

# BOX ELDER COUNTY PLANNING COMMISSION MINUTES June 20, 2013

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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:

*the following Staff was present:*

Chad Munns	Chairman		
Desiray Larsen	Excused/Vice Chairman	Scott Lyons	Planner
Kevin McGaha	Excused	Steve Hadfield	Co. Attorney
Michael Udy	Member	Elizabeth Ryan	Ex. Secretary
Bonnie Robinson	Member		
Jay Christensen	Excused		
Laurie Munns	Member		

### The following citizens were present:

Robert Beebe/Willard	Lanny Lewis/Thatcher
Alton Veibell/Beaver Dam	Karma Hansen/Beaver Dam
Stephen & Tamara Wickham/Beaver Dam	Lane & Michelle Olsen/Beaver Dam
Bob Gilson/Tremonton	Dan Murray/Willard
Jason Murray/Brigham City	Clay Baird/Willard
Joel Murray/Willard	Barbara Anderson/Deweyville
Ryan & Kay Ann Tingey	

The Minutes of the May 16, 2013 were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Bonnie Robinson** to accept the Minutes as written; seconded by **Commissioner Michael Udy** and passed unanimously.

## PUBLIC HEARINGS

**Chairman Chad Munns** called for the public hearings on the agenda by informing those in attendance that each item would be handled separately, and that the time for the hearings was to allow the public the opportunity to voice any concerns and that the Commissioners would listen to the comments and concerns, but this was not a questions/answer time.

## CONDITIONAL USE PERMIT, CUP13-002, PERMIT FOR MARCIA & GARY NIELSEN HOUSING A DOG KENNEL TO BE LOCATED AT APPROXIMATELY 3256 COBBLECREST (PARCEL 06-107-0023) IN THE DEWEYVILLE AREA OF BOX ELDER COUNTY.

Staff informed the Commissioners that this item had been taken off of the agenda as the petitioners had decided to withdraw the application at this time.

**SITE PLAN, SP13-003, STUART PETERSEN PLAN FOR A RECREATIONAL SHOOTING RANGE LOCATED AT 2000 N. INDIAN TRAIL, WHITES VALLEY, CONSISTING OF APPROXIMATELY 9000 ACRES.**

This petition was for a site plan for a recreational shooting range located in an un-zoned area of the county consisting of approximately 9000 acres. No comments were received during the public hearing and a Motion was made by **Commissioner Michael Udy** to close the hearing, seconded by **Commissioner Laurie Munns** and was unanimous.

**ROAD VACATE PETITIONED BY THE DENZIL BALLARD AND GUY BALLARD FAMILY TRUSTS; TO VACATE 20800 NORTH BETWEEN 24400 WEST AND 25200 WEST, IN THE HANSEL VALLEY AREA OF BOX ELDER COUNTY.**

The petitioner was requesting that this road be vacated in order to allow cattle grazing on the two sections of property located in the Hansel Valley area. No comments were received during the public hearing and a Motion was made by **Commissioner Laurie Munns** to close the hearing, seconded by **Commissioner Bonnie Robinson** and was unanimous.

**ZONING MAP AMENDMENT, Z13-005, JOEL & JASON MURRAY FOR PROPERTY LOCATED AT APPROXIMATELY 1025 SOUTH 105 EAST IN THE WILLARD AREA OF BOX ELDER COUNTY. RE-ZONE THE REMAINDER OF PARCEL 02-055-0095 TO MG-EX CONSISTING OF APPROXIMATELY 24 ACRES.**

Staff explained that this applicant is requesting a zone change for his property located in the Willard area from the current R-1-20 to MG-EX. The upper part of this property was rezoned to the MG-EX zone a few years back to allow for a gravel pit venture and Mr. Murray would now like to have all of his 36.56 acres changed to MG-EX. The public hearing was opened and the following comments were made.

**Mr. Robert Beebe**, a member of the Willard City Council, said that Willard City is neither for nor against this proposed re-zone, but asked that the Planning Commissioners consider postponing any action until the recently annexation proposal of the properties in South Willard has a time to run its full course.

**Mr. Joel Murray**, one of the petitioners, addressed the Commissioners stating that when the initial re-zone was done it only include the property above the canal and proved to be too small to be a profitable venture. The property below the canal is larger and this would be a good use for it and could possibly be the only use for the property. **Mr. Murray** said that as he pays taxes to the county each year on this property and as a citizen should have the right to use his property in the best possible way. More competition helps to keep the price down and as the economy is now starting to recover he would be able to bring revenue to the area with the rock products. There are other gravel operations in the area that are closing and he would abide by the rules of the MG-EX zone, addressing any concerns that would arise. He felt that he has worked hard during his lifetime and would like to see this project through as it could be a benefit to the area, his family and other that are less fortunate. His home is the closest to where the gravel excavation would take place and the study that was done for the first re-zone showed that there are not any Indian artifacts in the area.

**Jason Murray**, read portions of a letter that had been prepared for the Commissioners.<sup>i</sup> He then went on the talk about the issues of why people dislike gravel quarries, stating that the noise and dust are two of the main issues. There will be a paved road for the trucks to travel on and the speed on that road will be set at 15 mph.

No other comments were received and the hearing was closed with a Motion by **Commissioner Laurie Munns**, seconded by **Commissioner Bonnie Robinson** and passed unanimous.

**GENERAL PLAN AMENDMENT, TO ADOPT THE CONSERVATION PLAN FOR GREATER SAGE GROUSE IN UTAH AS PART OF THE BOX ELDER COUNTY GENERAL PLAN.**

Staff explained that this General Plan Amendment was to adopt two plans which would then be added to the Box Elder County General Plan. 1) The Conservation Plan for Greater Sage Grouse in Utah, and 2) The West Box Elder Coordinated Resource Management Plan. No comments were given during the public hearing and a Motion was made by **Commissioner Bonnie Robinson** to close the hearing, seconded by **Commissioner Michael Udy**, and was unanimous.

**UNFINISHED BUSINESS**

**SUBDIVISION AMENDMENT, SS13-004, LANNY LEWIS, PETITION TO REMOVE LOTS 7, 8, AND PART OF LOT 10 FROM THE SAGEBRUSH CIRCLE SUBDIVISION LOCATED AT APPROXIMATELY 10300 NORTH HWY 102 IN THE THATCHER AREA OF BOX ELDER COUNTY.**

This petition was before the Commissioners at the May meeting and was tabled in order for Mr. Lewis to obtain the correct subdivision plat removing the lots from the subdivision. This area was re-zoned to M-G at the May meeting and Staff recommended approving the subdivision amendment.

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to approve the Subdivision Amendment for Lanny Lewis and forward to the County Commission for their approval. Motion seconded by **Commissioner Laurie Munns** and passed unanimously.

**NEW BUSINESS**

**SITE PLAN, SP13-003, STUART PETERSEN PLAN FOR A RECREATIONAL SHOOTING RANGE LOCATED AT 2000 N. INDIAN TRAIL, WHITES VALLEY, CONSISTING OF APPROXIMATELY 9000 ACRES.**

Staff discussed this petition with the Commissioners saying that there were two options, 1) to table until the Fire Marshal has submitted his review of the project, or, 2) to approve the application with conditions. **Commissioner Laurie Munns** asked about the fire danger with this activity and who would be responsible for it. Staff said that there was a similar event held last year and there were several precautions taken by the fire marshal that would help with keeping the possibility of a fire to a minimum. It was suggested that similar stipulations be attached to this event also. Also the petitioner was required to provide the county with proof of adequate insurance coverage to cover any problems. This petition does not have to go before the County Commission for any additional approvals; therefore the Planning Commission can set conditions and requirements for the recreational shooting range.

**MOTION:** A Motion was made by **Commissioner Laurie Munns** to approve the Spirit Ridge

Rifle Golf site plan with conditions outlined by Staff and also to include any notice of restrictions from the State or State Fire Marshal be followed and that adequate insurance be provided for any big events held at the site. Motion was seconded by **Commissioner Bonnie Robinson** and passed unanimously.

**Conditions of Approval:**

1. Compliance with Article 5 of the BECLUM&DC
2. Compliance with Article 2-2-110, Site Plan Review, of the BECLUM&DC
3. Compliance with requirements and recommendations of the Sheriff, Health Dept, Fire Marshal, and Zoning Administrator.
4. Compliance with all applicable county, state, and federal laws regulating the proposed use, including all licenses, permits, etc.

**ROAD VACATE PETITIONED BY THE DENZIL BALLARD AND GUY BALLARD FAMILY TRUSTS; TO VACATE 20800 NORTH BETWEEN 24400 WEST AND 25200 WEST, IN THE HANSEL VALLEY AREA OF BOX ELDER COUNTY.**

As no comments were received during the public hearing, Staff recommended approval of this road vacate petition and that the petitioner provide descriptions of the legal right-of-way regarding the property that will be returned to the landowner(s). Also, **Bill Gilson** from the county road department had no objection to this request as the road had not been graded for a number of years.

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation to the County Commission granting approval for this road vacate petition. Motion seconded by **Commissioner Michael Udy** and passed unanimously.

**ZONING MAP AMENDMENT, Z13-005, JOEL & JASON MURRAY FOR PROPERTY LOCATED AT APPROXIMATELY 1025 SOUTH 105 EAST IN THE WILLARD AREA OF BOX ELDER COUNTY. RE-ZONE THE REMAINDER OF PARCEL 02-055-0095 TO MG-EX CONSISTING OF APPROXIMATELY 24 ACRES.**

With the information that had been provided, Staff informed the Commissioner that there were three options to consider; 1) Table the application; 2) recommendation of Denial to the County Commission, and they would made the final decision; or, 3) Approval based on finding that the application is able to comply with all of the approval standards outlined in Section IV of the Staff report. **Chairman Chad Munns** asked about the annexation process that was mentioned during the public hearing portion of the meeting and Staff said that an initial meeting was held with the citizens of South Willard and Willard City and County Commission representatives to explore the possibility of annexing South Willard into Willard City. The County is going to conduct a feasibility study as to how this would affect Willard City and South Willard, with costs involved and what would be the benefits. This process could take a few more months to complete and could have an impact on this rezone. After this study is completed another public meeting will be held and then the process would continue on from there. Therefore, it would be hard to tell just how long this process could take. **Mr. Jason Murray** said that as they had petitioned to de-annex from Willard City, as the City was unable to meet the needs of the gravel excavation plan zoning, he did not know how if they would be excluded should the area of South Willard be annexed into Willard City. He then referred to the County Attorney, **Steve Hadfield** for an opinion. **Mr. Hadfield** said that he was not sure, but as the Murray's had gone through the legal process to de-annex from the City, he did not believe that they could be forced back into

the City boundaries. (However, it was also noted that their property could possibly create an 'island' and that might not be allowed.) Staff then reminded the Commissioners that a re-zone would include all of the uses for that zone and not just the one that is being proposed by the petitioner(s).

**Mr. Murray** then talked about the proposed road to be built at the site and with the cost of the road it was more economically wise to include more of their acreage for excavation. The petitioner and the Commissioners continued to discuss the issue and determined that there were still a number of questions to be addressed. The following motion was then made.

**MOTION:** A Motion was made by **Commissioner Bonnie Robinson** to Table action on this petition and to schedule a time for the Commission members to visit the site before the next meeting. Motion seconded by **Commissioner Laurie Munns** and passed unanimously.

**GENERAL PLAN AMENDMENT, TO ADOPT THE CONSERVATION PLAN FOR GREATER SAGE GROUSE IN UTAH AS PART OF THE BOX ELDER COUNTY GENERAL PLAN.**

A **MOTION** was made by **Commissioner Michael Udy** to forward a recommendation to the County Commission that the *Conservation Plan for Greater Sage Grouse in Utah* be adopted into the County's General Plan. Also that the *West box Elder Coordinated Resource Management Plan* be adopted as part of the County's General Plan. Motion was seconded by **Commissioner Bonnie Robinson** and passed unanimously.

**COPPER HILLS SUBDIVISION, SS07-020, RURAL ROAD AGREEMENT, BILL GILSON**

RE: Update to Homeowners: Copper Hills Subdivision Rural Road Agreement Improvement on 400 West; Pertaining to Tax Parcels 06-185-0001, 06-185-0002, 06-185-0003, & 06-185-0004

Date: May 29, 2013

I have recently met with the County Attorney, County Engineer, and County Planner pertaining to questions that have arisen due to the Rural Road Agreement being implemented. It was agreed by the above County Staff group that all four lots have a contractual obligation to make all required improvements to the 400 West right-of-way for the length of 1330.46 feet up to the County Standard minimum residential road (see county website road standards).

According to the Rural Road Agreement, the determination of the manner and type of improvements to be required is to be made by the County. This means that the Box Elder County Planning Commission would review the circumstances, review input from County staff (engineer, road department, planner and attorney), and then make a recommendation to the County Commission.

The question has been asked by two parties, "we only dedicated 33 feet for the roadway, and thus we should only pay for half of the road". The County Subdivision Ordinance does not allow for half road improvements.

As a result, the staff recommendation would be for the lot owners to pay for paving the total width of the roadway.

This information will be presented to the Planning Commission at its next regularly scheduled meeting on June 20 at 7:00 p.m. at the Box Elder County Court House, 01 South Main Street, Brigham City in the Commission Chambers on the third floor. Your attendance at this meeting is both welcomed and encouraged.

Bill Gilson  
Box Elder County Road Dept.  
If you have any questions please call (435)257-5450

The above letter was from the County Road Supervisor, *Bill Gilson*, regarding the Rural Road Agreement that was entered into between the County and the developers of Copper Hills Subdivision. The residence of Copper Hills had contacted *Mr. Gilson*<sup>ii</sup> regarding having the county pave the road in front of this subdivision and *Mr. Gilson* said that he had set aside funds to cover this cost when he discovered that there was a Rural Road Improvement Agreement for this road. *Mr. Gilson* also noted that Cache County was planning on hauling gravel from a site that uses this road and that would very likely result in a lot of damage to the new road surface; therefore paving at this time would probably not be wise. Several of the homeowners from Copper Hills were present at this meeting and there were letters written and submitted to the Planning Commission and County Commission from the property owners and from the developer.<sup>iii</sup> Several of the homeowners informed the Commissioners that they had not been made aware of this Rural Road Improvement Agreement prior to this time, and they were told that information should have been disclosed to them at the time of purchasing the property by their title company. They were also concerned with the cost to them of approximately \$8000 would be difficult to cover over the proposed payback time of eight years. When asked what the purpose of the agreement was, it was explained that at the time of the development there were only four lots on a gravel road and because of the location it was determined that it was rural enough that the developer would not be required to develop and pave the road in front of these four lots. However, the Agreement that when the time comes that either the homeowners or the County feel that it is necessary to improve and pave the road it is the landowners that are responsible to cover the cost.<sup>iv</sup>

*#3. "At such time as County deems the required improvements and dedication of the Right of Way necessary to protect the health, safety and welfare of the citizens of Box Elder County, Owner(s) agree, at Owner(s) sole cost and expense, to dedicate the Right-of-Way and install required improvements according to Box Elder County road standards in place at the time the County deems the improvements and/or dedication necessary, at no cost to the County."*

If the title company did not inform the buyer [as one homeowner said that they are read and reviewed their report several times and nothing was included about this Agreement], they could possibly be held responsible for an damages, according to *County Attorney, Steve Hadfield*. It was also mentioned that the possible payback on the cost of the road improvements could be spread out over a longer period of time to help the homeowners. At the conclusion of the discussion the following motion was made.

**MOTION:** A Motion was made by **Commissioner Michael Udy** that the County uphold the Rural Road Improvement Agreement and forward their recommendation to the County Commission for their action and final decision. Motion was seconded by **Commissioner Bonnie Robinson** and passed unanimously.

## **UNFINISHED BUSINESS- cont'd**

### **PENDING ORDINANCE, ACCESSORY DWELLING UNITS, NEW ORDINANCE (SECTION 5-6) TO ADDRESS THE ADDITION OF ACCESSORY DWELLING UNITS TO ARTICLE 5: REGULATIONS OF GENERAL APPLICABILITY OF THE BECLUM&DC.**

As there were several members of the Commission absent at this meeting a Motion was made by **Commissioner Bonnie Robinson** and seconded by **Commissioner Michael Udy** to Table action on this ordinance.

### **ACCESSORY DWELLING UNITS, ZONING TEXT AMENDMENT: AMEND SECTION 3-2-070-7; 3-3-070-3, AND 3-7-070-3 ALLOWING ACCESSORY DWELLING UNITS AS A CONDITIONAL USE IN ALL ZONES THAT ALLOW SINGLE FAMILY DWELLINGS.**

As there were several members of the Commission absent at this meeting a Motion was made by **Commissioner Bonnie Robinson** and seconded by **Commissioner Michael Udy** to Table action on this ordinance.

## **WORKING REPORTS**

## **PUBLIC COMMENTS -- NONE**

A **Motion** was made to adjourn at 8:38 p.m., unanimous.

Passed and adopted in regular session this 18<sup>th</sup> day of July 2013.

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Chad Munns, Chairman  
Box Elder County  
Planning Commission

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- i Jason Murray Letter
  - ii Letter from citizens of Box Elder & Cache Counties
  - iii Stephen & Tamara Wickham letter; J. Alton Veibell letter; Adam Burris e-mail.
  - iv Copy of Rural Road Improvement Agreement; July 30, 2008