MINUTES
BOX ELDER COUNTY
PLANNING COMMISSION
SEPTEMBER 18, 2003

◆◆

The Board of Planning Commissioners of Box Elder County, Utah met in the County Commission Chambers Room #33 of the Historic County Courthouse, 01 South Main Street, Brigham City, Utah at 7:00 p.m., **SEPTEMBER 18, 2003.** The following members were present constituting a quorum:

Richard Kimber	Chair
David Tea	Member
Ann Holmgren	Member
Theron Eberhard	Member
Jon Thompson	Member
Richard Day	Member
Clark Davis	Member

The following Staff was present:

Garth Day	County Planner
Elizabeth Ryan-Jeppsen	Department Secretary

The **session** was called to order by Chairman Kimber at 7:00 p.m.

The ***Minutes*** of the regular meeting held on August 28, 2003 were given to the Planning Commissioners prior to their meeting (September 18, 2003) for review. Chairman Kimber asked for a Motion as to whether or not the ***Minutes*** should be accepted as written. Commissioner Tea pointed out one word clarification to be changed after which time Commissioner Eberhard made a motion to approve the ***Minutes*** of the August 28, 2003 meeting with the correction and submit to the Chairman for his signature. The motion was seconded by Commissioner Day and passed unanimously.

Citizens present at this meeting

Kim Rindlisbacher/Bothwell
Lynn Rindlisbacher/Bothwell
Darrell D. Woodward/Salt Lake City
Arianne Cope/Tremonton/Leader
Douglas Call/Tremonton
Shaun Call/Bothwell
Katherine Summers/Tremonton
Lee Summers/Tremonton
Roger Newman/Tremonton
Judy Newman/Tremonton
Tamera Newman/Tremonton
Janice Firth/Tremonton
Jill Christensen/Bothwell
Katie Bodily/Bothwell
Arlene Thurgood/Bothwell
Krys Oyler/Bothwell
James Bingham/Tremonton
Darwin Paterson/Tremonton
Douglas Newman/Bothwell
Scott Newman/Bothwell
Gary Feldman/Bothwell
Marilyn Feldman/Bothwell
Amy Hugie/Box Elder Co.
Scott Butler/Mantua

CONSENT AGENDA ITEMS

ROGER & TIFFANY BURNHOPE ONE-LOT SUBDIVISION, LOCATED AT OR ABOUT 11310 NORTH 10800 WEST IN THE BOTHWELL AREA.

Mr. Day stated that the necessary correction had been made regarding this one-lot subdivision, which required the property having frontage of at least 250 feet. The property is currently in an area of the County zoned as RR-5 and now has 300 feet of frontage. The petitioner has established proof of all utilities with water being provided by a private well on the property. As the petition is in accordance with the existing subdivision ordinances and zoning requirements, Mr. Day recommended granting **preliminary and final** approval at this time.

MOTION: A motion was made by Commissioner Thompson to grant **preliminary and final** approval for the Roger & Tiffany Burnhope One-Lot Subdivision and submit to the chairman for his signature. The Motion was seconded by Commissioner Davis and passed unanimously.

CHARLES EARL THREE-LOT SUBDIVISION, LOCATED AT OR ABOUT 16000 NORTH 4000 WEST IN THE FIELDING AREA.

This three-lot subdivision is located in an area of the County that is currently un-zoned. Lots one and two are approximately one half acre, while lot three is less than the required one half acre necessary for a septic system. The petitioner has established proof of all utilities with water being provided by private wells. The petition appears to be in accordance with the existing subdivision ordinances and zoning requirements with the following exceptions in regards to lot number three.

- Lot 3 must be 20,000 square feet as required by the B*ear River Health Department.*
- Verification needs to be received from the *Bear River Health Department* regarding the feasibility for septic systems on the three lots.
- All lots are required to have a source of drinking water prior to **final** approval.

Based on the above findings, Mr. Day recommended that this three-lot subdivision be granted **preliminary** approval at this time.

MOTION: A motion was made by Commissioner Thompson to grant **preliminary** approval for the Charles Earl Three-Lot Subdivision. The Motion was seconded by Commissioner Davis and passed unanimously.

RYAN SORENSEN ONE-LOT SUBDIVISION, LOCATED AT OR ABOUT 13170 NORTH EAST GARLAND ROAD, IN THE EAST GARLAND AREA.

This one lot subdivision is located in an area of the County that is currently un-zoned and contains .70 acre. The petitioner has established proof of all utilities with water being provided by the UKON Water Company. *Mr. Day noted that there would be a crossing over the Bear River Canal and suggested that the County review the design of the crossing prior to its construction. Mr. Day further noted that written permission from the Bear River Canal Company should be* ***provided prior to final approval*** *of the crossing.* As the petition appears to be in accordance with the existing subdivision ordinances and zoning requirements with the conditions regarding the crossing over the canal met prior to final approval (by the County Commission), Mr. Day recommended granting **preliminary and final** approval at this time.

MOTION: A motion was made by Commissioner Thompson to grant **preliminary and final** approval for the Ryan Sorensen One-Lot Subdivision with the recommendations regarding the crossing of the Bear River Canal met and submit to the chairman for his signature. The Motion was seconded by Commissioner Davis and passed unanimously.

NEW BUSINESS

ROCKY DUGWAY ROAD VACATION PETITION

Prior to this meeting of the Planning Commission, the Planning Commissioners, along with the Mayor of Mantua and several of the council members took a field trip over the Rocky Dugway Road so that they could be better informed as to the condition of the road and that portion which is included in this petition to be vacated. Mr. Day handed out his summary of the issues (included in the official Minutes) prior to the beginning of this meeting and reviewed them with the Commissioners. Those summaries are as follows:

1. Is there a prevailing public interest in keeping the road open?
2. Does the petition have a substantial effect on the County's general plan?
3. Will the proposed vacation violate any provisions of the County LUC?
4. Will the proposed vacation financially harm any adjacent landowner or stakeholder?
5. Because the road is a deeded road, the provisions of the surplus property policy should apply.

Mr. Day also included the County Policy regarding Public Access, which was taken from the General Plan. Mr. Day further stated that this policy regarding public access (included in the official Minutes) would be helpful to the Commissioners as they review this petition request. Because of the potential impacts of closing the road, Mr. Day recommended that the Planning Commission hold a Public Hearing at their regularly scheduled meeting in October 2003. This would allow time to do a comprehensive analysis of the road and receive additional feedback from the public and stakeholders regarding this issue. It will also allow time to analyze the recommendations that the Access Management Team, the Forest Service and UDOT are compiling. (Because some of the members of either the Planning Commission or staff will not be available on the 23rd of October, the meeting will be held on October 30, 2003.)

MOTION: A motion was made by Commissioner Thompson to change the meeting of the October meeting from the 23rd to the 30th and to hold a Public Hearing at that meeting regarding this petition to vacate the Rocky Dugway Road. The Motion was seconded by Commissioner Eberhard and passed unanimously.

MOTION: Commissioner Davis made an additional motion to hold a special work session for the Planning Commissioners prior to the beginning of the Public Hearing. This work session would start at 6:00 p.m. on October 30, 2003. The Motion was seconded by Commissioner Tea and passed unanimously.

UNFINISHED BUSINESS

KRYS OYLER RE-ZONE, BOTHWELLPOCKET AREA FROM ABOUT 12800 NORTH INCLUDING SECTIONS 21, 22, 23, 26, 27, 28, PART OF SECTION 14 WEST OF I84, SECTIONS 9 AND 10 WEST OF I 84

Mr. Day explained that because of proposed developments in this area of the County there has been increased interest in zoning by citizens of the area. This area, known as the "Bothwell Pocket" is currently zoned RR-5 in the southern part of the pocket. Even though this particular petition has been before the Planning Commission for several months now, Mr. Day's recommendation was that of creating a "Bothwell" community plan, similar to the one that was created for West Corinne. This plan would help the Planning Commission best determine the most appropriate zoning to recommend to the County Commission. Mr. Day then stated that the staff could have a background report prepared and ready for presentation to the [Bothwell] community by the October or November meeting. A Town Meeting could be held in Tremonton and a planning committee of residents/stakeholders could be assembled from those that attend the Town Meeting which would assist the Planning Commission in making a recommendation to the County Commission regarding the type(s) of zoning to be included in the Bothwell Pocket. Chairman Kimber stated that it is the goal of the Planning Commission to create as *"win/win situation"* and *"that it was very evident from our public hearing, that there is "NOT a consensus of feeling out in that community."* Because of this, Chairman Kimber said that he would concur with the recommendation of Mr. Day in creating a community plan for the Bothwell area; and he also felt that the citizens of that area should be involved in whatever decision the Planning Commission would make. Commissioner Eberhard made the following comment:

> *". . . I have some notes that I would like to share with members of the Commission, regarding, first of all, Mr. Day's comment about 'one size fits all.' This zoning request is not a one size fits all; it is for a specific area. All of the land contained within that area is of a very geographical type and agricultural type and it does not preclude going forth with a community plan sometime later. I would like to make some comments about the summary of the issues regarding the re-zone petition . . . the first three of them, 'Does the application conform to guidelines contained in the General Plan?; Is the zoning appropriate for the area?; Does the zoning reflect the uses both now and in the future?' Because of the lack of irrigation water, for yards and gardens the irrigate is only really good for the type of agricultural practices that are going on there now and a home here or there. Any*

development in the area should be kept to a minimum; an RR-5 zone controls growth to a reasonable level. In an RR-5 zone a home will be built here or there, growth will be slow and controlled yet allows for newcomers, while preventing the rapid change to other more dense zoning which will use potable water to irrigate more small lots than would otherwise be there. Some have referred to the RR-5 zone as unfriendly and anti-progress, but consider this, in the area currently zoned RR-5 in Bothwell there have been approximately fifty-six homes built since that zone went into effect. And that's approximately two homes per year in a small community. I believe that more people would agree that that is a reasonable rate of growth for a small farming community. Second, there are thirty-seven first generation families currently living within the zone; these are families that have not had other immediate family members living in the area. And going back to the summary, How can the County best service the area?; And does the proposal maintain the current quality of public access through balanced growth and development? We know from recent past development proposals that the County is NOT prepared to provide more public services which would be required by more dense development. Another of the issues, Does the proposal protect rural, agricultural, mineral, wildlife and other traditional land uses? Compared with the alternative, RR-5 does this much better, again by limiting development. As a member of the Planning Commission, I have heard many times the statement 'change is coming.' We can either prepare for it or it will include how things will be. As a Planning Commission, we have told members of different communities in this valley that if they want any say on what goes on in their community they need to work with the County to put zoning into effect which will determine what type of growth or building can go on in their communities. And the last issue that we should address is, Does the proposal promote development patterns consistent with, and sensitive to resident preferences? Obviously the answer to that is YES. The Planning Commission has had a public hearing, and certain comments from the community in one or two other meetings at least. There have been several Planning Commission meetings in the last six months where issues relating to growth in the proposed zone have been discussed. The members of this Planning Commission should know how the residents and citizens feel about this issue. Five years ago an application was made to re-zone Bothwell into quarter acre lots. At that time there were a 117 of the 165 landowners (that's 70%) that signed a petition asking the County Commission to not approve the application. In the Public Hearing held in our last meeting, there were thirteen landowners from the Bothwell area and three of them were against the zone application and ten were in favor [that's a 77% rate]. The sentiment of the landowners is the same now as it was five years ago and as it was twenty-five years ago. Landowners have applied for a change in zoning; due process has taken place and this process will repeat itself with the County Commission where another public hearing will take place. Before the final decision is made, any who wish will have had their concerns heard and a process will have taken place to put into effect a zone, which meets the current needs of the community or it will leave the area un-zoned and unprotected for an undetermined amount of time. ***I urge each member of this Planning Commission to recommend to the County Commission approval of the application to include any areas surrounded by and contiguous to the proposed area.*** *Thank you.*

Following Commissioner Eberhard's comments, the Planning Commissioners discussed this petition and reviewed the map that Mr. Day had showing the area being considered for re-zoning. Mr. Day stated that as a petition the Commissioners should consider the areas referred to by Commissioner Eberhard in their decision [to eliminate any "small islands" that would result in not being included]. Also, the question arose concerning when would a potential developer have "vested rights" with a development plan; is it at the concept level or later when specific portions of the development are approved by the Planning Commissioners. Commissioner Davis felt that the timing of "vested rights" could become critical for the developer if the citizenry felt that they would be able to stop a

development by petitioning for a re-zone in an area such as is the issue here in the Bothwell area. At this point, Mr. Day told the Planning Commissioners that another alternative would be to put a temporary **Moratorium** into place for the Bothwell area for a period of six months, during which time some of the other issues of concern in this area can be addressed, i.e. water, storm drains, etc. Also during this time a community plan would be worked on for the Bothwell area as was suggested by Mr. Day earlier in the meeting. It was then decided by the Commissioners that a **Moratorium** would be put into place during which time no additional applications for development would be accepted for the Bothwell pocket area. A **Moratorium** requires an action (ordinance) of the County Commission to be enacted.

At length the following motion was made:

MOTION: A Motion was made by Commissioner Eberhard to request that the County Commission put a **Moratorium** on future development in the proposed RR-5 zoning application area [*including those smaller area that were not included in the original petition, but are being considered for inclusion by the Planning Commissioners*] for the maximum time allowed by law (six-months) and that the existing application be acted upon before any further development be allowed in the area. [Commissioner Davis made the motion that the six-month Moratorium become effective once the County Commission acted upon the issue and not effective at this meeting of the Planning Commissioners.] (If at the end of the six-month period no community plan has been adopted, this petition to rezone the northerly portion of the Bothwell pocket to RR-5 would convert back to the Planning Commission for final action.) The Motion was seconded by Commissioner Davis and passed unanimously.

(A Town Meeting will be set for October 23, 2003 beginning the process for the Community Plan in the Bothwell pocket area.)

AG-PROTECTION AREA, J & N PROPERTIES

These properties are located in West Corinne, but due to being unable to obtain the maps necessary to review this area being proposed for an ag-protection, Mr. Day recommended that this item be tabled at this time.

MOTION: A motion was made by Commissioner Davis to **table** the petition for the J & N Properties Ag-Protection Area at this time. The Motion was seconded by Commissioner Tea and passed unanimously.

WORKING REPORTS

MOTION: A motion was made by Commissioner Davis and seconded by Commissioner Tea to adjourn for a short break (8:07-8:15 p.m.) before continuing with the Staff report. All concurred.

Commissioner Davis suggested that the order of the agenda be reversed so that any of the public present that may wish to make any comments could do so before the Planning Commission adjourned for a closed-door session. The **Motion** was made by Commissioner Thompson and seconded by Commissioner Tea. All concurred.

PUBLIC COMMENTS

Darrell Woodward: A comment was made during the meeting regarding the tax problems faced by the County. An example was that one hundred acres of land (as agricultural or farming) would generate approximately $1000.00 in taxes, whereas this same one hundred acres, broken into five- acre lots, could generate $20,000 as apposed to the $1000 per year. One-acre lots could possibly generate $100,000 in taxes. These taxes would help to cover the cost of the improvements and amenities that are necessary, i.e. water, curb & gutter, etc. "From a tax base and the future of this County, we need to consider more taxes."

Kim Rindlisbacher: Felt that a "blanket zoning to cover the area" [meaning Bothwell pocket] would be somewhat self-serving for certain individuals. It does not meet the needs of all the property owners in the community. Not everyone will be pleased with the outcome, but it is necessary (and important) to received input from both sides. Since submitting their first application for a development, they have worked with the Fire Marshall to help take care of the issue of fire protection. Have also worked with BRWCD regarding the water issue. They don't see this area as ever becoming a highly developed area, but to do a blanket coverage is self-serving and public input needs to be considered.

Lynn Rindlisbacher: Concerned about who would serve on the committee for the Community Plan in Bothwell pocket. Need to have landowners that do not live in the area to serve on this committee. Wants to keep it fair on both sides.

Scott Butler: As a member of the council in Mantua, Mr. Butler read a resolution that was passed by the Mantua Town Council earlier in the evening at their meeting. Resolution #2003-09-18 **"A RESOLUTION OF THE MANTUA TOWN OPPOSING THE PETITION TO VACATE THE ROCKY DUGWAY ROAD."** (A copy of that resolution accompanies these Minutes). Mr. Butler also thanked the members of the Planning Commission for going on the field trip over the Rocky Dugway Road earlier on this day.

MOTION: A motion was made by Commissioner Eberhard to accept the resolution by the Town of Mantua opposing the closure of the Rocky Dugway Road. Seconded by Commissioner Holmgren and passed unanimously.

MOTION: A motion was made by Commissioner Davis to adjourn this public meeting of the Planning Commission and proceed into a (closed) executive session. Seconded by Commissioner Tea and passed unanimously.

A Motion was made by Chairman Kimber to adjourn the meeting at 8:50 p.m.

Passed and adopted in regular session this 30th day of October 2003.

Richard Kimber, Chairman
Box Elder County
Planning Commission

PETITION TO VACATE A PORTION OF THE ROCKY DUGWAY ROAD - EAST OF MANTUA

BOX ELDER COUNTY
PLANNING & ECONOMIC
DEVELOPMENT

REPORT OF PLANNING STAFF REVIEW

DETERMINATION: ✦ ***Whether or not to recommend to the County Commission to vacate a portion of the Rocky Dugway Road or set public hearing (recommended October 23rd, 2003)***

September 18, 2003

Summary of Issues:

1. Is there a prevailing public interest in keeping the road open?
2. Does the petition have a substantial effect on the county's general plan?
3. Will the proposed vacation violate any provisions of the County LUC?
4. Will the proposed vacation financially harm any adjacent landowner or stakeholder?
5. Because the road is a deeded road, the provisions of the surplus property policy should apply

Background:

- The current zoning is MU-160.
- The section to be vacated is not developed.
- The requested vacation is shown as class "B" road on the access management plan and county transportation plan.

Staff Recommendation:

Because of the potential impacts of closing the road, and the amount of stakeholders, staff recommends the Planning Commission hold a public hearing at the next regularly scheduled meeting October 23rd, 2003. This will allow staff time to analyze recommendations from the access management team and UDOT.

Box Elder County Policy Regarding Public Access

Background:

Through a county-wide access management team, the County has developed a plan by working with federal and state public land management agencies and private land owners in Box Elder County.

When the plan was completed, final recommendations were reviewed by the Planning Commission and County Commission for adoption as part of the County's General Plan. County adoption of the Access Committee's recommendations and accompanying maps shall not be construed as a limitation on any claims or rights arising under or related to RS2477 rights-of-way, any prescriptive rights-of-way, or any public rights-of-way dedicated by or arising from public use as provided by Utah law.

After its adopted, the Box Elder County Access Plan has been reviewed and updated on an annual basis.

Policy Statement:

The Box Elder County Commission has adopted the Access Management plan for Box Elder County in order to:

Coordinate the public, trust, and sovereign land access management plans with private landowners' plans, and

Promote management of access to Utah's public, trust, and sovereign lands to protect and enhance Utah's wildlife and other natural resources, consistent with prudent use of those resources, and

Promote the effective use and access to and through public, trust, and sovereign lands.

Policy Framework / Criteria:

The following goals and guidelines are part of the adopted General Plan and serve as an appropriate framework for coordinating action and developing public support for this key element of land use management. The strategy is to collaboratively develop an access management plan at the local level that addresses the needs and desires of the many affected interests and minimizes conflict.

Objectives:

1. To provide effective use of public, trust, and sovereign lands by wildlife.

2. To provide access to public, trust, and sovereign lands for approved renewable

Resolution # 2003-09-18

A RESOLUTION OF THE MANTUA TOWN OPPOSING THE PETITION TO VACATE THE ROCKY DUGWAY ROAD.

WHEREAS, The Town of Mantua has an interest in protecting the health, safety, and general welfare of the people of Mantua, through the preservation and protection of access to public lands; and

WHEREAS, The Rocky Dugway has been in existence for over 100 years providing public access to public lands for generations; and

WHEREAS, Access management is an important management tool in preserving and maintaining public lands; and

WHEREAS, The Box Elder County Commission has adopted the Access Management Plan which provides a foundation in preserving both individual property rights and the publics right to access public lands; and

WHEREAS, This action to close access threatens a way of life that has been relied on for generations; and

WHERAS, The Rocky Dugway a designated evacuation route for the citizens of Mantua in the event of the closure of Box Elder Canyon; and

WHERAS, The Rocky Dugway area is included in Mantua's Annexation Plan; and

WHERAS, The Rocky Dugway is included in Mantua's Trails Plan; and

WHEREAS, The Mantua Town Council believes that following the Access Management plan will ultimately preserve the land and protect property owners rights for generations to come; and

WHEREAS, Shutting down generations-old access through this petition is contrary to good working relationship the county has established with the individual cities and towns in Box Elder County.

NOW, THEREFORE BE IT RESOLVED, that the Mantua Town Council strongly opposes any efforts to close the Rocky Dugway Road and limit access to public lands.

BE IT FURTHER RESOLVED, that the Town Council urges the good people of Box Elder County to join together in preserving access to public lands, and opposing this ill conceived plan to close the Rocky Dugway Road.

PASSED AND ADOPTED this 18th day of September 2003,

By: **Robert Ash**

Robert L. Ash
Mayor

Attest: Adriana Forsgreen

Adriana Forsgreen
Recorder/Clerk

9/18/03