

MINUTES

BOX ELDER COUNTY PLANNING COMMISSION

APRIL 16, 2009

The Board of Planning Commissioners of Box Elder County, Utah met in the Box Elder County Courtroom 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	Vice Chairman		
David Tea	Member	Kevin Hamilton	Director
Jay Hardy	Member	Elizabeth Ryan	Ex. Secretary
Jay Christensen	Member	Tamara Wright	Planner
Laurie Munns	Member	Steve Hadfield	Co. Attorney
Desiray Larsen	Member		

Chairman Richard Day called the Planning Commission meeting to order at 7:02 p.m. **Chairman Day** then welcomed the new members of the Box Elder County Planning Commission, Jay Christensen, Laurie Munns and Desiray Larsen. The Minutes of the March 19, 2009 meeting were made available to the Commissioners prior to this meeting and upon review, **Commissioner Chad Munns** made a Motion to accept the Minutes as written; seconded by **Commissioner David Tea** and passed unanimously.

The following citizens were present:

Lucas Johnson/Collinston	Eldon Johnson/Deweyville
Marilyn Pace/Elwood	Paul Pali/Elwood
Allan Shelton/SLC	Dennis & Brenda Nelson/Mantua
Connie Lemmon/Collinston	Kelly Lemmon/Collinston
Chris Sorensen/Brigham City	Pat & Paul Garner/Collinston
David Alexander/Collinston	Lorin & Sherry Bingham/Collinston
Ed & Cindy Tugaw/Brigham City	Bob & Ronda Davis/Willard
Rock Hill/Bear River City	Mike Nelson/Bountiful
Kristen Molten/Collinston	

PUBLIC HEARINGS

Chairman Richard Day told those present that two of the items on the agenda would not be addressed at this meeting. Those items were 1) CUP09-003, Anderson Livestock Auction, and 2) Changes to Article 5 regarding Regulations of General Applicability – Design Requirements for a County Road in rural areas. The public hearings were then opened for comment.

BINGHAM FAMILY PROPERTIES, ORDINANCE AMENDMENT, SS08-026, LOCATED IN THE COLLINSTON AREA

Staff explained that this petitioner had made application to amend the ordinance to permit windmills in rural areas and on farms as the current ordinance does not have a Wind Turbine ordinance for larger sizes and areas. During the public comment period the following comments were received regarding this proposal:

Pat Garner from Collinston asked if any study had been done regarding the affect of wind turbines on surrounding property values as she felt that in other areas it had diminished values. She also asked about the noise produced by the turbines and the increase of lightning strikes. It was also her understanding that the wind was not consistent enough to warrant the larger turbines.

David Alexander, also from Collinston, said that the state had run a test that indicated that there was sufficient wind to justify the larger wind turbines in this area. He said that the [larger] turbines that he has seen in the California area are pretty quiet; in fact he said that they could not be heard while standing under them in that area. He felt that this area of Collinston would be good for an alternative energy source.

Kristen Molten lives across where these turbines are being proposed in Collinston. She expressed concerns about the change in the scenery these turbines would cause, but also saw the need for seeking alternative energy sources. She suggested that the members of the Planning Commission try and look at other areas in the state (such as Spanish Fork) where these large turbines are currently in use and visit with citizens living in the area to seek information about the noise and other negative effects of these turbines. However, Kristen also said that there is a need for alternative energy sources and perhaps it is necessary for some to sacrifice in order to obtain these alternative sources.

Kelly Lemmon recently moved to this area from Davis County and expressed concern over the height of these proposed turbines. He said that some of these larger ones can be as high as 450 feet [one tenth of a mile, or 15 telephone poles at an average height of 30 feet each]. Kelly also said that the smelter smoke stack at Kennecott is 1200 feet high and these turbines would be 38% of that height. He felt that there would not be an inhabited part of Box Elder County where these turbines could not be seen from a distance and felt that there were other areas in the County that would be better suited for a project such as this that would have less of an impact of the residents of the County. He hoped that the Commission would study this proposal before making any final decision.

Lucas Johnson lives in the south end of Collinston and he referred to the property values spoken of earlier and also of the gravel pits located in this area and the impact that they have on property values. He said that the value of his property [by his bank] had been diminished by the gravel pit and also because of the smell generated by the asphalt that is made at this gravel pit. Lucas said that he was in favor of the wind turbines, but asked that if the Bingham's were allowed to build these structures would others in the area also be allowed to do the same if they had adequate acreage. He also asked if the Commission would be limiting the size [height] of any turbines located in this area to perhaps the medium height of 200 feet as that size would probably be less obtrusive.

Director, Kevin Hamilton, responded to Lucas Johnson's question regarding the change in the ordinance and that if the change were made it would allow for anyone in the RR-2 zone to be able to place wind turbines on their property. *County Planner, Tamara Wright* said that in regards to this particular proposal it is for a large wind farm and not just for one turbine on an individual's property; thus the regulations for individual turbines would be different than this petition and would have to be addressed on an individual basis, either in the same ordinance or another ordinance. The research that had been done for this petition was directed at large wind farms in a RR-2 zone and not for just one turbine on a two acre parcel. The Planner then submitted a letter that had been received from an individual [Robert T. Secrist] whom lives out of state, but has property in the area where these turbines are being purposed and was against any changes in the current planned use of the properties in the area. (A copy of that letter is with the official Minutes of this meeting.)

No other comments were received and a Motion was made by **Commissioner David Tea** to close the public hearing, seconded by **Commissioner Jay Hardy** and was unanimous.

DENNIS & BRENDA NELSON, RE-ZONE Z09-002 AND CUP09-007, FOR PROPERTY LOCATED AT APPROXIMATELY 1500 NORTH HWY 91 IN THE MANTUA AREA.

Staff explained that this petition is two-fold as the petitioner(s) are requesting that the property of approximately 240 acres be re-zoned from the current MU-160 to MU-80 in order for each of the three owners [Dennis & Brenda Nelson, Michael & Karole Nelson, and Reed & Kim Nelson) to receive 80 acres each. The conditional use permit is for the Dennis and Brenda Nelson property in order to have a single family dwelling on their property. This CUP would be tied to the MU-160 [current] zone and would continue to be associated with the re-zoned property of MU-80. This property is located east of Highway 89/91 just south of the State road shed on the Box Elder/Cache County line. The Dennis & Brenda Nelson property has access from Highway 89/91 and has frontage on that highway. No comments were received regarding re-zone of this property and a Motion was made by **Commissioner Laurie Munns** to close the hearing, seconded by **Commissioner Jay Christensen** and was unanimous. No comments were received regarding the CUP for the Dennis & Brenda Nelson single family dwelling and a Motion was made by **Commissioner Chad Munns** to close the public hearing, seconded by **Commissioner David Tea** and was unanimous.

CHRIS SORENSEN, SITE PLAN REVIEW SP-09-001, FOR THE PURPOSE OF AN AGRICULTURAL MACHINE SHOP LOCATED AT APPROXIMATELY 13675 N 4400 W IN THE EAST GARLAND AREA.

Commissioner Chad Munns stated that he may have a conflict of interest regarding this petition as he owns property in the area where Mr. Sorensen has petitioned for this machine shop. Staff explained that Mr. Sorensen has made an application for an ag-machine shop in the unincorporated area of the County. Mr. Sorensen currently owns a shop in Tremonton and would like to relocate to his property in the Garland area and a site plan is required for such a use. This property has utilities as in the past there was a modular home, but it is unknown as to whether or not they are sufficient utilities for this proposed ag-machine shop. No comments were received during the hearing and a Motion was made by **Commissioner David Tea** to close the public hearing, seconded by **Commissioner Desiray Larsen** and was unanimous with **Commissioner Chad Munns** abstaining from the vote.

UNFINISHED BUSINESS

The two items of unfinished business, 1) CUP09-003, Anderson Livestock Auction, and 2) Changes to Article 5 regarding Regulations of General Applicability – Design Requirements for a County Road in rural areas were both tabled as sufficient information had still not been received in the Planning office.

NEW BUSINESS

BINGHAM FAMILY PROPERTIES, ORDINANCE AMENDMENT, SS08-026, LOCATED IN THE COLLINSTON AREA

Staff stated that its recommendation on this application was a matter for the legislative body and that after receiving input from the public hearing and also considering their personal knowledge of various conditions and activities bearing on this application the Planning Commissioners were at liberty to make their recommendation. At this point the petitioner asked if they could address the Commissioners and *Cindy Tugaw* appeared before the body and thanked them for considering this request. *Ms. Tugaw* stated that she felt that wind generation was energy to be considered for the future, it is renewable and clean and that as Americans we need to reduce our dependency on the Middle East. She would rather have wind energy than coal energy and agreed that there are other [less populated] areas of the County that may be suited for these wind turbines, but they may not have the necessary wind speeds. The application that *Ms. Tugaw* has submitted is asking for an amendment to the ordinance that is currently in place as it does not pertain to larger wind turbines or wind farms. (The current ordinance allows for individual wind towers in residential areas on lots of 20,000 square feet as long as the landowner has a minimum of 1.5 acres.) The Bingham properties have much more acreage than the required 1.5 acres and *Ms. Tugaw* felt that this current ordinance needed to have some adjustments. She also stated that there is no current contract with any developer to place any turbines on this property, but they would like to have that option, and would like to have it as a permitted use rather than a conditional use (as with the current ordinance). **Commissioner Chad Munns** asked the Director if a project such as this could be handled in the same manner as a PUD and was told that it could be a possibility. **Commissioner Chad Munns** also said that he felt that this petition should be returned to the County Planner with the direction to address the questions that had been voiced during the public hearing, and perhaps have them (the County Planners) visit some of the other sites in the State where there are larger wind turbines in operation and talk with the surrounding residents to get their feelings and opinions on these large structures. *Kevin Hamilton* said that the Commissioner may want to consider limiting the size of the wind turbines also in any newly created ordinance. Although the public hearing had concluded **Chairman Richard Day** accepted the following comments:

Pat Garner asked about fire protection that would be available to handle any emergencies as the Fielding Fire Department may not have the needed resources. She was also concerned about the ice buildup on the blades during the winter months the storage of gas necessary to keep the turbines running when there was not sufficient wind in the area.

Paul Garner asked about the number of wind turbines that were being considered for this area, was it 40 or 50 or more; he also noted the noise from some wind farms that he had seen in Hawaii, stating that they were very noisy there. He was also concerned about any law suits that may occur due to the devaluing of property in the area where the wind farm would be located.

Kelly Lemmon said that he was not opposed to a landowner having a turbine on their property if it was to help with powering a well. However he felt that there is a right place and a wrong place for these large wind farms and that this [Collinston] area was not the right place. He referred to the wind farms along the Interstate in Wyoming and that they can be seen from a distance far away, including the top of Francis Peak in the Davis County area as he has been able to see them from there.

MOTION: A Motion was made by **Commissioner David Tea**, stating that based on the public input, that this item be tabled to give Staff the opportunity to conduct more research regarding this petition. Motion was seconded by **Commissioner Jay Christensen** and passed unanimously.

DENNIS & BRENDA NELSON, RE-ZONE Z09-002 AND CUP09-007, FOR PROPERTY LOCATED AT APPROXIMATELY 1500 NORTH HWY 91 IN THE MANTUA AREA.

The petitioner, Dennis Nelson addressed the Commissioners stating that the reason for the request for the re-zoning of the property was to equally split the 240 acres between the three brothers and as he and his wife have a home on the part of the property that would belong to him, he had found that in order to obtain funding from a mortgage company the size of the property needed to be less than the current MU-160 zone. The mortgage company was willing to lend on a MU-80 zone. Mr. Nelson also told the Commissioners that he and his brothers did not want to develop this property. There is also sufficient [farm] access to the properties with the Dennis Nelson property having residential access from Highway 89/91.

MOTION: A Motion was made by **Commissioner Chad Munns** to forward the Planning Commission's recommendation to the County Commission to re-zone this property from the current MU-160 to MU-80. Motion seconded by **Commissioner Jay Hardy** and passed unanimously.

In regards to the conditional use permit for Dennis & Brenda Nelson, staff explained that because it takes some time for a re-zone to go through the complete approval process, the petitioners are requesting a CUP that will be tied to the MU-160 zone for their single family dwelling on the property. (A single family dwelling is allowed by a CUP in the MU-160 and MU-80 zone.) The CUP will then be "grandfathered" in with the property and stay with the property regardless of the zone in the future.

MOTION: A Motion was made by **Commissioner Laurie Munns** to grant approval for Conditional Use Permit for Dennis and Brenda Nelson with the conditions as outlined by Staff. Seconded by **Commissioner Jay Christensen** and passed unanimously.

Conditions of Approval:

1. Compliance with requirements and recommendations from our County Engineer, Jones & Associates
 - a. See letter dated March 27, 2009.
2. Compliance with requirements and recommendations from Fire/Building Inspector, Andre Pommier.
 - a. See letter dated 4/7/2009
3. Financial guarantee for Improvements

CHRIS SORSENSEN, SITE PLAN REVIEW SP09-001, FOR THE PURPOSE OF AN AGRICULTURAL MACHINE SHOP LOCATED AT APPROXIMATELY 13675 NORTH 4400 WEST IN THE EAST GARLAND AREA.

Staff had recommended tabling this petition for the Chris Sorensen CUP Ag/Machine Shop as there was not an adequate site plan available for review at this time.

MOTION: A Motion was made by **Commissioner David Tea** to table the Site Plan/Conditional Use Permit for the Chris Sorensen Ag/Machine Shop; seconded by **Commissioner Desiray Larsen** and passed with **Commissioner Chad Munns** abstaining from the vote due to a possible conflict of interest.

SURPLUS PROPERTY; INTERMOUNTAIN HEALTH CARE IN TREMONTON

Director Kevin Hamilton explained that this item was in regards to some surplus property at the location of the old hospital site in Tremonton which provides access to the professional building to the east. The County does not own this property, but this action is to amend a subdivision that was approved approximately six/seven months ago that will allow for this access to the building. The property is all within the Tremonton city limits, and the purpose of the Planning Commission is to determine that this action is not in conflict with the County's General Plan.

MOTION: A Motion was made by **Commissioner Chad Munns** to recommend to the County Commission approval to amend the subdivision to allow access to the Professional Building. Motion seconded by **Commissioner Laurie Munns** and passed unanimously.

ORDINANCES REGULATING LOCATION OF LANDFILLS, LAND EXCAVATIONS, MINES, QUARRIES, GRAVEL PITS AND OTHER SIMILAR USES WITH BOX ELDER COUNTY

Director Kevin Hamilton had given each of the Planning Commissioner a copy of an ordinance from Tooele County which deals with the subject of landfills, mines, gravels pits, etc., and asked that each of them review them as Box Elder County is in the process of adopting ordinances regulating these practices. This action now falls within the pending ordinance guidelines, so any new applications will have to meet whatever guidelines are set in place (within the next six months). The Planning Commission will hold a work session on May 12, 2009 in order to work on completing these new ordinance and then schedule public hearings. It was also suggested that the Commission work on an ordinance regulating wind farms on a larger scale and possibly other sources of alternative energy.

DE-ANNEXATION POLICIES FOR INCORPORATED TOWNSHIPS WITHIN BOX ELDER COUNTY

Jay Aguliar, the Planner from Willard City, had asked to come and address the County Planning Commission regarding individual landowners that currently reside within a city's boundary and for one reason or another may be considering de-annexing from that city. Mr. Aguliar had given each of the Commissioners a sample of the de-annexation policy of Davis County. As the 'county' does not offer municipal services, i.e., water, sewer, utilities, etc., the Commissioners felt that a de-annexation policy is needed. Some of the language from that [Davis County] policy included:

The County supports a policy of contiguous cities within the developable lands...all development occurs within municipalities. The County recognizes that the main purpose of municipalities is to provide services to give the citizen a voice in local affairs. Allowing development to occur in unincorporated areas of the County defeats both of these purposes and is not in the best interest of current or future citizens.

One of the main determinants of growth and development is the availability of sewer, water, and other utility services. Without ready access to such services, large scale residential and non-residential development is not likely. Consequently, the ability to control the provision of such services is a major factor in controlling growth.

POLICY

- ◆ *The County does not provide public utility services to unincorporated areas.*
- ◆ *The County discourages the establishment or extension of special improvement districts and their utility lines for the primary purpose of opening areas for development.*
- ◆ *The County encourages that municipalities annex areas of Unincorporated County where now and/or extended services are needed.*

(A complete copy of the Davis County Policy is attached to the Official Minutes)

In reviewing this [sample] policy, Kevin Hamilton stated that there is a need to update the County General Plan as it is over ten years old and that a policy for de-annexation could be included in the General Plan. However, the Commissioners felt that this de-annexation should be addressed sooner rather than later and not wait for the updating of the General Plan.

MOTION: A Motion was made by **Commissioner Chad Munns** to direct the **Director Kevin Hamilton** and **County Attorney Stephen Hadfield** to get a working sample/report regarding a de-annexation policy [for properties boarding city limits, with the necessary legal language] adding a de-annexation policy to the General Plan for Box Elder County. Motion seconded by **Commissioner David Tea** and was passed unanimously.

WORKING REPORTS

Planner Tamara Wright reported on the administrative interpretation for the **George P. Welsh, CUP** located in the Snowville area. Mr. Welsh was seeking electrical service to his parcel in order to house a trailer where food storage is being kept. Ms. Wright said that he was referred to the building department for a permit and no further approval was needed from the Planning Commission.

The Planning Commissioners were informed that **Mr. Mike Coates** had talked with the planning office in regards to the possibility of locating a haunted house [as a temporary use] in the South Willard area. Mr. Coates was not present at this meeting and no further action was taken.

Director Kevin Hamilton explained to the Commissioners that at the time of issuing the **CUP for the Procter and Gamble site** there was a possibility that some minor changes [could] occur to that site plan, i.e. placement of the buildings on the site. However, no other information was available for the Commissioners to review at this meeting; Mr. Hamilton said that representatives from P&G would probably be attending a meeting in the near future with an update.

PUBLIC COMMENTS – NONE

The Planning Commission meeting was adjourned at 9:02 p.m.

Passed and adopted in regular session this 21st day of May, 2009.

Richard Day, Chairman
Box Elder County
Planning Commission