

scheduled was on the fencing ordinance and **Chairman Kimber** asked Kevin Hamilton to briefly review the issue.

BOX ELDER COUNTY FENCING ORDINANCE

Kevin Hamilton explained that the County Commission had given the Planning Commission the charge of reviewing the current fencing ordinance as it did not meet the needs of the county as currently written. This ordinance has been worked on for several months [and years] now, with other public hearings held and the planning commission has now determined that these concerns and issues exist with the current fencing ordinance:

- ➔ Cost and expense of installing “required” fences
- ➔ Damage to crops/habitat caused by grazing livestock
- ➔ Ability of local law enforcement to deal with issues
- ➔ Potential liability for livestock related incidents

Therefore the Planning Commission has determined that the appropriate philosophy to deal with these issues would be that each individual should be responsible for his/her conduct as well as for that of their livestock; and the Planning Commission has made a preliminary decision that the following action would be appropriate to handle these issues and concerns:

- ▶ The current county fencing ordinance (Ordinance No. 275) should be repealed in its entirety
- ▶ No county fencing ordinance should be adopted
- ▶ A new ordinance should be adopted which would make it a Class C Misdemeanor for anyone to allow their livestock to trespass upon the property of another without first obtaining consent.

Chairman Kimber further explained that other committees had worked on this fencing issue and several professionals had been involved in the meetings with these committees. Basically it appears that the needs of the county have not been addressed in formulating this ordinance and therefore the County Commission had referred it back to the Planning Commission for further study and the Planning Commission had determined that perhaps the best thing to do would be to revert back to the State [fencing] Law Ordinance and enable the county law enforcement the means to deal with the issues. In talking with attorneys and law officials it was determined that the liability issues would not change and that if an individual is negligent then they could/would be in trouble. The public hearing was then opened at 7:09 p.m. for comments.

BRIAN SHAFFER urged the Planning Commission to reconsider their proposal to rescind the current ordinance realizing that as it is it is not perfect, but felt that it could be worked on and changed to meet the needs of the county. He did not feel that the State Statute would work for this county as it did not offer any leniency for occasional stray animals and Box Elder County is unique and has many different land uses and the blanket of the state ordinance would not work well here. Also wondered if the original committee [or committees] had been consulted regarding the decision that is currently being offered, as those committees spent many hours working on this ordinance. Hoped that the current committee would look at the group that was being represented tonight as it represents many agricultural and livestock people and this is an important issue to all of them.

GARY ROSE, from Park Valley, was knowledgeable regarding the state statute and had seen it fail many times while he was the president of the Utah Cattlemen’s Association. Also wonder who would be available to enforce the proposed ordinance in the western part of the county since there is a mix of private and federal land use. This proposed ordinance would put neighbor against neighbor. Need to come up with something less encumbered

and was against the proposal of the Planning Commission. Because of the vastness of the area where he lives having a “fence-in” ordinance would be unreasonable and did not think that there was a fence that could keep a cow in if it wanted to get out.

KEN SPACKMAN, Park Valley representing the Western Box Elder Conservation District, asked the committee to reconsider and leave as “open range” in the western part of the county. Appealing to the economic end of the issue as there are more people living on Main Street in Brigham City than there are in the Conservation District. He has 40 acres of land next to people that he has never met as they live in Kansas, Hawaii, Washington, Nevada, Oklahoma, California and if he has to fence all of them out [people he has never seen or met] the current cost for fence [barb wire] is \$95 a roll and a steel post is \$6.72 each and it would cost him \$3738 (not counting the labor) to fence his 40 acres of ground. Appealed to leave it “open range” as it would cause an economic hardship to individuals in his area as some would have to spend as much as \$40-50,000 to fence their acreages.

FRANK TOLLMAN, Pocatello Valley where it is mostly agriculture, but his brother has cows and has them insured so that if one gets out and causes problems it can be taken care of. Felt that if you had animals they should be fenced in and taken care of.

SHERIFF LYNN YEATES, wanted those present to know that he, his chief deputy and officers represent the citizens of Box Elder County and had information (attached) regarding all of the animal problems within the county for the last four years. He estimated that there are about 200 calls per year regarding animal issues along with the other 4000+ calls on other issues. With the current ordinance his department can do little to enforce offences. There need to be more substance to the ordinance and was glad to see that some of that was being addressed in the current proposal.

COMMISSIONER RICH VANDYKE, was speaking for **Carl Roberts**, from Elwood who had called him earlier in the day expressing his being in favor of the proposed ordinance and felt that animals should be the responsibility of the owner(s).

SCOTT SCANDALL, representing the Farm Bureaus of North & South Box Elder County stated that those individuals felt that by flipping to a “fence-in” ordinance it would be opening up just as many problems as the current ordinance. Heard the costs involved with fencing and that could really hurt agricultural producers and there are also issues with county roads that go through private property and who would have to fence those roadways? Hoped that the committee would reconsider its position to change the ordinance and consider looking at some alternate ways of dealing with the problems. County animal control officers have been effective in four other counties that he has talked with when dealing with stray or nuisance animals. Need to find a better way to deal with the isolated problems that arise.

DAVE ELIASON, President Elect of the Utah Cattle Association agreed with the comments made by Scott Scandall in keeping the law as it now stands. The BLM does not participate in any borderline fencing. There are counties in the state that currently have a good fencing law and they are Garfield and Washington Counties where they have an animal control officer. Agreed that there are many times when the fence law is abused, but they need to be resolved by someone in the county that has the authority to resolve those issues.

GARTH KIDMAN, of Beaver Dam has a few hundred acres and when cows get out they get into his springs and he is faced with the expense of fixing it. He would like to see the ordinance changed to something that would work. A fence won’t keep a cow in when it smells water.

ARTHUR DOUGLAS, is current President of the Utah’s Farmers Union and chairman of the former fencing (1995) committee. His committee worked with County Attorney Amy Hugie and an outside consultant Ken Bradshaw, an expert on fencing laws, Sheriff Leon Jensen or one of his deputies also served on the committee to help determine what type of [ordinance] law could be enforced. He was not aware of any members of the former committee being consulted in this new proposal. When the public hearing was held in Tremonton a few years ago, 90% of those in attendance were in favor of not changing the current ordinance. Thought that maybe it would be a good idea to have a mediation board to help the two sides come together in solving a problem, and did not think that Lynn Yeates had enough funds in his budget to enforce this proposed change.

JOHN REESE, family has a farm in the Blue Creek, Pocatello Valley area and was concerned about his neighbors with property in the CRP and when/if that is opened to cattle grazing is it his responsibility to fence in order to keep those animals out of his property. He felt that this proposed ordinance was a bit strict as his family

also has cattle in the Harper Ward area and into Cache County where there are elk around that area and they will break down the fences allowing the cattle to get through also. Perhaps the fencing ordinance should be broken down into two parts to deal with the issues on the west/east sides of the county.

LANCE WESTMORELAND, from Park Valley, has had occasions when his absentee neighbor's cattle have broken down the fence to get to the feed on his property when theirs is gone. These are aggravations that he has dealt with all spring long, however is still in favor of open range. Has lived in the west his entire life and has always felt that if you have property and don't want livestock getting onto it, then it is your responsibility to fence them out. He was also representing the Park Valley Hereford Association and their opinion is that it is not always a "one size" fits all. In the western part of the county there are miles and miles of area that could not be easily fenced. Concerned that one incident could destroy the industry in western Box Elder County and hoped that the Commission would reconsider this proposal for changing the existing ordinance.

SCOTT DOUGLAS, said that if you want to find out the type of neighbor you have then start building a fence. He has some property in Blue Creek and has some good neighbors up there, and by changing the fencing ordinance all of the burden will be placed on the cattlemen. As property owners the expense should be shared for a fence and that wouldn't be fair.

BILL ROSE, from Park Valley couldn't understand the needs of the entire county, but there is a wide demographic and the topographic changes throughout, making the needs different in different areas. In Park Valley and the western part of the county, water is a precious commodity and changing the ordinance could cause hardships with the cattle being able to obtain water. Asked that this part of the county be left as "fence-out."

JERRY RICHARDS, from Fielding was in agreement with Mr. Tolman as they raise grain and have neighbors who have cattle and they also have cattle themselves. He also has ground out in Promontory and they get along with the neighbors there as they share the fence, each participating in the upkeep of the fence and they don't have any cattle out there, the fence is for the neighbor's cattle. There needs to be some give and take and the way that the fence-out law is now he felt was ridiculous. Why should a person be responsible to keep his neighbors animals out of their property; it's no different than in a city where a person is responsible for keeping his animals (dog) out of his neighbors yard.

J. D. SCOTT, felt that the other municipalities and utilities also need to come together when gates are left open and animals can get out. Also who is supposed to fix fences that are owned by those other entities? The speed limits need to be watched on the county roads because it can cause problems with cars coming around corners and not reducing speed, resulting in damage to fences, etc. What happens to trespassers when they cut through fences for various purposes, i.e. hunting, recreation, etc. He was in favor of leaving the law as it currently is and putting in a nuisance control officer to help with the problems that arise. Need to find out the source of the problems.

DELORES STOKES brought the issue to the board years ago and feels that it all comes down to the integrity of the individual. Need to use common sense and get permission beforehand before allowing your animals to go onto another's property. Has property in White's Valley and a fence hasn't stop anything there.

JAY TANNER, from Grouse Creek said that there is no question that damage has been and can be done by the livestock, but he was in support of an animal control officer or board to mitigate the problems that come up.

FRED MANNING, of Tremonton felt that a lot of good ideas had come out of tonight's hearing, and thought that having an officer to take care of the problems and individuals who are causing the problems.

RUFUS BARKER, of Corinne felt that common sense should prevail as there are a lot of economic issues that have come up dealing with the cost of the fence regardless of who has to bear that cost. For those living in the western part of the county where there are roads going through private land, perhaps the traffic load on the road should determine the fencing issue. In Grouse Creek where there are gravel roads, put up signs – cows have the right-of-way. On a paved road it would be entirely different and that should be fenced. Fining someone for his livestock getting out when he wasn't aware that there was a break in the fence didn't seem right. The Class C offense should occur after repeated incidents.

CRAIG HOLMGREN, heard common sense talked about a lot and that is what is needed. If you have livestock then fence them in and take care of them. If you have a home in the middle of a twenty-acre field, then you should fence around your house to keep livestock out. If you can't get your neighbor to fix their portion of the

fence then you fix it. Doesn't want to see injuries or worse happen because someone was neglectful in keeping up a fence. Also the habitual abusers need to be dealt with either with brand inspectors or sheriff deputies.

DENTON JOHN, of Portage wanted to talk about some things that hadn't been talked about. He had a fence broken in an accident by someone in a truck that left the scene and he didn't know it had happened until the next day. The accident was called in and the Highway Patrol responded and he now has the report and will bill the person's insurance company for the damages. They deal with these types of accidents several times a year. Said that they very seldom get a call from the officers when there is an accident along Portage Lane, but if there is a cow out, they (the authorities) are right there to let us know about it. Many times the animals that get out aren't even theirs. Thought that the fencing ordinance should be left just as it was written by the former committee. There are already remedies in the law to deal with trespassing cattle, if it is a habitual issue. They have problems from the county road department each year when fences are damaged by snow removal. Property values go up with fences. If the ordinance is changed then the 90-95% of the cattlemen in the county that are good, honest, hardworking people could be forced into bankruptcy due to the liability issues involved with just one incident. Did not think that this current committee had done enough in looking at the liability issues, and wondered how much time [individually] each had put forth in researching; felt that the former committee should be commended for their work. There is a stray pen law in effect through the state and county law would not supersede that. The sheriff still has the right to impound cattle.

BILL KIMBER, of Grouse Creek didn't know the actual percentage, but most of those in agriculture and livestock try to do the right thing. It is the minority that needs to be dealt with.

RICH HOLMGREN, was a member of the previous committee and listened to what the attorneys had to say regarding what could and couldn't be done as far as dealing with offenders (liability issues). If what they said is no longer the case then perhaps the law does need to be changed. No one has the right to encroach on another's property. The current ordinance gives protection toward those in agriculture. There are federal and state laws that cannot be superseded by the county. What the former committee tried to do was to come up with what was a legal fence and they tried to make it as minimal as possible. David Ur's bill dictates who has to participate in the building of the fence. Perhaps it would be a good idea to have a mediation board to help determine damages.

ROBERT JOHN, of Portage was a member of the former committee and thought that the ordinance that was written was enforceable. That committee spent a lot of time researching the issue. What is it in that ordinance that makes it unenforceable or inadequate?

LANE JENSEN, of West Bear River said he was originally opposed to Ordinance 200 because the description of a legal fence was not realistic and it did not deal with the repeat offenders; he drafted a letter to the fence committee at that time and they satisfied his concerns with the Ordinance 275. Leave the current ordinance as it is.

A **Motion** was made by **Commissioner Jon Thompson** to close the public hearing at 8:24 p.m. on the fencing ordinance, seconded by **Commissioner David Tea** and passed unanimously. A short break was taken at this time.

The meeting resumed at 8:33 p.m.

BOX ELDER COUNTY ORDINANCE FOR LARGE UTILITY TRANSMISSION LINES

Kevin Hamilton gave some background regarding this issue. There are currently two proposed utility lines that are looking into traversing through Box Elder County. One is the Populus to Ben Lomond 345kV Transmission Project, the other is a gas line project. This proposed ordinance will allow the county to look at proposed corridors and regulate them more closely. The ordinance defines large utility lines as 1) *“Electric power transmission lines with a capacity greater than one hundred thirty-eight (138) kV or more; 2) Gas transmission lines (design pressure of six hundred [600] psi or more, or a pipe diameter of sixteen [16] inches or more); 3) Water transmission facilities with a capacity of fifty*

[50] second-feet or more, except those providing irrigation water to agricultural operations within Box Elder County limits; and 4) Other utility installations such as, but not limited to, fiber optic, oil, telephone, cable television/internet service which are sized such that they could provide service to 1000 residences or more, or that are being constructed to provide services primarily outside of Box Elder county and crosses a distance of 12 miles or more.” A utility company wanting to install a transmission line outside of an already existing corridor that would go through Box Elder County would first need to apply for an amendment to the General Plan, allowing the county to determine if the line is in the best interest of the citizens of the county. Once an amendment is approved a Conditional Use Permit for the project would be applied for. **Commissioner Clark Davis** asked the county attorney to explain the “pending ordinance” for those in the audience. Steve Hadfield responded stating, “the county has a ‘pending ordinance’ ordinance and what it says is that if you start to work on an ordinance you have a period of six months when anybody that applies for something while that ordinance is in the works will apply to that person. If you don’t pass that ordinance within the six months then you go back to what you had before” as your guideline in approving the petition.

GEORGE HUMBERT, of Rocky Mountain Power took a few minutes to comment on the large utility ordinance with a prepared statement (attached). On item #1 of the proposed ordinance where the language talked about the capacity greater than 138kV or more; capacity didn’t really apply and should probably be changed to read voltage; capacity deals more with megawatts or megawatt hours. Also as the ordinance is currently drafted it states that a CUP would be applied for only after the amendment to the General Plan is adopted. Mr. Humbert asked if the petition for the amendment and the application for the CUP could run concurrently as the state statute only allows 120 days to resolve any issues regarding utility lines. By having both issues separate, the county would not be able to complete the work within the 120 day limit set by the state; therefore he suggested that the ordinance allow for a concurrent application process and that would be more consistent with the state statute and work with other jurisdictions.

DEBBIE MUNNS, asked that the safety of the citizens and the property rights also be considered.

CHARLIE SMITH said that the corridor currently being considered by RMP would take out his existing home and felt that he was not the only individual that was going to be impacted by the utility line. He was in favor of the ordinance being passed before the six month period expires.

J. D. SCOTT, of Fielding was concerned about the 150 feet for an existing utility line and if a major project is purposed that distance should be narrowed down. The general welfare and safety of the public was a concern as well as abuse of the utility projects in the past.

The public hearing was closed with a Motion by **Commissioner Clark Davis**, seconded by **Commissioner Richard Day** and passed unanimously.

BOX ELDER COUNTY ORDINANCE: STORAGE OF TRASH, ABANDONED, WRECKED, OR JUNKED VEHICLES: MISCELLANEOUS MATERIALS

This nuisance ordinance was being purposed to help with the increase of trash and other items that are beginning to collect throughout the county. Kevin Hamilton explained that the intent of this ordinance was to help the Planning Commissioners in dealing with encroachment [development], especially in the southern part of the county, where it seemed that there are several areas where individuals are taking advantage of the acreage that they have by using it to collect unwanted items instead of properly disposing of them.

RUSSELL CASE commented that he has seen such collection of unwanted items around an individual's property and was in favor of anything that would help to clean up the areas of the county where such nuisances are occurring.

The public hearing was closed with a Motion by **Commissioner Theron Eberhard**, seconded by **Commissioner David Tea** and passed unanimously.

BOYD MARBLE, CUP 08-004, SITE PLAN REVIEW FOR A DANCE STUDIO TO BE LOCATED AT 11175 WEST 11200 NORTH IN THE BOTHWELL AREA.

The petitioner is purposing the divide an existing building into a gym, dance studio and shop. Mr. Marble gave some background of the project by saying that he wants to move an existing studio located in Garland to this site. His concern was that of having to blacktop the parking area and asked if that could be postponed to some time in the future when he has had an opportunity to see if this business location will be financially successful. He was also concerned about the number of parking stalls that were being required as he will only have ten students at any one given time and thirty stalls seemed extensive. The public hearing was then closed with a Motion by **Commissioner David Tea**, seconded by **Commissioner Chad Munns** and passed unanimously.

JONATHAN BOSS TWO-LOT SUBDIVISION, SS08-011, LOCATED AT APPROXIMATELY 10800 WEST 12000 NORTH IN THE BOTHWELL AREA.

A public hearing was held on this petition at the May 15, 2008 meeting of the Planning Commission; however due to some other issues regarding this matter it has been placed on the agenda for this meeting also. The two lots are proposed to be divided from a 25.07 acre parcel. The county road department and the county engineer have some concerns regarding this petition. No comments were received during the public hearing and a Motion was made by **Commissioner Theron Eberhard** to close the hearing, seconded by **Commissioner David Tea** and passed unanimously.

RUSSELL CASE (GRANT THOMPSON SUBDIVISION) SS08-015 AMENDMENT, LOCATED AT 2719, 2779 AND 2809 NORTH 3150 WEST IN THE CORINNE AREA.

This is an amendment to the Grant Thompson Subdivision affecting lots 3, 4, and 5 to correct the legal descriptions of those lots. No comments were received during the public hearing and a Motion was made by **Commissioner Jon Thompson** to close the hearing, seconded by **Commissioner Theron Eberhard** and passed unanimously.

The Public Hearings were concluded at 9:04 p.m.

COMMON CONSENT

The Boyd Marble petition was removed from the Common Consent and moved to the New Business section of the agenda. Staff then recommended approval of the Russell Case (Grant Thompson Subdivision Amendment) with the conditions as outlined.

MOTION: A Motion was made by **Commissioner Chad Munns** to approve the Common Consent item [Russell Case petition for the Grant Thompson Subdivision Amendment] to correct the legal description of the lots 3, 4, and 5 to agree with the actual lot lines as surveyed and developed by the owners; seconded by **Commissioner Jon Thompson** and passed

unanimously. (The original plat was recorded on May 3, 1995; a modified plat recorded on June 13, 2003).

NEW BUSINESS

BOYD MARBLE, CUP 08-004, SITE PLAN REVIEW FOR A DANCE STUDIO TO BE LOCATED AT 11175 WEST 11200 NORTH IN THE BOTHWELL AREA.

The petitioner was requesting approval for a site plan regarding an existing building that will be divided to house a gym, dance instruction/studio and shop. If there is any drainage may flow towards the Bear River Canal a letter from the Canal Company may be needed allowing for that drainage if asphaltting of the parking area is necessary. The Planning Commissioners discussed the issues surrounding this site plan which included: 1) **Commissioner Theron Eberhard** suggested that perhaps the required minimum pavement for safety of the public and the type of use be considered, as there are no other businesses in the area. 2) The petitioner had asked if there was any leeway regarding the timeline for paving the area and **Commissioner Chad Munns** asked if that could not be a consideration much like that of requiring a “rural road agreement.” Also with only having ten students at any given time, perhaps requiring thirty (30) parking stalls was not necessary. 3) **Commissioner David Tea** discussed the fence [type] for safety from the Bear River Canal, suggesting that it need not be a brand new fence. 4) **Commissioner Clark Davis** discussed the issue of the parking lot surface and the petitioner was willing to work with the county engineer/surveyor to achieve a dustless surface with some type of binder pavement. The petitioner said that he would rather put his financial investment into the binder pavement surface than that of a fence. 5) **Commissioner David Tea** asked about the fire protection for the site. There is an existing hydrant within fifty feet of the building. 6) **Commissioner Theron Eberhard** asked about the lighting of the area and the petitioner said that the hours of operation will be from approximately 2:30 – 8:30 pm and the petitioner will install a light to adequately light the parking area. Regarding the screening of the area, it was determined that would not be necessary as this location is not in a residential area.

MOTION: A Motion was made by **Commissioner Chad Munns** to accept the Boyd Marble Site Plan for a Dance Instruction/Studio (with conditions as outlined by Staff) to be located at approximately 11175 West 11200 North in the Bothwell area. Motion was seconded by **Commissioner Theron Eberhard** and passed unanimously.

CONDITIONS OF APPROVAL

1. A final site plan shall conform to its associated conceptual site plan. **A corrected site plan shall be submitted showing the correct entry and exit locations of the development.**
2. The entire site shall be developed at one time unless a phased development plan is approved by the approving authority.
3. A site plan shall conform to applicable standards set forth in the Box Elder County Land Use Management & Development Code and other applicable provisions of the Box Elder County ordinances.
4. One parking stall shall meet the ADA requirements.
5. 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.**

- a. Signage is to be installed to prevent vehicles from blocking the driveway portion of the parking areas as this constitutes a fire lane for emergency response vehicles.
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.**
 - a. A caution sign is recommended to be placed at the proposed exit as a warning to proceed with caution, coming out into the county road.
7. 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.**
 - a. A minimum pavement for safety of the public and the type of use will need to be approved by the County Engineer. Since this site is out of the view of the public, the commissioners suggested that perhaps a minimum road base with some type of binder pavement which can be established and maintained; then if future development occurs, require paving.
 - b. A retention pond will need to be engineered to hold water off the site in a 10 year storm event. The owners of the canal that is adjacent to the property will need to be contacted to get a written permission for any overflow water to discharge into their canal.
 - c. The parking lot should be striped.
 - d. A fence needs to be installed along the canal for public safety. The type of fence could be worked out with the County Engineer; would not have to be a brand new fence.
8. In order to ensure that the development will be constructed to completion in an acceptable manner, the applicant shall enter into an agreement with the County and shall provide a satisfactory bond, letter of credit, or escrow deposit. The agreement and bond, letter of credit, or escrow deposit shall assure timely construction and installation of improvements required by an approved site plan. If the improvements have been completed by the time a business license is issued, this requirement will be not need to be met.
9. In accordance with Box Elder County Land Use Management & Development Code Article 5-2-020 the dimensions of each off-street parking space, exclusive of access drives or aisles, shall be at least nine (9) feet by twenty (20) feet for diagonal and ninety-degree spaces; and nine (9) feet by twenty-two (22) feet for parallel spaces.
10. Every parcel of land used as a public or private parking lot shall be developed and maintained in accordance with Box Elder County Land Use Management & Development Code Article 5-2-060.
 - a. Surfacing
 - i. Each off-street parking lot shall be surfaced with an asphaltic or Portland cement or other binder pavement and permanently maintained so as to provide a dustless surface approved by the County Engineer.
 - ii. The parking area shall be so graded as to dispose of all surface water.

- iii. If such water is to be carried to adjacent streets, it shall be piped under sidewalks.
- b. Landscaping. Each parking lot shall be adequately landscaped to comply with a plan approved by the Planning Commission and such landscaping shall be permanently maintained.
- c. Lighting. Lighting used to illuminate any parking lot shall be arranged to reflect the light away from adjoining residential premises and from street traffic.

BOX ELDER COUNTY FENCING ORDINANCE

The Commissioners stated that they had heard the comments received during the public hearing and it was suggested by **Chairman Richard Kimber** that the fencing ordinances from the two counties mentioned by Dave Eliason be looked at and reviewed; right now with the current ordinance there is nothing that can be enforced and the **Chairman** also felt that many of those in the audience did not understand that. It was also felt that there was rhetoric regarding the cost of a fence and who was to bare that cost; that would not change regardless of any ordinance that may be adopted.

MOTION: A Motion was made by **Commissioner Chad Munns** to table any action on the County Fencing Ordinance until there was time to review the two other county ordinances (Washington and Garfield Counties), seconded by **Commissioner Jon Thompson** and passed unanimously.

BOX ELDER COUNTY ORDINANCE FOR LARGE UTILITY TRANSMISSION LINES

Chairman Richard Kimber suggested that the contents of the letter read by George Humbert and the suggested changes that he mentioned be considered. The **Chairman** also the suggestion that running the two applications [amending the General Plan and applying for a CUP] be considered concurrently as Mr. Humbert also suggested. Kevin Hamilton was not sure that could be done as it could cause problems with the review process and passing of each petition. However, **Commissioner Clark Davis** still felt that the two petitions could run concurrently, basing the CUP on the passing of the general plan amendment. **Commissioner Davis** then directed Kevin Hamilton to contact Mr. Humbert and acquire the other ordinances that he (Mr. Humbert) is familiar with in regards to the concurrent running of amendments and CUP applications. **Commissioner Davis** then went on to say that the number one complaint that the Planning Commission receives is that of the amount of time that it takes to go through the approval process and by allowing for concurrent consideration [or approval of petitions] it would be offering better service to the community. Also the timeline of 120 days as set by state statute needed to be considered in making any decision. Mr. Hamilton was directed to work together with the county attorney, Steve Hadfield, and George Humbert in researching any other existing ordinances [from other counties/municipalities] that could help in the writing of the ordinance for Box Elder County.

Commissioner Chad Munns suggested that the distance of crossing twelve (12) miles mentioned in B-4 of the utility draft ordinance be included in all of the preceding (B-1, B-2, and B-3) utility transmission lines, i.e. 1) electric power transmission lines, 2) gas transmission lines, and 3) water transmission facilities. Also the distance of 150 feet or the co-location of equipment needed to be clarified. **Commissioner Clark Davis** suggested that Mr. Hamilton research to determine if “*capacity*” needed to be changed to “*voltage*” in the final Ordinance and also the suggestion in Mr. Humbert’s letter “*to*

allow the Planning Commission to grant conditional use approval contingent upon the amendment of the general plan by the County Commission.”

MOTION: A Motion was made by **Commissioner Chad Munns** to approve the Ordinance for the installation of large utilities lines in Box Elder County with the suggested changes of 1) adding the 12 mile distance of traversing through Box Elder County to be applicable to all utilities, i.e. electric, gas, water, fiber optics, telephone, cable, internet, etc.; 2) clarification of the 150 feet co-location distance of equipment to extend to the entire [existing] corridor; and 3) that the amendment to the general plan and the CUP can run concurrently, based on the findings of Mr. Hamilton in researching other [county/municipality] ordinances. The Motion was seconded by **Commissioner Richard Day**, and passed with **Commissioner Clark Davis** abstaining from voting on the Motion.

NUSIANCE ORDINANCE, i.e. JUNK YARDS, DOG KENNELS, ETC. FOR BOX ELDER COUNTY

MOTION: A Motion was made by **Commissioner Theron Eberhard** to Table any action on the Nuisance Ordinance at this time; seconded by **Commissioner Jon Thompson** and passed unanimously.

TRANSFER OF SURPLUS PROPERTY ON THE UTAH/IDAHO BORDER TO GEORGE WHITNEY

Kevin Hamilton explained that Mr. Whitney has been farming a parcel of land along the border of the two states which is about 100 feet wide and is not exposed to any adjacent landowners. The location of this property is on the north end of the Pocatello Valley and other transfers of property similar to this have been approved. Approval of this transfer would direct the County Commission to move forward with their approval. This transfer of property conforms with the Box Elder County General Plan for agricultural purposes.

MOTION: A Motion was made by **Commissioner Jon Thompson** to recommend to the County Commission approval of the transfer of this surplus property on the Utah/Idaho border to Mr. George Whitney; seconded by **Commissioner Richard Day** and passed unanimously.

UNFINISHED BUSINESS

JONATHAN BOSS TWO-LOT SUBDIVISION, SS08-011, LOCATED AT APPROXIMATELY 10800 WEST 12000 NORTH IN THE BOTHWELL AREA.

Staff explained that the county road department and the county surveyor are in agreement regarding the improvement of this road to allow building of homes (12000 North) and for it to accommodate emergency vehicles. Bill Gilson of the road department said that in regards to snow removal on this road (12000 North) there has never been winter maintenance in the past. The road is an old agricultural road that accesses farm ground to the east of 10800 West. This road is probably no wider than fifteen (15) feet and there are two ditches along the sides of the road; paralleling on the north side of the road is an existing fence and on the south side of this road there is a major power line that is approximately seven (7) feet off of the roadway, which does not allow for much growth or expansion of the road width.

Because of these conditions of the road, Mr. Gilson felt that it would be difficult to have heavy equipment on the road, i.e. a snow plow and where would the snow be plowed off to and not cause a great deal of drifting. Mr. Gilson had spoken with the petitioner regarding the setting up of an agreement regarding the maintenance of the road; however that could cause problems with the regulations of the Utah State Code. If a house is built on this road, regardless of any agreement with the homeowner, the road department is required to maintain that road. In respect to emergency vehicles being able to travel this road, it was questionable. It would be difficult to get a fire truck down that road. Because of the issue regarding this road maintenance, Mr. Gilson wanted the Planning Commission to know the obstacles that may be involved in improving this road for usage. Currently it is a "Class B" road and that is because of the gravel that was put down in the past as a road base. In discussing this petition with the county attorney, the county would be taking on some liability issues if home(s) are built along it and wondered if any kind of waiver could be signed with the homeowner's insurance company informing them of the limitations of the road and the removing the liabilities from the county. In speaking with the county engineer, it was determined that the road was sufficient to hold the weight of a fire truck but the maintenance with snow removal causes other issues. **Commissioner Clark Davis** wanted to clarify with Mr. Gilson that if the road can be improved who would be responsible for the cost; and also, even if the petitioner were to agree to not have the county responsible for snow removal, checking with the county attorney confirmed that is something that the county cannot opt out of due to state code regulations. **Commissioner Chad Munns** then asked about the emergency vehicle issue and other safety issues regarding this road area and can a building permit be issued for this project with all of these concerns. **Commissioner Clark Davis** then said that regardless of the cost of improving this road it would probably not be a wise precedence for the county to assume that financial liability, because it could open that same sort of precedence with other county roads. In most developments the developer is responsible for the road improvements and then they are dedicated over to the county for maintenance; therefore that would seem to be the only way to allow this petition to proceed. Mr. Gilson said that it is hard to limit private property rights and the rights of an individual to develop, but the safety issues of the development needs to be addressed. **Chairman Richard Kimber** then asked if the Commission were to require the developer to improve the road, who would oversee the project. Staff explained that there would need to be a financial bond agreement in place and the road department/county engineer would also be involved in the approval process. **Commissioner Clark Davis** then addressed the petitioner stating that this Planning Commission is trying to work with him in moving forward with this project; however there are many issues surrounding the road and the safety of those residing on that road.

MOTION: A Motion was made by **Commissioner Clark Davis** to grant **Concept** approval for the Jonathan Boss Two-Lot Subdivision with the conditions as outlined by staff. Motion seconded by **Commissioner Richard Day** and passed unanimously. [Staff asked if the Commissioners would consider granting **Preliminary** and **Final** approval when the concerns of the Road Dept have been addressed and the petitioner returns in the future. That would be possible once the road issues are taken care of satisfactorily]

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.
 - a. The 100' diameter turnaround should be constructed below the steep incline near the end of the road.
 - b. The turnaround should be capable of supporting a 20 ton truck during any weather condition.
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.
 - a. Dedicate 16.5' for roadway along the north side of the lots.
 - b. Temporary gravel turn-around at the end of the road, just before the toe of the hill. This needs to be constructed with 8" of compacted roadbase in a 50' radius to the outside edge of the roadbase and build on the developers land and on the existing roadway.
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.**
 - a. The applicant will furnish a temporary 100 ft. diameter turnaround where his driveway road intersects with 12000 N. The turnaround and the driveway to house will meet county standard 8" road base and 30' wide.
 - b. A 15 inch culvert will need to be put in next to the turnaround.
 - c. The applicant shall widen 12000 N. to 30'.
7. Letters of approval from gas, electric, and/or other utility providers.
8. Rural road/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.

WORKING REPORTS

BECKSTEAD PROPERTY LOCATED IN THE SOUTH WILLARD AREA

This re-zone was approved in November 2006, but the project [for personal storage units] that the petitioner had planned, is not an approved use for this zone of CG (Commercial General). That re-zone petition was approved by the County Commission in February 2007. The petitioner had received all of the necessary approvals from UDOT and his financial lender and then found out that the use was not an approved use in the CG zone. After discussing the project with the Commissioners, it was determined that this (problem) will be rectified with the change in the South Willard Community Plan with a General Plan Amendment. The petitioner asked if this process could be expedited as the cost of materials continues to rise with the extension of the approval process. (A copy of the South Willard Community Plan, with changes, is attached). At this time the Planning Commission decided to act on the **GENERAL PLAN AMENDMENT; SOUTH WILLARD COMMUNITY PLAN.**

Kevin Hamilton reviewed the changes that would occur in the amendment to the General Plan regarding the South Willard Community Plan [adopted April 2006]; those were 1) “No changes in zoning with adoption of this plan” will be removed; and 2) the language “The area between the southbound and northbound lanes of Highway 89 at the southern tip of South Willard may be considered for more intense commercial and light industrial uses than those listed above, as it is separated from areas where more intense residential uses are anticipated.” This will allow for a new zone in the area of South Willard. The change to the General Plan will be adopted through the ordinance process establishing the new zone and the uses that will be allowed within that new zone, including the sizes and types of warehouses. [These changes in the original South Willard Community Plan were reviewed and accepted by members of the original committee.]

MOTION: A Motion was made by **Commissioner Chad Munns** to accept the changes to the South Willard Community Plan set a Public Hearing for the South Willard Community Plan [General Plan] Amendment, seconded by **Commissioner Richard Day** and passed unanimously.

PUBLIC COMMENTS – NONE

Commissioner Chad Munns made a motion to adjourn the Planning Commission meeting at 10:27 p.m.

Passed and adopted in regular session this 17th day of July, 2008

Richard Kimber, Chairman
Box Elder County
Planning Commission