BOX ELDER COUNTY

July 18, 1991

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 July 18, 1991.

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

Devon Breitenbeker	Acting Chairman
Denton Beecher	Ex-Officio Member
Allen Jensen	Member, Commissioner
Lonnie Thorpe	Member
Jon Thompson	Member
Junior Okada	Member

Also present:

Marie McKinnon	Recorder/Clerk Secretary

Absent:

Richard Kimber	Chairman
Steve Grover	Member
Marie Korth	Ex-Officio Member

The Minutes of June 20, 1991, were presented for approval. Mr. Thompson made a motion to approve the Minutes as written. Commissioner Jensen called for a discussion and stated there was one correction that needed to be made. He stated the Minutes show him as an Ex-Officio Member, and he had been informed by the County Attorney he is to be a voting member of the Planning Commission. With that correction, Commissioner Jensen made a motion to approve the Minutes. Mr. Thompson seconded. The motion carried.

AGENDA (Attachment No. 1):

Mr. Breitenbeker presented the Agenda for discussion:

WILLARD CITY REQUEST AND PERMIT No. 38:

Mr. Beecher stated that in the June Planning Commission Meeting

he had been requested to send a letter to Willard City and to the Flood District regarding the request from Mr. Nielsen. He stated he had sent a letter on June 21 indicating this information was received by Mr. Nielsen and for them to review it and submit comments to the Commission by July 8. The letter further stated if no comments were received by this date, it would be assumed the change was approved. Mr. Beecher stated on July 9 he received a letter from Mr. Jack Molgard, (Attachment No. 2) stating he was representing Willard City. On July 16 Mr. Beecher had a letter hand delivered from the Flood District (Attachment No. 3). These were the responses to the request by the Planning Commission.

At this point Willard Mayor Rod Mund arrived to meet with the Planning Commission. Mayor Mund requested that his comments be deferred until after the discussion. He stated he felt Willard's comments had been expressed in their letter. Mr. Breitenbeker presented the letter from Jack Molgard and asked for comments.

Mr. Thorpe asked a question regarding the June meeting; he wondered if the work was already done or if Mr. Nielsen was presenting it for approval at that time. Commissioner Jensen stated he was under the impression that the work had been done, and the Planning Commission was reviewing the plans for approval; the change had been made, but the drawings had not been updated. Mr. Thorpe stated he was concerned that the conditions were not being met, and changes were being made without approval. Mr. Thorpe stressed the fact that before any changes are made, permission should be obtained from the Planning Commission. Mr. Nielsen stated he felt he should be able to do what he wanted on his property. Mr. Thorpe stated he felt Mr. Nielsen should adhere to the conditions imposed by the Planning Commission.

Mr. Breitenbeker asked for input and direction on how this situation can be jarred off dead center and resolved. It has been discussed month after month with no resolution.

A perplexing and very lengthy discussion then ensued.

Mr. Thompson stated he felt the machinery was put in motion at the last meeting; that Mr. Beecher, Mr. Kimber, and the Flood Control

Committee would get together and determine if there is a violation of the conditions. Mr. Beecher said, "that's been done, and there is a violation". Mr. Thompson said he thought that committee (Mr. Beecher, Mr. Kimber, and the Flood Control Committee) was supposed to "discuss and fix the problems -- this meeting is not the place for all this to happen".

Mr. Beecher stated the on site inspection committee cannot make amendments to Mr. Nielsen's contract. He was told to make a plan of what he'd done and present it to the Planning Commission for approval because as an ad hoc committee they have no authority to make amendments to the permit.

Mr. Nielsen stated that when the meeting was held and the changes he had made were discussed, he was under the impression that everyone thought the changes were an enhancement to the plan, it was a good job and everyone was happy when they left. He said, "Mr. Kimber mentioned that fact in the last meeting. Todd Davis was in agreement -- 100%"

Mayor Mund expressed frustration at not knowing what is happening, "there is never a written report of what is discussed at the meetings (on site inspections of the project) so everyone walks away with their own interpretation".

It was the consensus of everyone in attendance that there is a definite break down in communications and interpretation. When on-site inspections are made, each person comes away with a different opinion of what was said or agreed to and what follow up action needs to be taken.

Mayor Mund said, "whether calculated or not, some people are excluded from the meetings and left in the dark".

Mr. Okada then made a motion that Mayor Mund be included in the existing committee as has been so designated. Mr. Thorpe seconded. None opposed. The motion carried.

Everyone agreed that when an on site inspection is made the committee would follow up by reviewing what transpired and document it with minutes so everyone involved will be knowledgeable of the same information, the decisions made, and what action needs to be taken. This should eliminate the need for rehashing the same problems month after month in Planning Commission Meeting.

It was stated and restated that Mr. Nielsen should have come to the Planning Commission for a temporary permit before digging the channel. To try to get a permit after the fact is in strict violation of the conditons of the permit.

Several points were expressed:

1) Mr. Okada made a motion that Mr. Nielsen fill the channel back in (it died for lack of a second).

2) Leave the channel as is because the temporary permit will probably be granted.

3) Nobody's saying it wasn't the right thing to do, it was the way it was accomplished.

4) Everyone is saying it was an enhancement, Mr. Brown, Mr. Davis, Mr. Kimber -- it's not whether it is better or not -- he violated the permit.

5) Mr. Nielsen must basically conform to the conditions of the permit we issued.

6) The dust factor was considered with Commissioner Jensen stating that he receives two or three phone calls a week regarding dust problems at the gravel pit. He further stated he has been down there on several occasions and saw an enormous dust cloud when the crusher was in operation.

Mr. Nielsen said there is always a certain amount of dust in a gravel pit operation, but it is certainly not a problem.

Mr. Beecher explained that he had monitored for dust several times and under all conditions -- when the soil was wet and dry, with ten or twelve trucks and no trucks, and when just the loaders are operating. When it's dry, Mr. Nielsen uses his water truck. The last time Mr. Beecher checked, under very dry conditions, there was zero dust. He said Mr. Nielsen never knows when he'll be checking. Mr. Beecher feels the dust and noise conditons are adequately met.

7) Purchase of a noise meter had been requested at a previous meeting. Mr. Beecher said he had not been able to find an affordable one yet, but will keep looking.

8) The stockpile is a critical factor as far as waste water disposal. The proper place for it must be a concern of this committee.

As the stockpile grew to the west Mr. Beecher questioned Mr. Nielsen about it and was told, "it's in Willard City, this is where I'm going to put it, and nobody's going to stop me because Willard City doesn't have any ordinances". Mr. Beecher cautioned Mr. Nielsen that he should be sure the water was diverted in such a way that it did not go into the stockpile and create an erosion problem.

9) The agreement was that Mr. Nielsen build a basin and the only way he can do that is to work in the channel. Whether it's better or worse depends on how you look at the permit and if you want the water diverted to the west or south channels. If it comes into the basin, it's going to collect debris there and should go out as fairly clean water until it hits the stock pile area. We must be concerned that it goes in the right direction around this area, and he's still working on that.

10) The Planning Commission requested an opinion from the Flood District on this situation and they have done that. This Commission should recognize their study. The conditions should be met by Mr. Nielsen. The Flood District feels the best scenario is that the stream be allowed to split by its own course and go both ways.

11) Mr. Nielsen needs to design an interim type plan that will handle the water and show the Planning Commission what it is. Mr. Thorpe asked if the Planning Commission was going to make it a requirement that he present information on how he'll accomplish the diversion. He felt this should be done at the next meeting because, "if we don't nothing will ever be done". Mr. Breitenbeker said he didn't feel that was necessary. "If he doesn't conform to the conditions, the Planning Commission will shut him down". "We don't need to spell out how he's going to keep the water from going through the stockpile. The only thing we need to be concerned with is that the water will not go through that stockpile. Whatever he does to stop it is up to him."

Mr. Beecher said he did the same thing with the little canyon to the south. He made provisions so the water would not go into his stockpile. There was not anything site specific on the plan that said exactly how he'd do it.

12) The Planning Commission must rely on the committee they've designated to go and inspect the site and report back if conditions are being met and Mr. Nielsen is in compliance.

Mr. Breitenbeker asked for a consensus or motion on what should be done.

Mr. Thorpe made a motion "that Mr. Nielsen be allowed to leave the channel as it stands right now. Granted later he may have to channel it back down through his pit the way nature had intended to do initially. Rather than make him go back up and fill that thing in - because eventually we'll approve it anyway at the next meeting. But if he'll bring back to our next meeting an approval from the Flood Control and engineer that it is going to enhance the program and flood control - and also I still have a problem with the loose fill on his storage site - what can be done? I want to make that part of my motion."

Mr. Beecher responded, "What Russ Brown said to us up there was, 'by diverting it this way and taking it all west we have diminished the threat of it coming down through the stockpile because the water will go down over an established terrain where the rocks are in place, the fines have already been taken out, and you'll have minimal impact on the basin below. It's going down in a direction where we've already built a diversion dam from the canal down, so it protects the lower area or Willard City residental area because that's the way they designed it to be. This would be a better situation than allowing the water to come down through the pit which is going to pick up fine all way through the pit. It will stop in the pit temporarily and settle out, but then it will go over again and go down through areas that he has disturbed so it's going to take more fines down into the basin. He said this would be a better situation now than anything we could do until the basin is complete."

Mr. Thorpe said, "Ok, I'll let my motion stand at that. Would you read it back to me? Mrs. McKinnon said, "you made the motion to let Darrell Nielsen leave the channel the way it is right now if he will bring back to the next meeting a report from the Flood Control and their engineer an approval, then you started rambling -- would you like to finish?"

Mr. Thorpe, "No, I'll leave it right there." Mr. Okada seconded. The motion carried.

OLD BUSINESS:

Mr. Beecher stated that he had been asked to check on the debris that was being placed on the Hot Springs Mobile Home Park. He stated he had gone to the park with the Health Inspector and met with the owner. Mr. Beecher reported it had all been burned and cleaned up.

Mr. Beecher stated Mr. Scott Crabtree had met with Commissioner White and wanted to know whether he could put demolition material in his excavation pit north of his bridge project. Commissioner White requested Mr. Beecher go down to the site and meet with Mr. Crabtree, which he did. Mr. Crabtree asked for an answer at the time; therefore, Mr. Beecher gave him verbal approval to do it with certain conditions; that he could put demolition materials in there as long as it was good, clean material, and that it be pushed every day and not be allowed to build up, and that it all had to be covered with two feet of clean fill material at the end. Mr. Beecher also asked Mr. Crabtree to make written request to be presented at the Planning Commission for formal comment. Mr. Beecher stated that by doing this, the area would be cleaned up and improve the appearance of the property. Mr. Beecher further stated he felt if the area could be cleaned up, people would not dump domestic garbage there, which they are doing. Mr. Beecher read a letter (Attachment No. 4) from Mr. Crabtree requesting permission to fill the excavated property and presented it to the Planning Commission for formal approval. Also the other condition is that Mr. Crabtree cannot deposit anything on the State right of way.

Mr. Thorpe made a motion that Mr. Crabtree be allowed to proceed with the plan as he has outlined it with those conditions that have been placed on it. Mr. Okada seconded. The motion carried.

Mr. Thorpe brought up the matter of the service station in South Willard which has been discussed in previous meetings, and the area south where there is a considerable amount of large equipment

stored. Mr. Beecher stated this is in a Commercial Zone and has been there for a long time. Mr. Beecher stated he would write a letter to the service station owner and request it be cleaned up.

Mr. Beecher asked for a report of the first six month's mileage for reimbursement, and requested that it be provided for the next meeting.

Commissioner Jensen made a motion to adjourn at 9:20 p.m. Mr. Thorpe seconded. The motion carried.

Passed and adopted in regular session this 19 day of Sept, 1991.

Richard D. Kimber

Richard D. Kimber, Chairman

ATTEST:

Marie G. Korth

Marie G. Korth
Recorder/Clerk

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 18 July 1991. at 7:30 P.M.

2. Notice given to the newspaper this 17th day of July 1991 .

3. Approval of the minutes of 20 June 1991.

4. Scheduled Delegations:

   A. Willard City Request

   B. Permit No. 38

   C.

   D.

   E.

   F.

   G.

   H.

   I.

   J.

5. Old Business

   A.

   B.

   C.

   D.

Att. no. 1

Molgard & Hunsaker

Jack H. Molgard
Quinn D. Hunsaker

ATTORNEYS AT LAW

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

OFFICE
801-723-8569

July 3, 1991

RECEIVED
BOX ELDER COUNTY
SURVEYOR

JUL 9 1991

Filed _____
Brigham City, Utah

Denton Beecher
Box Elder County Surveyor
Box Elder County Courthouse
Brigham City, UT 84302

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

Re: Willard City/Darrell Nielsen
Conditional Use Permit

Dear Sirs:

Willard City has requested that I relay their response to Mr. Beecher's request to submit comments to Darrell Nielsen's June 14, 1991 request.

Willard City opposes change in any conditions of the permit, which were intended to protect the citizens of Willard City, unless a thorough investigation and study is made regarding the effect of any such change. As you are aware, the Box Elder County Planning Commission issued the permit and the conditions regarding flooding after seeking the Box Elder County/Willard City Flood Control District's advise and consent. The imposed conditions were considered by the Flood District's engineer, and it should not be changed without a thorough review by the Flood District and its engineer. It is our advice that no change be made in the flood control provisions of the permit without first submitting the same to the Flood District and receiving it's comments and approval. We would oppose the requested change on that ground.

It is our understanding that certain Flood Control officials already have concern regarding the channel and the Flood District should be allowed a chance to thoroughly consider this matter and make approve or disapprove.

Sincerely,

Jack Molgard

Jack H. Molgard

cc. Mayor Rod Mund

Att. no. 2

RECEIVED
BOX ELDER COUNTY
SURVEYOR

JUL 16 1991

Filed _____
Brigham City, Utah

9 July, 1991
Box Elder County/Willard
City Flood Control District
Willard, Utah 84340

Box Elder County Planning Commission
County Courthouse
01 South Main Street
Brigham City, Utah 84302

Gentlemen:
In a letter of 21 June 1991, Denton H. Beecher sent a request per your direction. The Flood Control District was to review and comment on a proposed change to the plans of Conditional Use Permit, Application No. 38, that Box Elder County has approved for D. N. Land Development.

There have been on site inspections of the excavated area, one on 2 May 1991 and a second on 28 May 1991. During the first inspection, it was identified that the original plan was not being followed. Flood Channels were being diverted around the excavation rather than into the excavation which was to be dug to serve as a detention basin with a low level outlet. There was no low level outlet and the stock pile was in the original channel. Flood waters flowing across the existing stockpile of loose material would deposit loose material in the lower detention basin rendering it useless.

This latest request comes after the second on site inspection revealed the change has already been implemented. When you request our approval of changes in the plan that have already been implemented, it is apparent to this board that the County is unable or unwilling to control this project. Since the approval of this project by the County, the Flood Control District has written several letters pointing out specific deviations from the plan. During this time, Mr. Denton Beecher has consistently noted that the plan is being followed. If the plan is being followed, why are we being asked to review amendments to the plan which have already taken place and changed the entire scope of flood control?

This latest change in the plans that you are requesting we review diverts water from the south channel (the main channel) into the north channel.

Att. no. 3

B.E. Co. Planning Comm. 7/9/91

Such a change will increase the likelihood of flooding in Willard City and result in unpredictable changes in the flows during the next flood occurrence. The Flood Control District's position is that any diversion of potential flood waters to the north is unacceptable. The requested change is **NOT** an improvement over the original plan accepted by the Box Elder County Planning Commission. The original plan allowed water to flow down the south channel to the detention basin that was to be constructed. Contrary to the requirement in condition 7 of the permit, this change will not enhance, improve, or compliment the Flood District's plans or goals.

As noted in previous correspondence, it is the opinion of the Flood Control District that Box Elder County and D. N. Land Development shall bear all responsibility for any flood damages in the Cooks Canyon area.

Sincerely,

Box Elder County/Willard City Flood Control District

Todd W. Davis

Earl V. Harlow

James E. Wells

Ronald Nelson

Bernall Wetzel

Rodney Mund

cc: Russell O. Brown, RB&G Engineering, Inc.
Box Elder County Commission
Willard City
D. Nielsen, D. N. Land Co.

Box Elder County

To Whom It May Concern:

We here at Rocky Point wish to make a written request to fill the excavation pit down on the old Utah Hot Springs property in the south end of the County.

We have a firm by the name of Northern Nevada Construction who are willing to fill the hole with demolition debris, to top off the fill with dirt and rock and to level same to where the area can be secured and no longer be enticing for others to deposit their litter or garbage there any more.

This should be able to be completed this summer.

Rocky Point Development Corp.

By Scott Crabtree

Scott Crabtree

Att. no. 4