

MINUTES

BOX ELDER COUNTY PLANNING COMMISSION

NOVEMBER 19, 2009

The Board of Planning Commissioners of Box Elder County, Utah met in the Box Elder County Commission Chambers at 7:00 p.m. The following members were present constituting a quorum:

Richard Day	Chairman	<i>the following Staff was present:</i>	
Chad Munns	Member		
Desiray Larsen	Member	Kevin Hamilton	Director
David Tea	Excused	Elizabeth Ryan	Secretary
Jay Hardy	Member	Tamara Wright	Planner
Jay Christensen	Member	Steve Hadfield	Co. Attorney
Laurie Munns	Member		

Chairman Richard Day called the Planning Commission meeting to order at 7:05 p.m. The Minutes of the October 15, 2009 meeting were made available to the Planning Commissioners prior to this meeting and upon review a Motion was made by **Commissioner Desiray Larsen** to approve the Minutes as written; seconded by **Commissioner Jay Christensen** and passed unanimously.

The following citizens were present:

Tony Hiatt/Salt Lake City	Dave Olive/Salt Lake City
Bruce Beck/Salt Lake City	Sherry Bingham/Collinston
Lorin Bingham/Collinston	Ed & Cindy Tugaw/Brigham City
Kim Christensen/Richmond	Tony Christofferson/Orem
Dennis Allen/Ogden	Ryan Goodliffe/Tremonton
JoLin Young/Brigham City	Mike Devine/Brigham City
Rich VanDyke/Brigham City	John Young/Promontory

PUBLIC HEARINGS

Chairman Richard Day informed those present that this was the time set for the public hearings on the various petitions on the agenda. **Chairman Day** also informed those present that there were some changes to be made on the Agenda. Those changes proposed were the Michael K. Munsee re-zones being taken off of the *Public Hearing* and *New Business* portions of the Agenda and the J. Brad Barto Gravel Pit from the *Unfinished Business* of the Agenda. The *Unfinished Business* was also being moved to follow the *New Business* items on the Agenda. **Motion** was made by **Commissioner Chad Munns** to approve the changes in the Agenda; seconded by **Commissioner Desiray Larsen** and passed unanimously. **Chairman Day** then called for the commencement of the remaining items on the Public Hearing stating that the Commissioners would listen to the comments and concerns, but this was not a questions/answer time.

GENEVA ROCK PRODUCTS CUP09-023, (BRENT SUMSION), LOCATED AT APPROXIMATELY 10000 WEST SR83 IN THE CORINNE AREA OF BOX ELDER COUNTY.

Staff explained that this property is located in a split zone with part in the MU-160 zone and the rest un-zoned. The project will consist of approximately 229 acres near the Little Mountain site and will include four phases with Phase 1 projected to cover 144 acres and be active for approximately fifteen (15) years. The activities will include drilling, blasting and dozing with the hours of operation being proposed from 6 a.m. to 7 p.m. with possible extended hours of operation during peak times. The Hearing was opened and a comment was received by *Michael Devine* of the Northwestern Band of the Shoshone Nation. *Mr. Devine* asked if this was the quarry located near the Stinky Spring site and asked if the water from the springs was being used for the quarry and also if any study had been done regarding endangered species as this is a sacred site for the Shoshone people. *Mr. Devine* asked if further study could be done regarding this before any operation was started at the site. No other comments were received and a Motion was made by **Commissioner Laurie Munns** to close the hearing, seconded by **Commissioner Jay Christensen** and was unanimous.

KNUDSEN'S SUBDIVISION #2, SS09-016, LOCATED AT APPROXIMATELY 5000 WEST 12000 NORTH IN THE TREMONTON AREA OF BOX ELDER COUNTY.

Staff explained that this 3-lot subdivision does not fall within the scope of a small subdivision with two of the lots having frontage on 12000 North and the third lot being a flag lot. In February 2008 the petitioner received preliminary and final approval, but since the plat was not recorded within a year time frame [by February 2009] the application has lapsed, and it is necessary to reapply for preliminary and final approval with the new application falling within the new guidelines of the Land Use Code. No comments were received during the hearing and a Motion was made by **Commissioner Desiray Larsen** to close the hearing; seconded by **Commissioner Jay Christensen** and was unanimous.

SHOSHONE PROMONTORY, LLC; Z09-004; REZONE OF PROPERTY ON PARCEL 01-012-0160 (2006 ACRES) LOCATED ON THE SOUTHWEST PORTION OF PROMONTORY POINT FROM UN-ZONED TO MUNICIPAL SOLID WASTE ZONE.

Staff explained that this application is to re-zone the property for a municipal solid waste zone as required by the recently adopted Ordinance 319. If the re-zone is approved the petitioners will also need to apply for a Conditional Use Permit before any operation or construction can begin. It will also be necessary to determine if this landfill operation is within a one-mile radius of any residential property. The Hearing was opened and *Mr. John Young* asked if re-zoning this property would have any effect on the land value of his property in the area. No other comments were made and a Motion was made by **Commissioner Chad Munns** to close the hearing; seconded by **Commissioner Laurie Munns** and was unanimous.

****REMOVED FROM AGENDA** MICHAEL K. MUNSEE, Z09-005, rezone of property located at approximately 8823 South Highway 89 (Parcel 01-047-0006) from the current R-1-20 zone to CG, to allow building of storage units.**

NEW BUSINESS

GENEVA ROCK PRODUCTS CUP09-023, (BRENT SUMSION), LOCATED AT APPROXIMATELY 10000 WEST SR83 IN THE CORINNE AREA OF BOX ELDER COUNTY.

Staff referred to sections of the LUM&DC that applied to this application which included Section 4-8; 4-8-060 and Section 2-2-100. The approval standards were then reviewed by Staff. **Commissioner Chad Munns** asked about the question that was brought up during the Public Hearing regarding any wildlife that might be affected by this operation. *Mr. Tony Christopherson* came forward to address the Commissioners and said that along with applying for the CUP with the County, they also had to apply with the State of Utah for an air quality permit and an environmental study and cultural survey was conducted through a third party which found that there was nothing of significance that would warrant stricter regulation. The issue of endangered species was looked at, but *Mr. Christopherson* did not know about the water or any wetland issues in the area of this quarry. Any water that would be used at the quarry would be hauled in for the dust control and culinary water would be brought in for individual usage. Another concern was the acreage that was included in the Phase 1 of this operation. The Commissioners asked if the entire 144 acres would be exposed at one time; *Mr. Christopherson* said that approximately 35-40 acres would be opened at a time and the closing of one section could [hopefully] occur while the next section was opening up. **Commissioner Laurie Munns** asked about the access to this site from the main road and asked if that would be addressed with any permit that this petitioner would need to get from UDOT.

MOTION: A Motion was made by **Commissioner Chad Munns** to grant approval for the Geneva Rock Products Conditional Use Permit quarry operation with the conditions as outlined by Staff. Motion was seconded by **Commissioner Desiray Larsen** and passed unanimously.

Conditions of Approval:

1. Before operation can commence with this Site Plan, the following documents must be submitted to the Planning and Zoning Office:
 - a. Site Plan showing all phases, which must also show the location of the weigh station and offices
 - b. Reclamation of Land
 - c. Storm Drainage Plan needs to be updated and show an initial volume of 5.6 acre foot basin as recommended by County Engineer; and depict how drainage will be directed to the basin, and how the site will be graded to ensure that all runoff will be contained on-site.
 - d. Fire Prevention Plan approved by County Fire Marshall
2. Compliance with the following Chapters in the Box Elder County Land Use Management & Development Code:
 - a. Chapter 4-8 – Landfill and Land Excavation
 - b. Chapter 2-2-100 – Conditional Use Permits
3. UDOT Approval Letter
4. Compliance with all State of Utah requirements
5. Compliance with all Local Departments
6. Compliance with recommendations and requirements set forth by County Engineer
7. Financial Guarantee set in place for Reclamation of Land

KNUDSEN'S SUBDIVISION #2, SS09-016, LOCATED AT APPROXIMATELY 5000 WEST 12000 NORTH IN THE TREMONTON AREA OF BOX ELDER COUNTY.

Staff explained that this three lot subdivision does not meet the small subdivision requirements and therefore, curb, gutter and sidewalk are required per the LUM&DC. The County Commission may grant a deferral on the installation of the curb, gutter and sidewalk for small subdivision and subdivision where the minimum lot size is five acres or greater. This subdivision has two lots with frontage on 12000 North and the third lot is a flag lot and meets the requirements of the [flag lot] ordinance. The petitioner has obtained all of the utility letters and Staff recommended approval with the conditions as outlined. *Ryan Goodliffe* [the petitioner] approached the Commissioners and asked if it would be possible to have the curb, gutter, and sidewalk (CGS) requirement deferred at this level, noting that there are other subdivisions in the County of similar size that do not have the CGS installed. *Mr. Goodliffe* also asked if it were possible to have a rural road agreement attached to this subdivision to which Staff said that when this happens, quite often the new property owners are not aware of having to install the CGS once it is determined by the County that it is needed; therefore, Staff said that the petitioner should inform any buyer of the lots that they may have to finance the installation of the CGS in the future. Following some further discussion the following motion was made.

MOTION: A Motion was made by **Commissioner Chad Munns** to grant Preliminary and Final approval of the Knudsen's Subdivision #2 with conditions as outlined by Staff and with the recommendation that the petitioner seek deferral of the curb, gutter, and sidewalk requirement from the County Commissioners. Motion was seconded by **Commissioner Jay Christensen** and passed with **Commissioner Jay Hardy** abstaining from the vote.

Conditions of Approval:

1. Conditions, requirements and recommendations of culinary water provider: Where no culinary water system is available the letter shall come from the state or local agency having jurisdiction to approve the new well or water system. The developer is required to comply with all the requirements and recommendations of the culinary water provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission.
2. Conditions, requirements and recommendations of wastewater treatment provider: Where no wastewater treatment system is available the letter shall come from the state or local agency having jurisdiction to approve the new wastewater treatment system. The developer is required to comply with all the requirements and recommendations of the wastewater treatment provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of the required and recommended improvements has been approved by the County Commission.
3. Conditions, requirements and recommendations of Box Elder County Fire Marshal: The developer is required to comply with all the requirements and recommendations of the county fire marshal prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the fire department send the County Planner a letter specifying their recommendations and requirements have been met.**
4. Conditions, requirements and recommendations of the County's Engineer: The developer is required to comply with all the requirements and recommendations of the county's engineer prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission. **The developer must have the County Engineer send the County Planner a letter specifying their recommendations and requirements have been met.**

5. Conditions, requirements and recommendations of the County Building Department: The developer is required to comply with all the requirements and recommendations of the county building department prior to the recording of the subdivision. **The developer must have the building department send the County Planner a letter specifying their recommendations and requirements have been met.**
6. Conditions, requirements and recommendations of the County Road Department: The developer is required to comply with all the requirements and recommendations of the county road department prior to the recording of the subdivision. **The developer must have the road department send the County Planner a letter specifying their recommendations and requirements have been met.**
7. Letters of approval from gas, electric, and/or other utility providers.
8. Rural road improvement agreement.
9. Compliance with all state and county subdivision regulations for which a specific variance has not been granted.
10. Financial guarantee for all required improvements not installed prior to recording of the subdivision.
11. The Staff portion of lot 3 shall be used only for ingress/egress. The staff portion shall be landscaped to be in harmony with other adjacent property and shall be improved by the installation of an improved hard surface such as concrete, asphalt or compacted road base with a dust prevention treatment.
12. All improvements to the flag lot, including installation of the hard surface and fire hydrants, shall be performed at the applicant's expense. No certificate of occupancy shall be issued for the proposed flag lot until the improvements are fully installed.

SHOSHONE PROMONTORY, LLC; Z09-004; REZONE OF PROPERTY ON PARCEL 01-012-0160 (2006 ACRES) LOCATED ON THE SOUTHWEST PORTION OF PROMONTORY POINT FROM UN-ZONED TO MUNICIPAL SOLID WASTE ZONE.

Staff explained that this re-zone application is for property that is currently un-zoned located on the west side of the southern tip of the Promontory Point Peninsula. It is comprised of 2,006 acres and it is the intent of the petitioner to develop plans to include a landfill operation where the intention is to treat, store and dispose of municipal solid waste. This application is governed by Sections 2-2-080; 3-8; 3-8-030 of the LUM&CD of Box Elder County as well as the newly passed Ordinance 319. *Tony Hyatt* approached the Commissioners informing them that access to this site would be via Weber County either by truck or rail along the existing causeway. *Mr. Hyatt*, along with *Bruce Parry* [of the Shoshone Tribal Council] discussed this proposal with the Commissioners. It was determined that this operation would have to received approval and permits from the State of Utah that would also cover many of the concerns of the County. The Planning Commission was also concerned that even though access would be through Weber County, there may be the need to access in Box Elder County and the road may need to be improved or at least maintained for good travel conditions and would the petitions be responsible for the maintenance? Staff said that it may be necessary for the petitioners to obtain a Conditional Use Permit regarding the use of the Box Elder County road accessing this site. **Commissioner Chad Munns** asked if the petitioners were aware of the approval standards that had been outlined by Staff in the staff report and was told that they were and that Staff would also continue to work with them in developing this municipal waste site. At the conclusion of the discussion the following motion was made.

MOTION: A Motion was made by **Commissioner Laurie Munns** to forward a recommendation to the County Commission to grant the re-zone application for the Shoshone Promontory property. Motion seconded by **Commissioner Jay Christensen** and passed with **Commissioner Jay Hardy** abstaining from the vote.

Approval Standards:

1. Whether the proposed amendment is consistent with goals, objectives and policies of the County's

General Plan.

- a. When the applicant complies with all requirements set forth from State and Local departments, the proposed amendment will meet this standard.
2. Whether the proposed amendment is harmonious with the overall character of the existing development in the vicinity of the subject property;
 - a. This property is currently un-zoned
 - b. There is no development in the area
3. The extent to which the proposed amendment may adversely affect adjacent property; and
 - a. When the applicant meets the requirements set forth by the County Road Department, Fire Marshall, County Engineer, and other State Departments, the extent to which the proposed amendment will adversely affect adjacent property will be minimal.
 - b. Corps of Engineers has determined there are no waters of the United States, including wetlands, within the disposal area.
 - c. The numbers and species of wildlife found in this area are very limited due to lack of surface water.
 - d. Birds are very mobile and as such would not be impacted by the said development.
 - e. There are no resident species of threatened, endangered, candidate or sensitive species of wildlife found in the stated vicinity.
4. The adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and waste water and refuse collection.
 - a. When the applicant meets the requirements set forth by the County Road Department, Fire Marshall, County Engineer, and other State Departments, the adequacy of county services and facilities will be sufficient to serve the subject property.

UNFINISHED BUSINESS

BINGHAM PROPERTIES, SS08-026, ADDITIONAL INFORMATION REGARDING CHANGE OF ZONE TO ALLOW WIND TURBINES IN COLLINSTON AREA OF BOX ELDER COUNTY. (CINDY TUGAW)

Ms. Cindy Tugaw made an application over a year [in 2008] ago requesting a re-zone to allow for wind turbines on property located in the Collinston area of Box Elder County. Since that time, she, along with Staff and others from the County visited a wind turbine site located in Spanish Fork, Utah County. During the past year there has been an anemometer located on the [Bingham] property in Collinston to help measure the wind in that area. *Ms. Tugaw* had several handouts that she presented to the Planning Commissioners and they are attached to the official minutes of this meeting. Those materials included:

1. **Exhibit "A"**, Utah Support including newspaper articles, quotes from elected officials, i.e. Governor Huntsman and Lt Governor Olene Walker
2. **Exhibit "B"**, Wind Energy Guide for County Commissioners from the U.S. Department of Energy
3. **Exhibit "C"**, *Generating Economic Development for a Wind Power Project in Spanish Fork Canyon, Utah: A Case Study and Analysis of State-Level Economic Impacts.*
4. **Exhibit "D"**, *Small and Large Wind Systems Ordinance Provided by State Of Utah Department of Natural Resources*, a proposed ordinance being presented to the Utah State Legislature by Elise Brown, Renewable Energy Coordinator
5. **Exhibit "E"**, *In the Public Interest, How and Why to Permit for Small Wind Systems; A Guide for State and Local Governments*, 9-2008.
6. **Exhibit "F"**, material from Spanish Fork City including the Planning Commission (May 4, 2005) and Council Meeting (March 7, 2006) Minutes regarding the wind turbines

located at the mouth of Spanish Fork Canyon.

Ms. Tugaw thanked the Planning Commissioners and Staff for the work that has been done thus far toward establishing a wind turbine ordinance for Box Elder County, and said that she looked forward to working with the County and the Planning Staff in the near future.

MOTION: A Motion was made by **Commissioner Desiray Larsen** to direct the Planning Staff to move forward in planning a work session to further look into an ordinance for alternative energy, including wind turbines in Box Elder County. Motion seconded by **Commissioner Jay Christensen** and passed unanimously.

BRAG – PRE-DISASTER MITIGATION PLAN FOR THE BEAR RIVER REGION (BOX ELDER, CACHE & RICH COUNTIES) RECOMMEND ADOPTION OF PLAN TO COUNTY COMMISSIONERS.

Kevin Hamilton addressed the Planning Commissioners regard this pre-disaster mitigation plan that has been presented by BRAG for the counties of Box Elder, Cache, and Rich to adopt before March 1, 2010. A representative from BRAG had met with the Commissioners during a work session and each member received a copy of the plan on a disc. Mr. Hamilton recommended that the Commissioners forward their approval to adopt this plan to the County Commissioners.

MOTION: A Motion was made by **Commissioner Jay Christensen** to forward a recommendation to the County Commission in adopting the BRAG-Pre-Disaster Mitigation Plan for the Bear River Region (Box Elder, Cache & Rich Counties). Motion seconded by **Commissioner Chad Munns** and passed with **Commissioner Jay Hardy** abstaining.

**** REMOVED FROM AGENDA** J. Brad Barto Gravel Pit, SP09-008, located three miles northwest of Promontory at approximately 8605 North Salt Hill Road. (Site Plan Review)**

WORKING REPORTS

Thomas Furman was reporting back to the Planning Commissioners regarding the wind turbine issue that is currently before them. *Mr. Furman* installs these turbines and has installed two in Box Elder County; one on his property and another one east of the Tremonton area. He agreed with much of what was presented by Ms. Tugaw, adding that in regards to the height of these towers, they will be visible if it is fifteen feet or fifty feet tall. He also pointed out that the higher towers are more efficient in gathering the wind and the noise of the tower dissipates with the height. He further pointed out that the minimum wind speed needs to be ten (10) miles per hour for a residential tower and twelve (12) MPH for commercial. When asked about new technology, Mr. Furman said that wind and solar energy don't change or get outdated, even though the products to generate energy from these sources are getting better through technology and design. The Commissioners thanked Mr. Furman for his comments and said they were looking forward to working toward establishing an ordinance to regulate alternative energy sources within the County.

Staff addressed the Planning Commissioners regarding the **UTAH PYROTECHNICS ASSOCIATION** (*Mr. Bruce Beck*) which had come before the Planning Commission on July 16, 2009 requesting a renewal of their Conditional Use Permit and site plan. Staff reported that there were several conditions that were placed on this request which included obtaining letters from the

County Building Department, the County Fire Marshall, and the County Health Department. On September 18, 2009 these three departments visited the site and made their recommendations and they felt that several things were missing in this plan. One of the requirements of the Fire Marshall was for **Mr. Beck** to provide a copy of the latest ATF (Alcohol, Tobacco and Firearms) inspection for this operation. **Mr. Dale Neal** from ATF informed Staff that this facility should have a yearly inspection; however, noting that Box Elder County does not have the necessary equipment to complete one itself. After discussing this with the Commissioners it was felt that since the ATF permits are renewed every three years, the inspection by the County Fire Marshall should be conducted at that same time and those inspections should be coordinated with ATF and the County Fire Marshall. Staff was to forward that recommendation on to the Fire Marshall.

PUBLIC COMMENTS – NONE

A **Motion** was made by **Commissioner Jay Christensen** to adjourn at 9:08 p.m., unanimous.

Passed and adopted in regular session this 17th day of December 2009.

Richard Day, Chairman
Box Elder County
Planning Commission