AGENDA

JOINT POWERS BOARD MEETING
WEDNESDAY, MAY 08, 2018

4:30 p.m.

BIG LAKE CITY COUNCIL AND BIG LAKE TOWNSHIP BOARD

BIG LAKE CITY COUNCIL CHAMBERS
160 Lake Street North

1) Call to Order
2) Roll Call
3) Adopt Proposed Agenda
4) Business
   4A) Big Lake Industrial Park East Zoning Discussion
5) Adjourn

Disclaimer: This agenda has been prepared to provide information regarding an upcoming meeting of the Big Lake Joint Powers Board comprised of members of the Big Lake City Council and Big Lake Township Board. This document does not claim to be complete and is subject to change.
**AGENDA ITEM**
Joint Powers Board

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<td>Michael Healy, City Planner</td>
<td>5/8/2019</td>
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<th>Item Description:</th>
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<td>Discussion on Zoning Issues in Big Lake Industrial Park East</td>
<td>Hanna Klimmek, Community Development Director</td>
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**ACTION REQUESTED**

City Staff is seeking direction regarding how the Joint Powers Board would like to proceed with “next steps” in dealing with the zoning noncompliance issues in the Big Lake Industrial Park East.

The City Council discussed this issue at their April 24 workshop meeting and directed Staff that the “next step” was to hold a meeting of the Joint Powers Board. The Big Lake Industrial Park East is a jointly owned/operated industrial park and the Joint Powers agreement states that land use decisions will be made jointly by the City Council and Town Board acting as a Joint Powers Board.

**BACKGROUND/DISCUSSION**

Background

The “Big Lake Industrial Park East” is an industrial park along US Highway 10 which has been jointly developed by Big Lake Township and The City of Big Lake. The City and the Township have invested a significant amount of money in land acquisition, site development, and incentives/subsidies to encourage development. The original intent of the development and the public subsidies was to create an industrial employment base in Big Lake. Many of the development incentives that were given out in the early 2000’s to encourage the construction of new buildings had “strings attached” in terms of requiring the developers who received the incentives to commit to certain types of businesses being in the buildings they constructed, certain job numbers, etc. Most of those “strings” were in place for a set period of time which has now passed.

The original industrial park, which is roughly 50 acres in size, was platted in 2000. It was fully “built out” by around 2006. The City and Township developed a 45 acre “Phase II” in 2007. The Great Recession began almost immediately after the roads were installed for Phase II and it is still completely vacant as of 2019.

The original intent of this industrial park was to foster manufacturing and industrial employment. However, the I-1 zoning district, which is in place over the entire park, allows for several other uses beyond manufacturing. It also allows, for instance “wholesale showrooms,” “offices (with a CUP),” “health clubs,” “warehousing,” and a handful of other non-manufacturing uses which are considered to be compatible with industrial uses. Most of the public subsidies that financed the initial development specified that only a small percentage of the space in this park could be dedicated to these “other uses” and that most of the space needed to be dedicated to industrial manufacturing uses. As previously mentioned, these “strings attached” were for a set period of time and, per Community Development Director Hanna Klimmek, that time period has elapsed.
Zoning Issues

The majority of the buildings in the Big Lake Industrial Park East are single-occupant or two-occupant buildings inhabited by industrial manufacturing companies. There are two buildings in the park, however, which are set up as multi-tenant buildings and broken up into a number of rental suites of various shapes and sizes. These two buildings are the Paragon Plaza (19950 177th St NW) and the Big Lake Business Center (19922 Industrial Drive NW).

The owners of the two multi-tenant buildings have not followed the City’s zoning code when screening tenants for their buildings. As a result, both buildings now contain numerous businesses which are not allowed in the I-1 Industrial Park zoning district. The majority of these businesses are commercial-retail type businesses which are only allowed in the City’s commercial zoning districts, the B-2 and the B-3 zoning districts. The City of Big Lake, like most cities in Minnesota, only requires business licenses for certain types of businesses that require extra regulation such as massage parlors, adult use businesses, tobacco sales, liquor sales, etc. The City does not require a license for other types of businesses, it only requires that the business be compliant with the zoning code. The City expects property owners and business owners to check with the City’s planning and zoning department before moving a new business into city limits.

Most of the unauthorized businesses in the Big Lake Industrial Park East have been there for upwards of five (5) years and were already in the industrial park when the current generation of Big Lake City Staff who deal with zoning issues (Michael Healy, Hanna Klimmek, Clay Wilfahrt, and Mick Kaehler) began working for the City. There was a presumption that these businesses must have been “grandfathered” in some way. Staff has reviewed the property files, however, and it does not appear that any of these businesses was ever given permission to operate in the industrial park. They all appear to be in the industrial park illegally and in violation of the zoning code.

Staff is aware of the following businesses which are in violation of the I-1 Industrial Park Zoning District standards. Please note that there may be other unauthorized businesses which Staff is not aware of because they do not have signage:

Big Lake Business Center (19922 Industrial Drive NW)

1.) A retail clothing store  
2.) A retail electronics store  
3.) An IT Office (requires a Conditional Use Permit which they never obtained)

Paragon Plaza (19950 177th St NW):

1.) A photography studio  
2.) A retail mattress store which moved into the building in late 2018.

Staff has been left in a very awkward position. Staff has attempted to enforce the zoning ordinance on the retail mattress store but the owner has repeatedly questioned why the City is “cracking down” on his business but allowing the other four (4) unauthorized businesses to continue to operate in violation of the zoning code.
Discussion

There are financial and land use considerations in play that the Joint Powers Board should be cognizant of as they discuss this issue.

Financial Considerations:

- The initial development of this industrial park involved a large amount of public money. The justification for this was two-pronged:
  - The industrial park was going to provide good jobs for the community
  - The high value tip-up concrete buildings would provide a good property tax base.

- Industrial jobs generally provide higher salaries than commercial-retail jobs. Allowing commercial retail type uses in the industrial park may “water down” the benefit of the jobs that these buildings were intended to provide.

- Now that Phase I of the industrial park is almost 20 years old, does the Joint Powers Board feel that it is appropriate to be “more open” in regards to what types of businesses and what types of jobs are allowed in this part of the park?

- Does the Joint Powers Board feel that the buildings will fail to find industrial tenants and will fall into disrepair or be abandoned if the owners are not allowed to fill the suites with commercial tenants? If this were to happen, it would have a negative effect on the tax base. As long as the buildings remain in good repair, the effect on the tax base should be negligible regardless of what types of businesses are in the buildings.

Land Use Compatibility:

- Most cities want commercial retail businesses to contribute to the vitality of their commercial areas. They don’t want their industrial areas, which often feature less architecturally attractive buildings and a non-pedestrian friendly environment, to “poach” retailers from the commercial areas.

- There can be traffic conflicts with mixing commercial and industrial uses (semi-trucks vs. families with children)

- There can be conflicts with noise, odors, etc. when commercial and industrial manufacturing businesses are neighbors. The retail businesses may start submitting complaints about the industrial businesses. This can make the industrial park less attractive to industrial business owners.

FINANCIAL IMPACT

As previously stated, this industrial park involved a large number of public subsidies which were intended to bolster the property tax base and to create good-paying jobs. Allowing commercial-retail businesses into the industrial park would deviate from the original vision but may be appropriate if the Joint Powers Board weighs the pros and cons and concludes that the changes are necessary to keep the industrial park viable.
The Joint Powers Agreement in place for this industrial park requires the City Council and the Town Board to make most land use decisions together. According to the City Attorney, there are essentially 3 policy options which the Joint Powers Board has the legal right to implement:

1.) Enforce the zoning code “as-is.” Require the owners of these two buildings to bring their properties into compliance. This would mean that the four (4) unauthorized businesses would be required to leave the industrial park and the IT Office would be required to obtain a Conditional Use Permit.

2.) Require the IT Office to obtain a CUP and find a way to lawfully “grandfather” the four existing (4) unauthorized businesses in their current size and shape but do not allow any additions or expansions and do not allow any new businesses to move into the industrial park that do not meet the I-1 Industrial Park zoning district standards. The goal with this policy would be to eventually phase out the four (4) nonconforming businesses as the owners retire or close their businesses.

3.) Create a new “mixed use” zoning district or overlay and place it over the two buildings. Within the mixed-use district, both industrial and commercial uses would be permitted. The Joint Powers Board should support this option if the goal is to allow additional commercial-retail uses to move into the two buildings and to allow the existing commercial-retail businesses to expand. The scope of “mixed use” could be controlled by only adding some specific commercial uses to the zoning code for the district. The mixed-use district would not need to allow all commercial uses. The Joint Powers Board would probably not want to see gas stations and car sales lots in the industrial park, for example.

The City Council discussed the three (3) options at their April 24th workshop and reached a preliminary consensus that they could potentially support either “OPTION 2” or “OPTION 3” but were leaning towards OPTION 3 and the creation of a mixed-use zoning district. The City Council did not view it as a viable option to expel the existing businesses from the Industrial Park.

The Joint Powers Board is asked to discuss the matter further. If the consensus is OPTION 3, Staff will work with the City Attorney to explore what the approval process needs to look like. The creation of a new zoning district is considered a “legislative” action as opposed to a “quasi-judicial” action like a site plan approval, conditional use permit, or variance. Generally, only the City Council has the authority to make a legislative change to the City’s zoning code since it is an official City document. The Joint Powers Agreement does state that the Township will be involved in zoning decisions, however. At a minimum, the Town Board will need to be involved in an advisory role. Staff will work with the City Attorney to clarify what the formal role of the Joint Powers Board needs to be if there is going to be a legislative change to the City’s zoning ordinance.

Staff would note that all three (3) of these options will require a substantial amount of planning/zoning Staff time and the City Attorney has advised that it probably is not realistic to expect the businesses to cover all of the costs.

**ATTACHMENTS**

A- Aerial Photograph of Paragon Plaza and the Big Lake Business Center
B- Photographs of Paragon Plaza and the Big Lake Business Center
C- I-1 Industrial Park zoning District Allowed Uses
ATTACHMENT A
AERIAL PHOTOGRAPH OF PARAGON PLAZA AND THE BIG LAKE BUSINESS CENTER
SECTION 1060 – I-1, INDUSTRIAL PARK DISTRICT

SECTION

1060.01: Purpose
1060.02: Permitted Uses
1060.03: Accessory Uses
1060.04: Uses by Administrative Permit
1060.05: Conditional Uses
1060.06: Interim Uses
1060.07: Special Design and Performance Standards
1060.08: Shoreland Management Provisions
1060.09: Lot Area, Height and Setback Requirements

1060.01: PURPOSE: The purpose of the I-1, Industrial Park District is to provide for the establishment of warehousing and light industrial development. The overall character of the I-1 District is intended to have an office/warehouse character, thus industrial uses allowed in this District are limited to those which can compatibly exist adjacent to both lower intensity business uses and high intensity manufacturing uses. Buildings located in this district shall be built in a good and workman-like manner with high quality, first class building materials. The design and location of buildings shall be attractive and shall compliment existing structures and surrounding natural features and topography with respect to height, design, finish, color, size and location.

1060.02: PERMITTED USES: Subject to the applicable provisions of this Ordinance the following are permitted uses in a I-1 District:

Subd. 1. Automobile repair, major, provided the operation is conducted within an enclosed building.

Subd. 2. Breweries.

Subd. 3. Essential services, not including structures, except those requiring administrative permits or conditional use permits pursuant to Section 1024 (Essential Services) of this Ordinance.

Subd. 4. Health Clubs.

Subd. 5. Jewelry Manufacturing.

Subd. 6. Laboratories.

Subd. 7. Machine shop.
Subd. 8. Manufacturing or assembly of a wide variety of products that produce no exterior noise, glare, fumes, obnoxious products, byproducts or wastes, or creates other objectionable effects on the environment.

Subd. 9. Mill working.

Subd. 10. Offices related to other allowed uses (limited to fifty (50) percent of the principal structure.

Subd. 11. Office/warehouse.

Subd. 12. Personal wireless service towers and antennas as regulated by Section 1022 (Antennas) of this Ordinance.

Subd. 13. Processing, fabricating, or providing a service provided the operations are conducted entirely within an enclosed building and that the operation complies with performance standards identified by Section 1032 (Performance Standards) of this Ordinance.


Subd. 15. Recreation, Public.

Subd. 16. Sexually Oriented Use-Principal, subject to the requirements of Section 1035 (Sexually Oriented Business) of this Ordinance and license requirements of the City.

Subd. 17. Trade or business school, private.

Subd. 18. Warehousing and indoor storage excluding explosives and hazardous waste.


1060.03: ACCESSORY USES: Subject to the applicable provisions of this Ordinance the following are permitted accessory uses in a I-I District:

Subd. 1. Accessory antennas. Accessory antennas in conformance with Section 1022 (Antennas) of this Ordinance.

Subd. 2. Accessory uses and structures incidental and customary to the uses allowed as permitted, conditional, interim, and administrative permit in this Section.

Subd. 3. Animal Keeping, subject to the provisions of Section 1021 (Animals) of this Ordinance.
Subd. 4. Garage, Private. Private garages and parking spaces for licensed and operable passenger cars and trucks not to exceed a gross weight of twelve thousand pounds, as regulated by Section 1030 (Off-Street Parking and Loading) of this Ordinance.

Subd. 5. Fences as regulated by Section 1025 (Fences) of this Ordinance.

Subd. 6. Incidental repair, processing or indoor storage necessary to conduct a permitted principal use so long as it does not occupy more than thirty (30) percent of the gross floor area of the principal use.

Subd. 7. Off-street Loading.

Subd. 8. Radio and television receiving antennas, including single satellite dish TVRO's three and one-half (3.5) meters or less in diameter, short wave radio dispatching antennas, or those necessary for the operation of household electronic equipment including radio receivers, federal licensed amateur radio stations and television receivers, as regulated by Section 1022 (Antennas) of this Ordinance.

Subd. 9. Sexually Oriented Use-Accessory, subject to the requirements of Section 1035 (Sexually Oriented Business) of this Ordinance and license requirements of the City.

Subd. 10. Signs as regulated by City Code Chapter 1300, (Signs).

1060.04: USES BY ADMINISTRATIVE PERMIT: Subject to the applicable provisions of this Section, performance standards established by this Ordinance, and processing requirements of Section 1003 (Administrative Permits) of this Ordinance, the following are uses allowed in a I-1 District by administrative permit as may be issued by the Zoning Administrator:

Subd. 1. Antennas located upon a public structure or existing tower as regulated by Section 1022 (Antennas) of this Ordinance.

Subd. 2. Essential services requiring a permit from the City Engineer as provided by Section 1024 (Essential Services) of this Ordinance.

Subd. 3. Land filling and land excavation/grading operations (50 to 250 cubic yards of material), except mining, as regulated by Section 1026 (Grading, Filling and Excavating) of this Ordinance.

Subd. 4. Signs as regulated by City Code Chapter 1300 (Signs).

Subd. 5. Temporary uses.
1. Temporary Seasonal Sales subject to permit requirements of Section 1012 (Temporary Uses) of this Ordinance.

2. Temporary mobile towers for personal wireless service antennas.

3. Temporary construction buildings, trailers and the like shall be permitted for construction purposes during the period of construction or alteration of a permanent building provided:
   a. The structure is placed as inconspicuously as practical on the lot.
   b. The structure shall cause no inconvenience to owners of occupants of other lots.
   c. The structure shall be removed no later than thirty (30) days after the date of completion for beneficial occupancy of the building.

4. Temporary structures and uses as identified by Section 1012 (Temporary Uses).

5. Temporary outdoor promotional events and sales including food vendors (hot dog, popcorn, ice cream, soda pop stands etc.), associated with a public, civic or promotion event.

Subd. 6. Occasional Sales.

1. Wholesale storage or manufacturing principal uses shall be limited to four (4) days of sales per month, two of which must be weekend days (Saturday and/or Sunday).

2. Sale shall not be conducted without an approved administrative permit, subject to the requirements of Section 1003 (Administrative Permits) of this Ordinance, including a review of available parking, sale hours, proposed signage, and any other information deemed necessary by the Zoning Administrator.

1060:05: CONDITIONAL USES: Subject to the applicable provisions of this Ordinance, the following are conditional uses in an I-1 District. (Requires a conditional use permit based upon the procedures set forth in and regulated by Section 1007 (Conditional Use Permits) and Section 1032 (Performance Standards) of this Ordinance.

Subd. 1. Animal hospital, clinic or commercial kennel (indoor).

Subd. 2. Antennas not located on a public structure or existing tower, as regulated by Section 1022 (Antennas) of this Ordinance.

Subd. 3. Armory, conference center.
Subd. 4. Auction facility.

Subd. 5. Commercial and public ratio and television transmitting antennas and public utility microwave antennas, as regulated by Section 1022 (Antennas) of this Ordinance.

Subd. 6. Commercial and public satellite dish transmitting or receiving antennas in excess of three and one-half (3.5) meters in diameter as regulated by Section 1022 (Antennas) of this Ordinance.

Subd. 7. Contractor's operation when contained entirely within a building.

Subd. 8. Daycare as a conditional accessory uses.

1. Accessory Use. The day care facility is an accessory use, located within the building of the principal permitted use and provided for employees of the principal use.

2. Outdoor Play Area. Outdoor play areas and parking areas are landscaped and screened from abutting residential properties in compliance with Section 1027 (Landscape, Screening and Tree Preservation) of this Ordinance.

3. State Regulations. The regulations and conditions of Minn. Rules Parts 9545.0510 through 9545.0678, as amended, are satisfactorily met. No facility shall begin operation without a State license.

6. Building and Fire Codes. That all applicable provisions of the Minnesota State Building Code and Fire Code have been met. The City Building Official and Fire Chief shall inspect the property prior to the issuance of the occupancy permit to determine if this Subsection has been complied with.

Subd. 9. Distribution Center.

Subd. 10. Essential service structures. Essential services requiring a conditional use permit pursuant to Section 1024 (Essential Services) of this Ordinance and including, but not limited to: buildings such as telephone exchange stations, publicly regulated communications, electrical power substations and other structures utilized to provide essential services, provided that:

1. No building shall be located within fifty (50) feet from any lot line of an abutting lot in a residential zoning district.

2. The architectural design of the service structure shall be compatible to the neighborhood in which it is to be located.

Subd. 11. Food Service as an accessory use (cafeteria or delicatessen for employees)
Subd. 12. Funeral homes and mortuaries.

Subd. 13. Garage, public or private.


1. All structures, except fences, shall be located one hundred (100) feet or more from side and rear lot lines of abutting residential zoned or planned property.

Subd. 15. Heliport.

Subd. 16. Incineration or reduction of waste material, other than customarily incidental to a principal use.

Subd. 17. Medical Campus.

Subd. 18. Municipal government buildings and uses. Municipal government utility stations, facilities, equipment, water towers, lift stations, booster or pressure regulating stations, wells and pumping stations, municipal utility buildings and structures necessary for the health, safety and general welfare of the community including the storage of fire fighting apparatus provided that:

1. Compatibility and Setbacks. Conformity with the surrounding neighborhood is maintained and required setbacks and side yard requirements are met.

2. Equipment Enclosed. Equipment is completely enclosed in a permanent structure or screened. Water towers are exempt from this provision.

3. Open storage of maintenance equipment and trucks over one and one-half (1 ½) tons, stockpiling of aggregate or other materials and open storage of shall not be permitted.


Subd. 20. Optical Manufacturing.


Subd. 22. Personal wireless service antennas not located upon a public structure or existing tower as regulated by Section 1022 (Antennas) of this Ordinance.

Subd. 23. Printing Establishments.

Subd. 25. PUD, Industrial. Industrial planned unit developments as regulated by Section 1011 (PUD's) of this Ordinance.

Subd. 26. Recreation field structure or building.

Subd. 27. Restaurant (cafeteria) provided for the use of employees of the principal use only.

Subd. 28. Retail sales, accessory provided:

1. Only products assembled or manufactured on site shall be sold.

2. The retail sales area shall not exceed a maximum of twenty (20) percent of the floor area of the space occupied by the principal business, up to a maximum of eight hundred fifty (850) square feet.

3. Signage shall comply with the provisions of City Code Chapter 1300 (Signs).

4. Parking shall comply with the provisions of Section 1030 (Off-Street Parking and Loading) of this Ordinance.

Subd. 29. Security structure. A dwelling unit for security accessory to the principal use of the site provided the dwelling unit is part of the principal structure and the dwelling unit complies with all applicable building and fire codes.

Subd. 30. Signs as regulated by City Code Chapter 1300 (Signs).

Subd. 31. Structures exceeding thirty-five (35) feet in height or three (3) stories or more in height (non-Shoreland areas).

Subd. 32. Transit stations.

Subd. 33. Taprooms.

1060.06: INTERIM USES: Subject to the applicable provisions of this Ordinance, the following are interim uses in the I-1 District and are further governed by Section 1010 (Interim Uses) of this Ordinance.

Subd. 1. Land filling and land excavation/grading operations (250 plus cubic yards of material), including mining as regulated by Section 1026 (Grading, Filling and Excavating) of this Ordinance.

Subd. 2. Metal buildings (existing).