 standard, which is part of the Minnesota Noise Pollution regulations, was not modeled.
- The residential units (villas) were included as sound barriers at full build out in spite of the fact that the developer guarantees ZERO units will actually be built and, if built, would be phased.

- The units within the racetrack complex, residential land use (Noise Classification Area 1), were not included in the modeling in spite of the fact that the units are covered by the noise guidelines.
- Use of favorable ground hardness factor is inconsistent with best practices and certainly not a conservative assumption as asserted.
- The developer advertises on his website and Facebook page that drivers will be allowed to drive their cars as fast as they want, which is inconsistent with arbitrary source sound levels included in the study.
- The study fails to include the effect of varying meteorological conditions on noise as it travels beyond the walls.
- The explanation of the extrapolation of data is garbled and vague.
- No breaks in the sound barrier wall for entrances and exits were included in the modeling.
- No credentials or experience of the study's authors or engineers were provided.

The stakes are high here. A detailed, rigorous EIS is needed. The statutorily allotted postponement period is not enough to seek "additional noise analysis data" because an entirely new report is required.

Additional noise analysis performed during a postponement period without the benefit of public and agency review and comment may look like you are drawing the shades and dealing with the developer and consultants privately. Let the sunshine in. Order an EIS.

Speaking of sunshine, the County has not been responsive in providing data requested by members of the public, including myself. Persons requesting data have been told they could look at information but not have copies. Persons requesting data have been told that the responses to comments must be completed before release of comments. Persons requesting data have been told an attorney's opinion must be sought prior to releasing data that has already been released to the developer and consultants. Persons requesting data have not received timely responses.

I am familiar with the Minnesota Data Practices law and the County is on the wrong side of it. As described by the Minnesota Department of Administration, *"The Data Practices Act (Minnesota Statutes, Chapter 13) presumes that all government data are public. State or federal law must specifically classify data for the government to limit access."* There is no basis, ever, for allowing

inspection but denying copying. There is no basis for allowing release of public data to some people and denying it to others. The developer and consultants have already been provided this public data (comment letters); however, other requesters are being denied. Yet, public data must be released to anonymous requestors. *“Unless authorized by statute, a government entity may not require an individual to identify herself or himself or to explain why public data are being requested (except for the sole purpose of facilitating data access).”* (Minn. Stat. § 13.05, subd. 12)

Allowing the developer and consultants access to public information such as Comment Letters while stonewalling other members of the public, some of whom may have expressed opposition to the Project, exposes the County to potential adverse Commissioner of Administration opinions or other actions.

Not only is the County denying access to public data, but the County presents information on its website in a manner that appears designed to sway the readers’ opinions in favor of the Proposal. For example, the August 8 Planning Commission minutes are not posted yet, but they have been approved. The now-approved minutes that were in the September 5 packet, include brief neutral statements for the comments made to the Planning Commission that were accompanied by a submitted letter. “See Attached” references direct the reader to the actual letter; however, no letters are attached.

For example, this is a sampling of several speakers who found the EAW incomplete or inadequate:

1. Flavia Berg, 16271 Bagley Ave Faribault, read letter submitted regarding wooded/forest land and campground provision of zoning ordinance. See Attached.
3. Jenny Anton, 10210 Clearwater Court, Lonsdale, read letter submitted relating to wildlife ecology. See Attached
12. James Harris, 3415 Culver Trl Faribault, read letter relating to traffic study. See Attached.
13. Judith Harris, 3415 Culver Trl Faribault, read letter relating to noise study. See Attached.
27. Robert Palmquist, 3454 Circle Bluff Ct Faribault, read submitted letter regarding noise. See Attached

The reader does not know whether Ms. Berg, Ms. Anton, Mr. Harris, Ms. Harris and Mr. Palmquist were telling the Planning Commission that they thought the

EAW was complete and accurate or to the contrary. The only way to learn what these people, and most others on the list, were opining to the Commission is to read their letters. But, the County has not included the letters and will not release the letters beyond developer and consultant.

On the flip side, the County reports the only two “in favor of the project” speakers, who do not live in Rice County, in this fashion:

5. Tom Bregman, 8100 Penn Ave, Bloomington, testimony was going to be different but now realize comments are to be on EAW, am the executive director of nonprofit with kids with diabetes, comments on environmental study so won't say some of the items was planning, believe work being done as state of the art and environmentally sound, read the EAW document and believe they are working doing this environmentally properly.

30. Tom DuPont, 201 6th St Minneapolis, different perspective, NE Business Association, tremendous development in that area, Mortenson development that was a 26 story building, Nord house, reviewed EAW felt it was very complete based on things seen before, developer, builder & neighbors get together can be successful.

Not only does the County cloak the essence of the messages delivered by Ms. Berg, Ms. Anton, Mr. Harris, Ms. Harris and Mr. Palmquist (and others) but also the word counts are vastly different. Exclusive of introductory “read letter relating to” and the “See attached,” the word counts respectively are: 8,3,2,2, and 1.

In contrast, the County blessed Mr. Bregman with about 64 words and Mr. DuPont with about 41.

Looking back, the County rezoned the site to include residential without regard to planning documents and policies that discourage such action. The County did not require an EIS for 300 units on an unsewered site as required by Minnesota Rule.

Overall, the County is painting a picture that looks to the typical outside observer like the County is in the developer's corner facilitating the developer's proposal and the Project is a “done deal.” I believe that voting in favor of this vague Resolution giving extra time for the developer to “fix” his EAW results without the benefit of public and agency review and comment adds to the already bad optics of the situation.

Truly,

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Resident at this address for 31 years.