

BOX ELDER COUNTY

The Board of Planning Commissioners of Box Elder County met in public session at the regular meeting place at the Box Elder County Courthouse, 01 South Main Street, in Brigham City, Utah, at 7:00 p.m. on February 15, 1990.

The meeting was called to order by the Chairman with the following members present, constituting a quorum:

Richard Kimber	Chairman
Jon Thompson	Member
Steve Grover:	Member
Robert Valentine	County Commissioner
Denton Beecher	Ex-Officio Member
Allen Jensen	Ex-Officio Member
Absent:	
DeVon Breitenbeker	Member
Don Christensen	Member
Junior Okada	Member

Mr. Kimber presented the Minutes of December 21, 1989 for approval. Commissioner Valentine made the motion to approve the Minutes as recorded. Mr. Grover seconded. None opposed. The motion carried unanimously.

AGENDA (ATTACHMENT 1):

Commissioner Valentine suggested the order for items to be discussed be changed to accommodate those individuals in attendance. Mr. Kimber accepted the recommendation with no objection from the other Commissioners.

WILLARD-BOX ELDER FLOOD DISTRICT REQUEST:

Mr. Beecher opened the discussion stating he had sent all members of the Planning Commission copies of letters from the Box Elder County-Willard City Flood Control District, Molgard and Hunsaker, Attorneys at Law, and RB&G Engineering, Inc., (Attachment 2). Mr. Kimber recommended Mr. Beecher discuss each of the five conditions stated in the Willard Flood District letter that they identified as violations of the Conditional Use Permit.

1) Enlargement of the Flood Control Basin.

Mr. Beecher stated that Mr. Nielsen has agreed to complete the retention basin, as designed and staked, by March 15, 1990.

2) Channeling of run-off water.

Mr. Beecher advised that he checked the pipeline that runs under the road and found the inlet was obstructed with tumbleweeds and two, twelve-inch diameter rocks. He has notified Mr. Nielsen to remove the obstruction. Mr. Beecher stated the outlet was not obstructed, and the obstruction was not caused by Mr. Nielsen's excavating.

3) The upper flood channel has ben obliterated.

Mr. Beecher stated the area has been obliterated because that is where Mr. Nielsen has been excavating. However, he has provided a means by which the water can flow. It would flow one of two ways; it could accumulate in the basin he is digging, as the permit applies, or it will be diverted to the north around his debris pile.

4) Plans and drawings for a low level outlet on the upper retention basin.

Mr. Beecher advised that this is between the Flood District and Mr. Nielsen. This is not the Planning Commission's requirement. Commissioner Valentine stated that during a meeting last September at the gravel pit site, members of the Flood District discussed the need for a low level outlet in the upper retention basin. He also discussed a letter Mr. Nielsen has from the State Engineer stating the outlet is not required. He requested Mr. Nielsen to provide the Flood District with a copy of the letter and let the Flood District make the decision on the low level outlet. He further stated if it's part of the Flood District's requirement, the Planning Commission should address and acknowledge the requirement. The reason for the outlet was discussed. Mr. Nielsen stated if the Flood District wants the outlet and requests one, he would put it in.

5) Failure of continuous monitoring and enforcement to insure compliance.

Mr. Beecher stated he visits the site at least two or three times a month, that he hasn't made formal reports, but when a complaint is registered, he investigates.

Commissioner Valentine made a motion that because of the allegations and problems identified by the Flood District and various other parties, Mr. Nielsen provide in writing a plan of corrective action to be taken, a schedule of dates to be completed and provided to the Planning Commission within a weeks time, and to expand on the course of action because of the allegations that we (County) have not monitored the operation to the extent we should; have Mr. Beecher prepare a checklist by March 1, 1990 that addresses each of the twenty restrictions that were placed on the permit and Mr. Beecher be charged, at least monthly, to conduct an inspection at the site in accordance with the checklist, establish a record file of those inspections and any deviations <sup>from</sup> of the restrictions that are requested by Mr. Nielsen to be provided to the Planning Commission <sup>In writing</sup> for consideration. Mr. Thompson seconded. None opposed. The motion carried unanimously.

Mr. Grover asked if the situation of the lower basin (excavation permit) was resolved by the court. Mr. Nielsen stated he was supposed to get the permit and was told he would be granted the permit but has not received it.

Mr. Beecher advised that he received a letter (Attachment 3), from the Box Elder Heritage Council today citing certain violations and requesting Mr. Nielsen's permit be revoked. Mr. Kimber stated since the letter was not received in time, the letter would only be acknowledged as having been received, and not made a part of this meeting. He requested the letter be an Agenda item for the next meeting.

Mr. Beecher asked who would respond to the letter from the Flood District since it was addressed to the County Commission, Mr. Valentine. Commissioner Valentine advised that he would reply to the letter.

**RICHARD BRAEGGER - LANDFILL REQUEST:**

Mr. Beecher discussed an application to construct a landfill at Engineer Mountain on the south end of the Howell Valley. Mr. Braegger explained that he wanted to establish a private landfill to accommodate Box Elder and Cache County waste. He would establish transfer stations within the cities and transport from the transfer stations to the landfill. He added the site is in a remote area,

no homes within site of the area, the water table is 400 feet deep, the soil is clay, tests have been made and no liner would be required to prevent seepage. He stated the Wildlife Resources Division approved the site, it has been discussed with the State Geological and Mineral Survey; there are no known faults in the area, and the Historical Society has no objection. Mr. Kimber asked the status of landfills with the Environmental Protection Agency. Mr. Beecher said the guidelines were to be out by March 1, 1990. Mr. Braegger stated he has been told it will be late Summer or Fall before they would get the EPA's final guidelines.

Mr. Beecher was asked for his recommendation as far as Mr. Braegger's request is concerned. He stated the application is somewhat premature since Mr. Braegger must submit plans, cost estimates, specifications, etc; then the Planning Commission will recommend a course of action to the County Commission.

Mr. Kimber stated the concept is good and suggested Mr. Braegger continue to develop his plan.

Mr. Braegger described how he intends to handle the refuse from the transfer site to the landfill, the method planned for constructing containers, and tipping fees with the majority of the revenue costs staying in Box Elder County.

Mr. Beecher concluded by stating the County should sign an agreement with Mr. Braegger to operate the landfill before he can proceed. Then he can submit the necessary documents to the Planning Commission for review before the final permit is issued.

GREG MERRILL - NORTHERN UTAH BROADCASTING, CONDITIONAL USE  
PERMIT APPLICATION:

Mr. Beecher stated this application is for a 90 foot repeater tower to be located on Point Lookout Mountain (top of the mountain, northwest of Tremonton). He stated Federal Communication permits have been applied for but have not been issued. Mr. Kimber advised that no action would be taken until all Federal permits have been issued. The request will then be put back on the Agenda.

ZONING VIOLATION - ROBERT CLAY PROPERTIES IN SOUTH WILLARD:

Mr. Beecher advised the Commissioners that debris is being dumped in a large hole alongside the highway in South Willard.

Along with this dumping, a bridge has been erected. The bridge has historical significance, having been removed from the Benson Marina. He notified the property owner, Mr. Robert Clay, that he was in violation of a Zoning Ordinance, that he could not have a landfill at that site, and the bridge was constructed without a permit. He was advised by Mr. Clay that the property is his, but he did not authorize the bridge or the landfill. He stated a Mr. Crabtree is doing the work without permission and he will contact an attorney to start legal proceedings against him. Mr. Beecher advised the State will also take action to correct the situation. Mr. Kimber requested the Commission be kept apprised of the situation.

UPDATE ON ZONING REQUEST OF GREERS:

Mr. Beecher briefed the Commission on the status of the zoning request from Mr. and Mrs. Lynn Greer (Re: December 21, 1989 Minutes). He stated Mr. Atwood has ten trucks at the truck business site and is loading trucks at all hours of the night, and the trucks are left idling. He stated he again suggested to them to form a committee to try and regulate the business. He said the people along the road would like load restrictions applied, but don't want to regulate farm vehicles. He further stated they were told to form a committee and meet again with the Commission.

BEAR RIVER MIGRATORY BIRD REFUGE NOTES:

Mr. Beecher advised that he has received an information pamphlet on the Bear River Migratory Bird Refuge reconstruction efforts. The project was discussed at length.

Mr. Grover made a motion to adjourn at 8:10 p.m. Mr. Thompson seconded. None opposed. The motion carried unanimously.

Passed and adopted in regular session this 15<sup>th</sup> day of March, 1990.

ATTEST:



Allen L. Jensen  
County Clerk

  
Richard D. Kimber, Chairman

AGENDA

BOX ELDER COUNTY PLANNING COMMISSION

MEETING PLACE: COUNTY COMMISSION CHAMBERS  
BOX ELDER COUNTY COURTHOUSE  
BRIGHAM CITY, UTAH

- I. Public agenda for Box Elder County Planning Commission meeting scheduled for February 15, 1990 at 7:00 p.m.
- II. Notice given to newspaper this 14th day of February, 1990.
- III. Approval of minutes of December 21, 1989.
- IV. Scheduled Delegations:
  1. Greg Merrill - Northern Utah Broadcasting Conditional Use Permit Application.
  2. Willard - Box Elder Flood District Request
  3. Zoning Violation - Robert Clay properties - S. Willard
  4. Update on zoning request of Greers
  5. Richard Braegger - Landfill request
  6. Bear River Migratory Bird Refuge Notes
  - 7.
  - 8.
  - 9.
  - 10.
- V. Old Business
  - 1.
  - 2.
  - 3.
  - 4.
  - 5.

February 8, 1990

RECEIVED  
BOX ELDER COUNTY  
SURVEYOR

FEB 12 1990

Box Elder County Commission  
Robert Valentine, Chairman  
County Courthouse  
Brigham City, Utah 84302

Filed \_\_\_\_\_  
Brigham City, Utah

Mr. Valentine,

When Darrell Neilsen was issued his conditional use permit for his gravel pit it was our understanding that he would have to meet the conditions specified on his permit, it has come to our attention that he has failed to do this in the following areas;

(1) The enlargement of the Flood Control retention basin has not been enlarged to the proper specifications. It was our understanding that this was to be done before he could start any excavating. The enlargement has not been done and thus has resulted in a situation where run-off entering the basin could carry enough sediment to seriously deter the effectiveness of the Flood District facility.

(2) The channeling of run-off water through the pipeline that runs under the road has been prevented due to an obstruction at both the bottom and the top of the line, due to Mr. Nielsen's excavating.

(3) The upper flood channel has been obliterated so that any run-off water would cut through stock piles, and has virtually neutralized its effectiveness as a channel. This again is due to the excavation being done by Mr. Nielsen.

(4) The Flood Control District has also asked Mr. Nielsen to supply plans and drawing for a low level outlet on the upper retention basin he plans. These have not been forth coming.

(5) At the onset of granting a conditional use permit to Mr. Nielsen many promises were made by Mr. Nielsen and Box Elder County Planning Commission. One of the biggest concerns voiced by the Flood District and Willard City was that a project such as Mr. Nielsen's would take continuous monitoring and enforcement to insure complianciance to the conditions and protection for the Flood Control Districts facilities and citizens. This has not been forth coming.

It is our suggestion that the county live up to these promises with this project and also the other projects operating in South Box Elder County of a similar nature.

Spring will soon be upon us and we expect your prompt response in dealing with this problem by March 1st, 1990.

The Flood Districts engineer and Willard Cities Engineer and Attorney are both extremely concerned about this situation. We were assured at

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the outset Mr. Nielsen would live up to the conditions imposed or lose this this permit.

We anticipate that the county will live up to their obligations and rectify this problem with the Nielsen project and take an active interest in reviewing and insuring compliance with the other projects of a similar nature. Operating in the Districts area.

Sincerely



Kent Nebeker, Chairman  
Box Elder Count Willard City  
Flood Control District

cc:Richard Kimber  
Willard City  
✓Denton Beecher  
Russell Brown  
Darrell Nielsen

enc (2)

*Molgard & Hunsaker*

Jack H. Molgard  
Quinn D. Hunsaker

ATTORNEYS AT LAW Filed

102 SOUTH 100 WEST - P. O. BOX 461 - BRIGHAM CITY, UTAH 84302

Brigham City, Utah

RECEIVED  
BOX ELDER COUNTY  
SURVEYOR  
FEB 12 1990

OFFICE  
801-723-8569

January 30, 1990

Willard City Box Elder County Flood Control  
and Special Service District  
185 South 100 West  
Willard, Utah 84340

Attention: Kent Nebeker, Chairman  
and District Members

FILED  
ELDER COUNTY  
SURVEYOR

FEB 12 1990

Filed  
Brigham City, Utah

Dear Sirs:

Willard City Officials have watched with concern the modifications of the District's flood basin by Darrell Nielsen and the excavation that is taking place above the basin. The City has requested that I advise you on the City's position regarding their concerns.

First, City Officials have been advised to stay off Mr. Nielsen's property. The observations have been made from a distance and may not be comprehensive of all the problems existing. It is our understanding that the Flood District has a legal access to its property on which the basin is located, and therefore, the District is in a better position to inspect the work to insure that it has been performed in accordance with the original plans and in such a manner that the District's facilities will not be damaged.

Second, it appears that there may be a substantial risk to the District's facilities and taxpayers from erosion and flooding as a result of the steep bank existing on the upper side of the basin and as a result of failure to take actions to stabilize and protect the basins banks and dam.

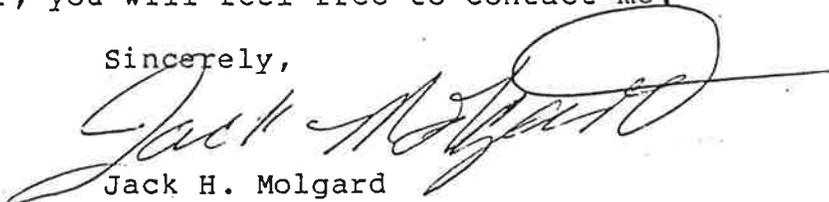
Third, it appears that the main flood drainage off the mountain has been and is being excavated. Our observations cannot identify that the planned measures to control run off and erosion have been put into place to protect downstream property including your District's facilities. Willard City recognizes that substantial damage could result to the District's facilities and taxpayers in the event of flooding with uncontrolled erosion.

Willard City Box Elder County Flood Control  
and Special Service District  
January 30, 1990  
Page 2

The District should look after it and it's taxpayers own interests  
in this matter and not expect Willard City to protect it.

I trust that if you have any questions in regard to the  
City's position in this matter, you will feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jack H. Molgard", written over a horizontal line. The signature is fluid and somewhat stylized, with a large loop at the end.

Jack H. Molgard

JHM/cm

cc: Mayor Rod Mund

February 8, 1990

**RB&G ENGINEERING INC.**  
**RECEIVED**  
BOX ELDER COUNTY  
PROVO

FEB 12 1990

Box Elder County Willard City  
Flood Control District  
c/o B. Kent Nebeker  
1200 North Main  
Willard, UT 84340

Filed \_\_\_\_\_  
Brigh \_\_\_\_\_ Utah

Gentlemen:

I inspected the Cook's Canyon Debris Basin and Drainage Channels on Monday, January 22 along with B. Kent Nebeker. The inspection was to evaluate the progress being made by Darrel Nelson on the construction of flood control features required by his permit for a gravel excavation permit in the Cook's Canyon Water Shed.

Specifically the permit requires the expansion of the existing debris basin to a six acre foot capacity. The expansion has been staked and considerable material removed. There remains, however, a substantial amount of material that needs to be moved. In addition a vertical bank now exists in the north west corner where one of the drainage channels enters the basin. A flood in this channel would result in erosion that would be deposited in the basin.

The plan also requires grading in the area of the Ogden Brigham Canal so that water in this area would not run down the road and bypass the debris basin.

It appears that at present there is a possibility that a flood might be directed down the road rather than the flood channel. Some additional work needs to be done in this area.

Sincerely,

RB&G ENGINEERING, INC.



Russell O. Brown, P.E.

ROB:ct

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BOX ELDER HERITAGE COUNCIL

Willard, Utah 84340  
February 12, 1990

RECEIVED  
BOX ELDER COUNTY  
SUPERVISOR

FEB 15 1990

Box Elder County Planning Commission  
Box Elder County Courthouse  
Brigham City, Utah 84302

Filed \_\_\_\_\_  
Brigham City, \_\_\_\_\_

Re: Conditional Use Permit #38

Gentlemen:

It is apparent that those who had assumed conditions would be met on this permit are now recognizing that the conditions have not been met. Please refer to the attached letter dated February 8, 1990, from Mr. Russ Brown.

Mr. Brown's letter addresses only one aspect of conditions not met. In addition, screening/sorting operations which, according to the Utah Air Quality people, constitutes a portion of a "rock crushing operation" has been ongoing at the site since August, 1989, with no inspection as required by state law.

Excavation, hauling, screening, and stock piling of material has been taking place in the identified flood channels without proper flood protection in place, which is a violation of Box Elder County Flood Ordinance #163 as well as state requirements.

We submit:

1. Condition #7, requiring that the developer not interfere with flood district plans and goals, has not been met. The consequence of the current interference is that residents and state highway travelers are virtually without flood protection.

2. Conditions #1 and #2, requiring the regulations set forth by the Utah Air Conservation Committee (Air Quality) to be met are not being met with regard to the unstabilized, disturbed soil now exposed (refer to attached B. E. County Assessor roll).

3. Condition #9, requiring the developer to produce and submit a plan showing in detail how all adjacent real property will be protected from any damage, is not in the county files and has never been identified, reviewed, approved, or met.

4. Condition #4, requiring side slopes to be left for reclamation, has not been met in that current excavation does not meet reclamation plans submitted.

*attach. no. 3(1)*

Page 2

Box Elder County Planning Commission  
February 12, 1990

It is obvious that Box Elder County Ordinance Section 6-6, adopted to assure that the permitted use of "multiple use land" be not detrimental to the health and safety of persons in the vicinity, has been and is being violated.

Must it take a disaster akin to the Quail Creek dam failure to convince you that to allow such a questionable use of land near established residences and above well-traveled state roadways is a dangerous and unconscionable decision on your part?

We appeal to you to revoke Permit #38 for failure of the developer to meet the conditions set forth, as was required when the permit was signed nearly a year ago.

Sincerely,

*Marva Jeanne Pedersen*

Marva Jeanne Pedersen, Chairman

*Earl V. Harlow*

Earl V. Harlow, Vice-chairman

*LaVee C. Hemsley*

LaVee C. Hemsley

*Ray W. Beus*

Ray W. Beus

*Gary L. Wetzel*

Board of Directors,  
Box Elder Heritage Council

cc: Senator John Holmgren  
Representative Rob Bishop  
Box Elder County Commission  
Mayor Rod Mund  
Flood District Chairman Kent Nebeker  
Attorney LaVar Stark

Attachments: 2

February 8, 1990



**RB&G  
ENGINEERING  
INC.**

Box Elder County Willard City  
Flood Control District  
c/o B. Kent Nebeker  
1200 North Main  
Willard, UT 84340

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Sincerely,

RB&G ENGINEERING, INC.

A handwritten signature in cursive script that reads "Russell O. Brown".

Russell O. Brown, P.E.

ROB:ct

NIELSEN, DARRELL  
944 E 800 S  
BOUNTIFUL, UTAH 84010

BOX ELDER COUNTY SCHOOL DIST. CODE A, K, T & Y  
02-0810-0130

N1/2 SEC 25, T 8N, R2W, SLM, LESS 12.47 ACL TO MERLIN COOK (7 AC SEC 25 & 5.47  
AC IN SEC 26) LESS 8.4 ACRES TO DOYLE KODFOED (6.7 ACS IN SEC 25 & 1.7 AC IN  
SEC 26). CONT 306.3 AC. (OF WHICH 8.0 IS GRAVEL PIT)