

BOX ELDER COUNTY PLANNING COMMISSION MINUTES June 16, 2011

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	Vice Chairman/excused		
Desiray Larsen	Member	Kevin Hamilton	Director
Kevin McGaha	New Member	Elizabeth Ryan	Ex. Secretary
Ryan Tingey	Member	Scott Lyons	Planner
Jay Christensen	Member/excused		
Laurie Munns	Member		
Michael Udy	New Member		

The following citizens were present:

Cami Adams/Tremonton	Michael Adams/Tremonton
Michael C. Shaw/Riverdale	

Commissioner Desiray Larsen called the Planning Commission meeting to order at 7:06 p.m., welcoming the two new commissioners, **Kevin McGaha** and **Michael Udy**. As neither the Chairman nor Vice Chairman were at this meeting a **Motion** was made by **Commissioner Laurie Munns** to appoint **Commissioner Desiray Larsen** as the Chairman Pro tempore; motion seconded by **Commissioner Ryan Tingey**. The Minutes of the May 19, 2011 meeting were made available to the Planning Commissioners prior to this meeting and upon review a **Motion** was made by **Commissioner Laurie Munns** to accept the Minutes as written; seconded by **Commissioner Ryan Tingey** and passed unanimously.

PUBLIC HEARINGS

Acting Chairman Desiray Larsen 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.

SP10-004, T & M CUSTOM FARMING, LLC, PROGRESSIVE FEEDLOT TO BE LOCATED ON PARCEL 04-053-0004 IN THE TREMONTON AREA.

County Planner, Scott Lyons, explained that this application is for a progressive (dairy) feedlot located at approximately 6800 North 7700 West on a 155 acre site in unincorporated Box Elder County. The operation would begin with 500 head and work up toward 2000 head over a several

year time frame. No comments were received during the public hearing and a Motion was made by Commissioner Laurie Munns to close the hearing; seconded by Commissioner Kevin McGaha and was unanimous.

CUP11-006, LITTLE VALLEY HARBOR-PROMONTORY POINT, MITCH SHAW; EVAPORATIVE POND COMPLEX AT GREAT SALT LAKE FOR EXTRACTION OF BRINE.

County Planner, Scott Lyons informed the Commissioners that this applicant, Mitch Shaw, is leasing 213 acres of land in the Promontory Point area for an evaporative pond complex to extract brine from the Great Salt Lake. The total area to be excavated is between 3-4 acres with 14 ponds, 12-18 inches deep, with 3 foot berms surrounding each pond. The largest pond will be approximately 300 feet by 130 feet. The petitioner, *Mitch Shaw*, approached the Commissioners and said that he has obtained a lease from John Young and Mr. Young is aware of the proposed project, and had a copy of the lease with him. *Mr. Shaw* also said that he had Randy Kaufman, from State Lands, visit the area. There is also a lot of trash/garbage at this site which *Mr. Shaw* plans to clean up during this process. No other comments were made and a Motion was made by Commissioner Laurie Munns to close the hearing; seconded by Commissioner Kevin McGaha and was unanimous.

UNFINISHED BUSINESS-- None

NEW BUSINESS

SP10-004, T & M CUSTOM FARMING, LLC, PROGRESSIVE FEEDLOT TO BE LOCATED ON PARCEL 04-053-0004 IN THE TREMONTON AREA.

This application for a progressive feedlot is subject to a Site Plan as per Section 2-2-100.D.2.c of the BECLUM&DC. The plan included feeding areas, feed storage, a shop, an office, a scale and a compost area for waste. Staff outlined the Land Use Ordinance Standards as follows:

- ▶ the proposed use shall be allowed as a permitted use in the zone.
- ▶ the proposed use shall conform to the development standards of the applicable zone.
- ▶ the proposed use shall conform to all applicable regulations of general applicability and regulations for specific uses set forth in this Code.
- ▶ the proposed use shall conform to any other applicable requirements of Box Elder County Ordinances.

The zoning administrator's other concerns/requirements were 1) applicant must submit detailed plans signed and stamped by a professional engineer as per sections 2-2-100.E.3.c and 2-2-100.E.d of the Land Use Code; 2) applicant must submit a grading and drainage plan as per section 2-2-100.E.3.e of the Land Use Code; and 3) applicant must submit a utility plan as per section 2-2-100.E.3.f and the Land Use Code.

Staff then recommended that this petition be Tabled until the July 21, 2011 meeting in order to allow the petitioners time to gather the additional material/items required for this Site Plan Review.ⁱ

The petitioners, *Cami and Michael Adams* then approached the Commissioners to address their concerns and issues regarding this application. If this application were tabled until the July 21 meeting it would cause delays for the construction to begin on the project, thus postponing the time that they were planning to have animals on the site August 1, 2011. Construction has

already begun with the commodity bins/sheds, and they have changed with having three bay-commodity bays and have hauled in a three inch slag on the roadways to help with the prevention of mud; the site has also been flagged and staked out as to the location of the corrals regarding the length and with width where the cement will be poured. They have also started digging for the footings but have since stopped that until approval has been granted. In working with the previous County Planner, Tamera Wright, they were told that this would be an agricultural use and not a commercial use with any construction of houses/apartments, etc. Their concern with having to do a site plan is that it would require an engineer, which is expensive when they are only pouring cement. Currently they have an intern engineer working with William's Pipeline helping to do some of that work and didn't know if that would be sufficient for the County's requirements. Regarding the water for the site and the animals, **Ms. Adams** said that they are still working on the options which include, transporting the water from their home location in a water tank until they are able to comply with West Corinne Water in putting in a six inch pipe from Iowa String for two miles to the location of this feedlot. They do have a letter from West Corinne Water stating that they will supply the water needs once the pipeline is installed. The bid that they received to have the pipeline installed was approximately \$130,000; therefore, they felt that it would be less expensive to haul the water to the site at this time. **Commissioner Laurie Munns** then asked if they had ever hauled water for that number of cows and **Ms. Adams** said that they had to about 300 cows in Idaho at a feedlot with 25,000 cows. **Mr. Adams** then said that they are also looking into different options including hooking onto the line at their home which is a shorter distance than from Iowa String. **Commissioner Laurie Munns** then said that if they were to use the well at their home location it would need to be permitted through the Division of Water Rights for the livestock and the number of livestock that it would need to supply. **Mr. Adams** said, in addition, they could possibly hook on to the Corinne culinary water and are also exploring the options of having a well at the site of the feedlot. **Commissioner Laurie Munns** asked if they had any ideas regarding the reduction of the dust at the site from the livestock. **Ms. Adams** said that it would not be feasible to water down the corrals where the cows are everyday and that the dirt at the site is finer, more like sand, that should help in the reduction of the dust generated. **Mr. Adams** said that if it became a problem, a sprinkler system could be installed on the fences as July and August would probably be the months that would need the most dust control. Regarding the power service, they have a letter from Rocky Mountain Power stating that it can provide power service to the site; however it need to brought in another mile to the site at a cost of approximately \$30,000. Because of that cost they looked into using a possible wind source to generate the power, but that cost was around \$93,000 even with all of the government rebates. They are still working with RMP. **Commissioner Laurie Munns** asked the petitioners and Staff about the roads leading into this site and if they were county roads and maintained by the county. Scott Lyons said that the road supervisor had reviewed the application and the concern/requirement was 1) *"damage to the edge of the asphalt off 6800 North from heavy trucks entering and leaving the feedlot. He recommends the applicant pave the access road entering 6800 North. Pavement would need to be four (4) inches thick and thirty (30) feet wide from 6800 North to the end of the right-of-way.* 2) *That the applicant removes any debris (mud, manure, etc.) from the County road by the end of each work day. Current construction on site needs to start doing this."* **Ms. Adams** said that T&M was willing to comply with that requirement as they knew that there would be some damage to the road. When asked about the plan for the manure, **Ms. Adams** said that they had management plan to compost it, and have been working with Howard Thomas [Farm Bureau] in

putting that entire process together. When that is completed it will be submitted to the county. Mr. Thomas will also be working on a plan for the disposal of any deceased animals. The compost will be used for fertilizer as they are planning on growing much of the feed for the operation. Mr. Thomas, along with Dan Hall, is working on a plan for the waste water, and Mr. Thomas did not feel that there were be any waste water drainage from the site into the Salt Creek, due to the location and having the three foot berms around the area.

Commissioner Michael Udy then asked if this was considered an agricultural or commercial use, and *Director Kevin Hamilton* responded saying that *“this is considered an agricultural industry; by our definition this type of a feedlot is an agriculture industry, the property is un-zoned; however all industries are required to received site plan approval. This type of an operation can go both ways, but it does have a huge potential to impact the neighbors, it’s unlikely . . . and maybe you own all the other properties around that also, I don’t know that. There are some things that have been brought up tonight that I am concerned with, one is the water issue. If you truck the water in, we should have a letter from the State Division of Water Rights telling us that the person you get that water from has sufficient water shares to allow you to do that. Also, if West Corinne Water [is that who you were thinking of doing the pipe with?], we also need a letter from them and . . . this particular petitioner, a lot of loose ends that need to be resolved. This Board, it’s their duty and responsibility to see some of those things . . . so your manure management plan, and some of those things, goes before this board, it would be appropriate, in my opinion [they can do what they want], but it would be inappropriate in my opinion for them to approve this tonight without actually having the chance to have seen those particular types of times. Those things actually in writing. This is kind of a last step in any industrial/commercial approval, so these guys are the ones that have to see that because they are the ones that have to face the public and say yes we thoroughly reviewed this. I know a year ago that you started the process with Tamara and for some reason you didn’t want to go forward last fall and so I know that has put you way behind but . . . there are a lot of loose ends, just some of those questions, you’ve been asked some very good questions tonight, and I’m very concerned about the water issue. We get beat up by the State all the time over that . . . so that is one thing I am going to recommend the Commissioners, if it’s not already on your list, an additional item you’re going to want to see before you approve it . . . the water rights letter or the letter from West Corinne and if West Corinne is going to build that pipeline, our road’s department or wherever you’re going to take that pipeline is going to have to approve the design and trench to put that in . . . in my opinion you’ve got a lot of work to do to get there.”*

Ms. Adams then said that as far as West Corinne is concerned they have already had the design approved by their engineer.

Mr. Hamilton responded with *“So next month, when you come back, you’re going to want to have that letter signed by West Corinne Water, the chairman of West Corinne Water saying that we’ve designed this and you’re going to have a letter . . . if it does go in the County right-of-way approving the right-of-way approachment. Obviously the manure management plan is going to be important to us, I think the dead animal issue is an important issue for you and I think this board needs to see that. Those rules are constantly changing; it’s almost impossible for us to keep up with them. And it’s not always Box Elder County being the bully, quite often it’s the State or the EPA or Federal so it brings up a lot of issues. So I think that our recommendation is going to stand that this be tabled subject to that and I would add those two additional issues as a minimum, and I don’t know if you [the Planning Commission] have some additional issues.”*

At the conclusion of this dialogue, *Ms. Adams* asked if they would be allowed to continue with the cement work at this time if this issue is tabled at this meeting. *Kevin Hamilton* informed the petitioners that they were actually violating County law by moving forward without having received approval. *Ms. Adams* was concerned that this delay was putting them behind in their livelihood in agriculture, when *Mr. Hamilton* said that this [by definition] is actually different in that this [operation] is an agricultural industry as opposed to just agricultural use, i.e. grazing of cattle or tilling the soil in order to plant a crop.

Commissioner Laurie Munns then said that she remembered this petition coming before the Planning Commission last summer/fall [2010] and that the petitioners had not moved forward at that time and now they are anxious to get moving to be up and operational in six weeks. The Commissioner felt that there are a lot of issues that need to be taken care of, especially the water issue and hauling water to that number of animals and would hate to see something happen and water not be available for the livestock. She then asked the petitioners what they had been doing during the months since they first appeared here and was told that they had been purchasing the property. **Commissioner Desiray Larsen** also felt that a stamped engineering site plan should be required as the petitioner stated that have been some changes occurring with the layout of the operation.

MOTION: A Motion was made by **Commissioner Kevin McGaha** to Table action on the **T & M Custom Farming, LLC, Progressive Feedlot** until the Petitioners supply the additional information and materials discussed and are submitted to the Planning Office including: the water permit issue; where water will come from, whether hauling, piped, or on-site well; a utility plan; handling of the runoff water at the site, and other conditions as outlined in Endnote (i). Motion was seconded by **Commissioner Laurie Munns** and passed unanimously.

CUP11-006, LITTLE VALLEY HARBOR-PROMONTORY POINT, MITCH SHAW; EVAPORATIVE POND COMPLEX AT GREAT SALT LAKE FOR EXTRACTION OF BRINE.

This applicant (*Mitch Shaw*) is requesting a CUP to excavate an evaporative pond complex for extraction of brine from the Great Salt Lake. They are proposing 14 ponds, varying in size with the largest approximately 300 feet by 130 feet. Each of the ponds will be surrounded by three foot berms. The total area for the ponds will include three to four acres, although the applicant is leasing 213 acres from John Young. *County Planner, Scott Lyons*, reviewed the Ordinance Standards as per the BECLUM&DC Section 2-2-100 with the following findings:

- A. The proposed excavation will not be detrimental to the health, safety, or general welfare of persons residing or working in the community, or injurious to property or improvements in the community, existing surrounding uses, buildings and structures.
- B. The proposed use of the location is allowed as a conditional use. The excavation of the evaporative ponds complex poses no risks to surrounding property owners and is a necessary location for the complex.
- C. The proposed use at this particular location is compatible with the general plan. The Box Elder County Code allows for this use as a conditional use in un-zoned areas.

Mr. Mitch Shaw, the petitioner, informed the Commissioners that Randy Kaufman from Forestry, Fire and State Lands has visited the site conducting an extensive walkthrough of the area and where the ponds are to be located; also the debris in the area that the petitioner is planning on cleaning up during this process. A mineral lease is required for this project and *Mr.*

Shaw said that he has acquired that permit as well as a permit from the State for the extraction of water from the Great Salt Lake and will supply copies to the Planning Office. *Mr. Shaw* explained the extraction process and the use of the final product to the Commissioners, after which time the following Motion was made.

MOTION: A Motion was made by **Commissioner Laurie Munns** to approve the Conditional Use Permit for the Lake Source Minerals [near Little Valley Harbor on Promontory point] for proposed evaporative pond complex with the conditions as outlined by Staff. Motion was seconded by **Commissioner Kevin McGaha** and passed unanimously.

Conditional of Approval:

1. Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
2. Compliance with Article 4-8-020 of the Box Elder Land Use Management & Development Code.
3. Compliance with Article 2-2-100, Conditional Use Permit, of the Box Elder County Land Use Management & Development Code.
4. Compliance with Article 2-2-100.D, a notarized authorization must be provided by the property owner to the agent/applicant.
5. Compliance with requirements and recommendations of the Health Department, County Engineer, Fire Inspector, and Road Supervisor.
6. Compliance with all applicable county, state, and federal laws regulating the proposed use, including all licenses, permits, etc.

WORKING REPORTS

Kevin Hamilton, Director, discussed the upcoming changes being proposed to the Land Use Code specifically regarding the make-up and appointment of the Planning Commission members. That change will be presented to the Commission at the July 21, 2011 meeting. The Planning Department is also in the process of appointing members to a Board of Adjustment to handle any items that have been or may be received for appeal to a decision made by the Planning Commission. The order of procedures for actions taken on petitions/applications was also discussed and the Planning Commission may want to look at the way public hearings are conducted and then ruling motions of items are handled at future meetings. *Mr. Hamilton* reminded the Commissioners that they should not feel pressured to act on any petition or item that may be controversial or where items are missing from a file packet.

It was decided that the appointment of a new chairman and vice-chairman for the Planning Commission would take place at the July 2011 meeting when the two missing members of the commission would be present.

PUBLIC COMMENTS – NONE

A **Motion** was made to adjourn at 8:28 p.m., unanimous.

Minutes of the June 16, 2011 meeting Passed and Adopted in regular session this 21st day of July 2011.

Chad Munns, Vice Chairman
Box Elder County
Planning Commission

ⁱ Compliance with Article 5 of the Box Elder County Land Use Management & Development Code.
Compliance with Article 2-2-110, Site Plan Review, of the Box Elder County Land Use Management & Development Code.

Compliance with requirements and recommendations of County Engineer, Building/Fire Official, Road Supervisor, Zoning Administrator, and Health Department.

Per Box Elder County Land Use Management & Development Code 2-2-110.D.3 no further site improvement shall be undertaken prior to site plan approval.

Conditions, requirements and recommendations of culinary water provider: Where no culinary water system is available the letter shall come from the state or local agency having jurisdiction to approve the new well or water system. The developer is required to comply with all the requirements and recommendations of the culinary water provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission.

Conditions, requirements and recommendations of wastewater treatment provider: Where no wastewater treatment system is available the letter shall come from the state or local agency having jurisdiction to approve the new wastewater treatment system. The developer is required to comply with all the requirements and recommendations of the wastewater treatment provider and/or state/local approving authority prior to the recording of the subdivision, unless a financial guarantee to cover the costs of the required and recommended improvements has been approved by the County Commission.

Conditions, requirements and recommendations of Box Elder County Fire Marshal: The developer is required to comply with all the requirements and recommendations of the county fire marshal prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission.

Conditions, requirements and recommendation of the fire department and emergency services department (ambulance, paramedics) responsible for responding to homes in the new subdivision. Letter must indicate that the department has the ability to provide service to the new subdivision.

Conditions, requirements and recommendations of the County's Engineer: The developer is required to comply with all the requirements and recommendations of the county's engineer prior to the recording of the subdivision, unless a financial guarantee to cover the costs of installing the required and recommended improvements has been approved by the County Commission.

Letters of approval from gas, electric, and/or other utility providers if necessary.

Rural road/road improvement agreement if required by Roads Supervisor or County Engineer.

Compliance with all applicable county, state and federal laws regulating the proposed use, including all current licenses, permits, etc.