

BOX ELDER COUNTY
June 18, 1992

The Board of Planning Commissioners of Box Elder County, Utah, met in public session in the Commission Chambers of the Box Elder County Courthouse, 01 South Main Street, in Brigham City, Utah, at 7:30 p.m. on June 18, 1992.

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

Richard Kimber	Chairman
Deanne Halling	Member
Steve Grover	Member
Allen Jensen	Commissioner, Member
Jon Thompson	Member
Junior Okada	Member
Marie Korth	Ex-Officio Member

Absent:

DeVon Breitenbeker	Member
Denton Beecher	Ex-Officio Member

APPROVAL OF MINUTES:

Chairman Kimber presented the Minutes of May 21, 1992, for approval. Mr. Thompson made a motion to approve the Minutes as prepared. Commissioner Jensen seconded. None opposed. The motion carried.

AGENDA: (Attachment No. 1)

W. R. White, Jack B. Parsons: Proposed Sale of Land (Attachment No. 2)

Mr. Rob White, White Orchards, and Mr. Faye Facer representing Jack B. Parson Companies, appeared to discuss the proposed sale of some of the White Orchard Property to Jack B. Parson Companies. Mr. White stated White Orchards is negotiating with Parsons the sale of some property which Parsons have leased from Whites for the last five years. Five years ago Whites entered into a conditional use permit with Box Elder County to allow Parsons to mine gravel on their property. Mr. White said they are requesting the conditional use permit be transferred from their name to Parsons at the closing of the sale. He said the sale is contingent upon the transfer of the permit. Commissioner Jensen asked if an application for the transfer had been applied for. Chairman Kimber stated he had received a letter from Whites (Attachment No. 2) informing him of the proposed sale and transfer of the permit. Mr. White stated they had

not been notified of a need to make an application for transfer. Commissioner Jensen stated it was his understanding an application would need to be filed before any transfer could be made.

Mr. Thompson asked if there were any restrictions. Mr. White stated there are some restrictions within the permit, but there were not any with regard to the transfer of the permit. Chairman Kimber asked if there was a bond relating to the permit. Mr. White replied not to his knowledge. Mr. Thompson stated it was the opinion of the County Attorney that Conditional Use Permits are issued on the property and not the owner. However, he felt there could possibly be additional restrictions or conditions issued to a permit of this type where it would be re-issued, maybe a bond. Mr. Thompson felt the conditional use permits should be consistent and everyone be treated equally. Mr. Facer stated Parsons would not be opposed to posting a reasonable bond. He said their projected closing date is July 1. Chairman Kimber stated he felt the letter is their application. Mr. Grover said that was his opinion also.

Chairman Kimber stated the Planning Commission could act on the transfer of the conditional use permit contingent upon review by Surveyor Denton Beecher and a reasonable bond being posted. They could take it under advisement and delay it for one month.

Mr. Facer stated there would be no problem raising the bond, but it would be troublesome if it is delayed for a month as they need to meet a July 1 deadline. Chairman Kimber suggested reviewing the permit with the County Engineer and looking into the possibility of the bond within a week's time.

Mr. Thompson made a motion to approve transfer of the permit to Jack B. Parson Companies contingent upon a review of the conditions of the permit conducted by the County Engineer and the possibility of reasonable bond. Mr. Facer and Mr. White will work with Mr. Beecher. Mr. Grover seconded. None opposed. The motion carried.

Box Elder County/Willard Flood District: (Attachment No. 3)

Mr. Ron Nelson, representing the Willard Flood District presented the following information:

MR. NELSON: Before we go over that letter, I would just like to make a few comments. I will try to make this brief. As you already know, the majority of the people of Willard have been against this project, the DN Land Development Gravel Excavation, from the beginning, mainly due to flooding problems and considerations. The Willard/Box Elder County Flood Control District, of which I am a member, has written this committee several letters asking that this project be stopped due to deviations and infractions of the conditions of the plan. This Planning Commission indi-

cated to us from the beginning that the conditions are the very, very strictest ones ever imposed on a developer and that they would be closely monitored and adhered to. We have been promised that, especially by Mr. Breitenbeker. Yet we have at this point deviations and infractions that are ignored or denied by your Commission or your representatives. I think you know who they are.

Some of the infractions are: 1) The stockpile was so large that they blocked the main channel to the lower basin. 2) The developer has dug and disturbed the main channel above Phase One. He has pushed rocks and debris in an attempt to block and divert the water to the north secondary channel in order to avoid his excavation, his gravel pit. This is a deviation from the plan. This is where the water way should be going by the conditions of the permit and by the plan submitted by the developer. 3) He has excavated what we think is about 300 feet into the Willard City Limits. We were not apprised of this excavation and activity and had no prior knowledge in order to investigate the consequences of this activity.

We understand that Willard City is suing the developer at this present time. As for some flood control consideration, it is imperative for stabilization of the ground that has already been excavated, Phase One, to be cut to the two-to-one slope indicated by the plan and revegetated at this time before any more activity goes forth into Phase Two. That may not be a deviation, but it certainly is something that we would consider. One of the conditions was to have this done before he moves into Phase Two. I believe we are just about out of room down there in Phase One. This consideration or infraction is in the enlargement of the lower basin. We haven't had an opportunity to really inspect this or have an engineer inspect it. But we think it must accommodate eighty acre feet of water. Our Master Plan calls for a one hundred year event to be covered. We have had information from geologists and geography people that eighty acre feet of water can come out of the canyon in a hundred year event. That's a three inch rain storm, there's about three hundred acres up in that canyon. We are dealing with possibly eighty acre feet of water. The lower retention basin now is approximately twelve acre feet with a height that I understand is a twenty-seven inch pipe coming out of the lower basin. We think this pipe will just plug and the lower basin would have to contain the flood. We think it is terribly inadequate.

MR. GROVER: Are you saying the lower basin is not big enough?

MR. NELSON: That's exactly right.

MR. GROVER: It's already bigger than it was supposed to be to start with.

MR. NELSON: We disagree. The facts presented are: We are dealing with eighty acre feet of water. There is a twelve acre foot retention basin there.

MR. GROVER: If we go back, all they asked for was nine.

MR. NELSON: All who asked for?

MR. GROVER: Willard.

MR. NELSON: Willard City Flood Control District?

MR. GROVER: That's right. It is in the plans, and it is in the Minutes. Nine acre feet.

MR. NELSON: The Willard City Flood Control District didn't ask for nine acre feet.

MR. GROVER: Go back and read the Minutes.

MR. NELSON: We'll have to research that. Be glad to do that.

MR. GROVER: Nine acres was all that reservoir was supposed to be built for.

MR. NELSON: I am going to dispute that. Let's leave it there, and we will research it. You research on your side, and I'll research on mine, and we'll see what we can find.

MR. GROVER: No. I'm not going back and research it. You research it.

MR. NELSON: You are making the accusation, so why don't you research it.

MR. GROVER: No, I'm not going to research it.

MR. NELSON: Well, I'm not making the accusation, I'm not accusing you.

MR. GROVER: You are telling us we got to build it to eighty feet, now. And that's not right.

MR. NELSON: There's eighty acre feet of water coming out of the canyon. What should you build it for?

MR. GROVER: You people said you wanted nine acre feet, and you got twelve.

MR. NELSON: We didn't. Our Master Plan calls for a one hundred year event, which the engineers tell us is eighty acre feet of water. A three inch rainstorm, and three hundred acres of property. That's all I'm going to say. Eighty doesn't go into twelve no matter how you look at it.

Ok. At present, we feel this project is not in compliance with the stipulations of the conditional use permit. We feel that the development must be in compliance before any more excavation is allowed or the conditional use permit is allowed to be transferred. We have hired an engineering firm, Hansen and Lewis, out of Salt Lake City, (the District has hired) to give us an opinion of the plan for the water way in the upper basin, and we ask you to delay any action until the results of this work are completed and presented to you and us. It should hopefully be completed this week.

We do not have a legal opinion as yet, but we ask the question: "should this conditional use permit be reviewed for any new county ordinances or laws or restrictions, and the new developer agrees to and accepts all of the contingent conditions including the lawsuit and any of the deviations and infractions that we have pointed out?" We do not feel that this conditional use permit is issued solely for land use as stated by your County Attorney, and that it was issued to a specific developer. It must be an integral and inherent consideration before transferring the permit. An example of this is the litigation by Willard City. It's not against the land; it's against the developer.

We, as the Willard City/Box Elder County Flood Control District, we ask you, the Planning Commission, that you issue an order to stop further activity of this conditional use permit until all of the foregoing issues are resolved.

MR. OKADA: Where is the stockpile? Is it the one on Willard City?

MR. NELSON: No, this is the stockpile that is sitting right in the main channel that comes out of Cook's Canyon.

MR. THOMPSON: If he is pushing the material up there and diverting that flow to the north, you are going to see some action from this Commission.

MR. NELSON: I hope so.

CHAIRMAN KIMBER: I think we have reviewed essentially the same thing. We appreciate your bringing that information to us, Ron.

Let me just ask a couple of questions for clarification. You said the majority of Willard residents, what is your data supporting that? Numbers?

MR. NELSON: Were you at the County Commission meeting the night the Town of Willard was invited to speak? Here in Brigham City?

CHAIRMAN KIMBER: I wasn't there. That's why I asked.

MR. NELSON: Well, we had approximately four or five hundred Willard residents at that meeting, and we were allowed two or three minutes each to voice our opinions. There was a line from the front to the rear of the room. We each spoke our piece. Various concerns were brought up. All of the residents with the exception of one speaker voiced their opinion against the gravel pit, against the flood. We are not against the gravel pit, we are against the flood conditions and flood hazards that are in our canyons above our homes. We keep saying gravel pit here, and I'm going to quit saying it myself, and say we are very concerned about the flood hazards and conditions that are taking place right directly above our city.

To further answer your question there was a petition which has been recorded in the County Commission Office with four or five hundred Willard resident's signatures on it protesting this activity.

CHAIRMAN KIMBER: I recognize that. I'm just trying to get some figures. I am not sure it is a majority, but we'll accept your statement.

Chairman Kimber then asked about the infraction concerning the stockpile, stating it was his understanding that it was reviewed and the major portion of the stockpile is within Willard City. Chairman Kimber stated there needs to be some things done with the main channel. Also there is no time frame on the revegetation. When he completes Phase One before beginning Phase Two, then the revegetation must be started. The enlargement of the lower basin: it has been enlarged. Chairman Kimber stated the Planning Commission will review the material.

Mr. Nelson stated the Flood District would like to go on record that the deviations need to be corrected. He stated if the Planning Commission over rides their decision and analysis, then the Flood District would expect it would be Box Elder County's responsibility when the water comes out of the canyon. Mr. Nielsen further stated the Flood District has a letter on file from Dr. Fred Pashley, one of the most renowned geologists in the intermountain area, refuting removing anything from that sand or building anything on it, even a roadway or a house.

Chairman Kimber stated it is his opinion that with the work that has been done and the efforts that have been made to try to get the developer to be in total compliance, the Flood District seems to be dragging its feet. Mr. Nelson asked for guidance on what the Flood District should do.

Mr. Nelson and the members of the Planning Commission discussed the stockpile and the channel; Mr. Nelson expressed his concern that things were not being done correctly. He stated the Flood District had hired an engineering firm from Salt Lake City to see if the spillway and the upper debris basin are adequate. He said the upper basin will be above the Pine View Canal. Mr. Nelson stated he would appreciate the Planning Commission considering his remarks very carefully.

Commissioner Jensen stated before reviewing a transfer of the permit, they should also correct some of those things that have been facing them for many months and clear them up such as the stockpile, the water being diverted the wrong way, Phase One and Phase Two excavations.

Mr. Thompson asked Mr. Nielsen if he was diverting the channel. Mr. Nielsen answered no, and discussed his work regarding the channels and the excavation. Mr. Nielsen stated he is not finished with Phase One and should not have to revegetate until he is finished.

Land Use Codes:

Mr. Thompson stated July 1 is the deadline for approval of the General Plan and asked what would be done about it. Commissioner Jensen stated the Planning Commission had met last Thursday to compile all of their comments, but there were not enough members present to do anything. Mr. Okada stated the Commission does need to meet and review the Zoning and Planning Book. It was decided the Planning Commission would meet June 25, at 8:30 p.m. to review the White's gravel pit situation and the Planning and Zoning Book and to invite the other two Commissioners to attend. Mrs. Korth will send a notice to everyone involved.

Mr. Thompson made a motion to adjourn at 8:50 p.m. Commissioner Jensen seconded. None opposed. The motion carried.

Passed and adopted in regular session this 25th day of June, 1992.

ATTEST:


Marie G. Korth
Recorder/Clerk


Richard D. Kimber, Chairman

AGENDA
BOX ELDER COUNTY PLANNING COMMISSION
MEETING PLACE; COUNTY COMMISSION CHAMBERS
BOX ELDER COUNTY COURTHOUSE
BRIGHAM CITY, UTAH

1. Public agenda for the Box Elder County Planning Commission meeting scheduled for JUNE 18, 1992 at 7:30 P.M.
2. Notice given to the newspaper this 16 day of JUNE, 1992.
3. Approval of the minutes of MAY 15, 1992
4. Scheduled Delegations:
 - A. W.R.WHITE, PARSONS - GRAVEL PIT
 - B. DARRELL NEILSON
 - C. WILLARD FLOOD DISTRICT- LAVEE HEMSLEY- Response on D.N. Pit
 - D.
 - E.
 - F.
 - G.
 - H.
 - I.
 - J.
5. Old Business
 - A.
 - B.
 - C.
 - D.

Handwritten initials or signature



P.O. Box 9176
Ogden, Utah 84409
Farm (801) 782-8164
Ogden (801) 394-6621

RECEIVED

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COUNTY COMMRS

June 2, 1992

Richard D. Kimber
Chairman
Planning and Zoning Commission
Box Elder County
1 South Main Street
Brigham City, Utah 84302

Dear Mr. Kimber:

We have agreed to sell certain portions of our Box Elder County property to Jack B. Parson Companies. As you know, Jack B. Parson Companies currently operates a gravel extraction operation, as lessee, on land owned by us, and it is this particular property that we have agreed to sell to them.

As part of the sale arrangement, we need to transfer our Conditional Use Permit No. 35 to Jack B. Parson Companies. Mr. Denton Beecher, Box Elder County Surveyor, has informed us that we will need to come before the Planning Commission on June 18, 1992, in order to accomplish the transfer to Parson.

We hereby request that time be allocated at the June 18 meeting in order to consider our request, or at anytime previous if that is more convenient for you.

Sincerely,

W.R. White
President

an

cc: Denton Beecher - County Surveyor

W. R. White

**BOX ELDER CO/WILLARD CITY
FLOOD CONTROL DISTRICT**

P.O. BOX 286
WILLARD, UT 84340

June 15, 1992

Commissioner Allen Jensen
Chairman Richard Kimber
Box Elder County Planning Comm.
Box Elder County Court House
Brigham City, UT 84302

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COUNTY COMMRC

Gentlemen:

Our engineers are currently reviewing the plans submitted by DN Land Development, which were necessary because of the developer's deviation from the original plans. These plans show the location and ultimate size of the upper basin including the spillway. As our policy states, we will bill the developer for this review.

We received a copy of Mr. Thorne's letter stating that Mr. Nielsen is negotiating the sale of the DN gravel pit. We wish to note that all of the requirements such as the spillway on the upper basin, revegetation of Phase I, and deeding the retention basins and channels to the flood district need to be completed prior to sale.

Our inspection of September 10, 1991, reconfirmed that the storm waters from the mountains must go through the upper basin in order to provide flood protection promised to the city of Willard. Is this basin in proper condition to provide adequate protection? Will the north diversion channel dug in the main channel be removed to allow water to go through the basin? The present location and size of the stockpiles defeat this program. A completed spillway, removal of the stockpiles, or an "armored" channel that leads away from any stockpiles and into the lower basin are critical to the safety of Willard residents.

Enlargement of the lower basin was required, and following completion, Mr. Nielsen was to deed the additional area to the Flood District. Mr. Denton Beecher stated this enlargement has been accomplished. As soon as we are able to inspect and accept the enlargement, a deed needs to be delivered to the Flood District.

Time frames need to be set to accomplish the above construction items and a schedule set up to cut the slopes to proper grade and complete the revegetation of Phase I. Revegetation is critical for ground stabilization, limitation of erosion and flood control.

Allen Jensen

B.E. Co. Plan. Comm.
June 15, 1992
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Information from Willard City reveals that the excavation has progressed west approximately 300 feet into Willard City. We have not had an opportunity to inspect this new excavation, so we do not know how it will affect the flood control program. It may complicate the lawsuit between DN Land Development and Willard City. Will these problems affect the new owner's ability to obtain sufficient bonding?

The prospective buyer should be apprised of the above requirements and problems. The new owner must fully agree to the conditions of Permit #38, so there will be no future deviations or problems.

Sincerely,



Todd Davis, Chairman

TD:lch

cc: Willard City