

BOX ELDER COUNTY PLANNING COMMISSION MINUTES June 19, 2014

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:

Chad Munns	Chairman
Desiray Larsen	Vice-Chair
Kevin McGaha	Member
Michael Udy	Member/Excused
Bonnie Robinson	Member
Jay Christensen	Member
Laurie Munns	Member

the following Staff was present:

Scott Lyons	Planner
Steve Hadfield	Attorney
Elizabeth Ryan	Ex. Secretary
Commissioner Jeff Scott	

The following citizens were present:

Ellen Cook/*The Tremonton Leader*
Rebecca J Poppe/Washakie
Jared Holmgren/Bear River
Keith Thompson/Snowville
Tim Heyder/Snowville
Marilee Miller/Snowville
Tim T. Munns/Hansel Valley
Rod Arbor/Snowville
Shaunn Hunsaker/Garland
Kathy Hunsaker/Garland
Chubb Munns/Garland
Jeff Hadfield/Perry
Voneene Jorgensen/Brigham City
J. Golden Ward/Tremonton
Cort Dern/Valley Development

Scott Archibald/Smithfield
Nelson Phillips/*Box Elder News Journal*
Melanie C. Holmgren/Bear River City
Carol Thompson/Snowville
William A Heyder, JR./Snowville
Walter Miller/Snowville
Keith Oman/Snowville
Allen Miller/Hyrum
Jessica Hunsaker/Garland
Shane Leak/Hansel Valley
Craig Hawkes/Howell
Reggie G. Peterson/Penrose
Thayne Hupp/Hansel Valley
Ross D Ballard/Hansel Valley
Jerry Preston/Valley Development

The Minutes of the May 15, 2014 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 with the additional citizens names added and corrected spelling of names; seconded by **Commissioner Desiray Larsen** and passed unanimously.

PUBLIC HEARINGS

Chairman Chad Munns 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.

SUB-AMEND, SS14-012; TO AMEND LOT 10 OF THE FAIRBANKS SUBDIVISION, LOCATED AT 7490 S 530 W IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY. (APPLIED 5-9-2014)

Staff explained that this amendment is to extend Lot 10 of the Fairbanks Estates Subdivision by adding a portion of a parcel that is outside of the subdivision boundary, thus enlarging Lot 10. Joining the two parcels will not change the zoning and no new buildings are being proposed. No comments were given and the hearing was closed with a Motion by **Commissioner Jay Christensen** and seconded by **Commissioner Bonnie Robinson**, unanimous.

SUB-AMEND, SS14-013; TO AMEND LOT 2 OF THE NERVA LANE SUBDIVISION, LOCATED AT 7800 S 925 W IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY. (APPLIED 5-13-2014)

Staff explained that this applicant was requesting this amendment that would create two lots from the existing Lot 2. This division would result in two separate lots each of 21,000 square feet. No comments were received and the hearing was closed with a Motion by **Commissioner Desiray Larsen** to close the public hearing, seconded by **Commissioner Kevin McGaha** and was unanimous.

VALLEY INVESTMENTS, SS14-014, RESIDENCE @ THE ORCHARDS, SUBDIVISION CONCEPT PLAT WITH APPROXIMATELY 210 LOTS/SITES TO BE LOCATED BETWEEN 8300 S & 8700 S ALONG HWY 89 IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.(APPLIED 5-15-2014)

Staff explained that this is a concept plan for a development located in the South Willard area that will cover approximately 75 acres with single and multiple family dwellings. There are a proposed 140 lots with 210 total living units along with open space and trails. This development is being proposed as a Planned Unit Development (PUD) and would follow those requirements throughout the process and approval of the planning commission. No comments were given and a Motion to close the public hearing was made by **Commissioner Kevin McGaha** and seconded by **Commissioner Bonnie Robinson**, unanimous.

SUB-AMEND, SS14-015; TO AMEND LOT 1 OF THE GLEN HOLLAND SUBDIVISION, LOCATED AT APPROXIMATELY 7520 W 6400 N IN UNINCORPORATED BOX ELDER COUNTY. (APPLIED 5-16-2014)

This amendment is to add property to Lot 1 of the Glen Holland Subdivision. This additional property is currently outside of the subdivision limits, and would add 0.53 acre to Lot 1. No comments were received and a Motion to close the public hearing was made by **Commissioner Jay Christensen**, seconded by **Commissioner Kevin McGaha**, unanimous.

SP14-004, SITE PLAN REVIEW, WASHAKIE RENEWABLE ENERGY, HOLDING TANK AND SILO LOCATED AT 7950 W 2400 N IN THE PLYMOUTH AREA OF BOX ELDER COUNTY. (APPLIED 5-16-2014)

This site plan is for two 2.3 million gallon holding tanks and a 1.7 million bushel silo at the Washakie Renewable Energy plant in Plymouth. The holding tanks are to be located adjacent to other existing tanks east of the rail line and the silo would be north of the existing silos north of the fuel crush plant. No comments were received and a Motion was made by **Commissioner Laurie Munns** to close the public hearing, seconded by **Commissioner Jay Christensen**,

unanimous.

VALLEY INVESTMENTS, CUP14-002; RESIDENCE @ THE ORCHARDS, CONDITIONAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT LOCATED BETWEEN 8300 S AND 8700 S ON HWY 89 IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY. (APPLIED 6-5-2014)

This Conditional Use Permit is for the development of a Planned Unit Development located in the South Willard area and would cover approximately 75 acres with single and multiple family dwellings on 140 lots and 210 total units. A PUD is an overlay to the current zoning and allows for denser development with open space and trails. The developer has been paying into the sewer system with Willard City for the upsizing of sewer lines that would eliminate septic tanks for the lots, thus allowing smaller lots. This CUP accompanies the Concept Plan for this development that was discussed earlier. No comments were received and a Motion was made by **Commissioner Desiray Larsen** to close the hearing, seconded by **Commissioner Bonnie Robinson**, unanimous.

UNFINISHED BUSINESS -- NONE

Z14-001, ZONING MAP/ORDINANCE-GENERAL PLAN AMENDMENT, TIM MUNNS; INITIATE PROCESS TO CREATE A M.S.W. CORRIDOR WITHIN BOX ELDER COUNTY. (APPLIED 4-14-2014).

Commissioner Laurie Munns asked to be excused at this time due to a conflict of interest regarding this petition and left the room. **Chairman Chad Munns** mentioned that there had been two items that were discussed in the meetings; is there a need for a change to the ordinance [350] as the applicant has said that the wording needs clarification in creating a MSW corridor or if one already exists. The applicant was asked to come forward to speak with the commissioners. (Staff said that **Mr. Munns** is, more specifically, requesting a text amendment.) **Mr. Tim Munns** said that at the May meeting it was discussed that he would get a group together to review the existing ordinance when the time was needed, but wasn't sure if it was needed now. It would depend on what the planning commission's decision was in relation to the next item for the zoning/general plan amendment that was applied for by **Mr. Moulding**. **Mr. Munns** said that on the advice from others a committee/group has not yet been put together. Staff outlined the items that the planning commissioners needed to take into consideration in moving forward with this petition. 1) Does the language in Ordinance 350 need to be clarified? And the extent of that clarification, if it needs to as other portions of the Code that create corridors require a general plan amendment and Ordinance 350 does not specifically say that. It could be as easy as saying that all MSW corridors will be created by an amendment to the general plan. If the planning commission feels that it needs to be more detailed or in depth, then that language and some criteria could be set forth in the creation of a MSW corridor, such as requirements that must be met in order for a corridor to be placed in a certain location aside from the regular requirements for a general plan amendment. 2) Does the decision made regarding the text amendment #1 put the next/other application (Mr. Moulding's landfill) as a "Pending Ordinance". **Chairman Chad Munns** asked for opinions from the planning commissioners regarding their feelings on this issue. **Commissioner Desiray Larsen** said that she felt a text amendment was needed to clarify the Ordinance [350]. **Commissioner Jay Christensen** mentioned the corridors that were created with Rocky Mountain Power and that they need more direction from Staff regarding the procedure to be followed. Possibly have staff look at other

counties to see what they have done regarding corridors for various uses.

MOTION: A Motion was made by **Commissioner Desiray Larsen** to direct Staff to move forward in regards to what will be necessary in making the language of the existing Ordinance 350 clearer, i.e. work sessions; group or committee if necessary. Motion seconded by **Commissioner Jay Christensen** and passed unanimously.

Regarding the second item that Staff mentioned, **Chairman Chad Munns** said that on the May meeting's agenda, **Tim Munns** application was applied for first by a matter of days, and the question was, was it (his application) on the agenda or was it published? Staff then read from the Code Section 2-2-040(J) regarding a pending ordinance.

“When a proposed amendment to the zoning map or text of this Code is pending, a person who thereafter files an application which may be affected by the proposed amendment shall not be entitled to rely on the existing zoning map or text which may be amended.

- i. A proposed zoning map or text amendment shall be deemed “pending” when the amendment proposal first appears on a Planning Commission or County Commission agenda, as the case may be, which has been noticed as required in this Chapter.*
- ii. An application shall be deemed “filed” when all materials required for the application, as set forth in this Code, have been submitted.”*

Commissioner Kevin McGaha said that the application was for a zone amendment, but since there is no MSW corridor established currently, wouldn't that call for clarification? In referring to Ordinance 350, Staff said that the applicant (**Mr. Tim Munns**) was asking that the text be clarified, but with the pending ordinance issue focus is not on any existing or proposed corridor but on the text of the ordinance [350]. The following was then read from Ordinance 350:

3-8-030.2. Creation and location.

The Municipal Solid Waste (MSW) zone is a zoning district where industries that treat, store and dispose of municipal solid waste shall be located. MSW zoning districts shall be created under Chapter 3 of the Box Elder County Land Use Management & Development Code and shall only be located in the county designated Municipal Solid Waste corridors. No new Municipal Solid Waste (MSW) zone or lateral expansion of an existing facility shall be located within:

- 1. One mile of any existing residential dwelling or dwellings;*
- 2. A ground water primary recharge area, groundwater classified as IB;*
- 3. Located over a sole source aquifer as determined by a hydro geologic study.*

This focuses mostly on the location of a zone, but does state that it must be located in the MSW corridor; the applicant requesting clarification as the ordinance does not state how a MSW corridor is to be created. **Commissioner Kevin McGaha** then asked if there are any MSW corridors in existence in the county with either text or on a zoning map and was told that there are not any at this time; therefore in order to make that amendment a zone would need to be created. Staff said that it would not be necessary to create the zone for the amendment to the text to be made. In the past, as with RMP and the gas line corridor it was the applicant that came to the county with the proposed location for the corridor and then it was for the county (commission) to either grant final approval or not to approve with a general plan amendment. With what had been discussed at this meeting Staff had the understanding that he was being

directed to clarify the Ordinance 350 and would then possibly recommend that solid waste corridors be created via a general plan amendment, resulting in a three step process. 1) A corridor would be created with a general plan amendment; 2) the area would then be re-zoned to the MSW zone discussed in the ordinance; and 3) if the first two passed then the third step would be to apply for a conditional use permit. This three step process would make it in line with the way the other corridors have been established in the county. Then, **Chairman Chad Munns** again asked if this qualifies as a pending ordinance? Was **Mr. Munns'** application first and opened/noticed to the public before **Mr. Moulding's**, or were they on the same agenda. **Mr. Mike Malmborg**, counsel for **Mr. Moulding**, said that there are a few things that are uncontested, but the timing of the applications being filed put both on them on the same agenda, being noticed at the same time. Therefore, it did not make **Mr. Munns'** application "pending." The law that was in effect at the time of **Mr. Moulding's** application should be that which governs his request. **Chairman Chad Munns** agreed that **Mr. Munns'** application request was on the agenda first, but was not noticed and the county attorney agreed with his interpretation, as both items were noticed at the same time.

MOTION: A Motion was made by **Commissioner Desiray Larsen** stating that the application Z14-001 Zoning Text Amendment of Tim Munns does not meet the criteria of a "pending ordinance" as per the interpretation of **Code Section 2-2-040(J)**. Motion was seconded by **Commissioner Bonnie Robinson** and passed with **Commissioner Jay Christensen** in favor and **Commissioner Kevin McGaha** against. Motion carried 3 to 1.

Z14-002, ZONING MAP/ORDINANCE-GENERAL PLAN AMENDMENT, RANDY MOULDING, RE-ZONE 2200 ACRES OF PROPERTY LOCATED APPROXIMATELY 8 MILES SOUTHEAST OF SNOWVILLE, TO MSW ZONE TO CREATE A CLASS I LANDFILL OPERATION. (APPLIED 4-18-2014).

Commissioner Laurie Munns returned to the commission table and said that she would be participating in the discussion for this petition. **Chairman Chad Munns** then asked **Mr. Randy Moulding** and **Mr. Mike Malmborg**, his legal counsel, to come forward to discuss the application with the commissioners. **Chairman Munns** thanked **Mr. Moulding** for the site visit and the information that was provided by his project's engineer. The **Chairman** asked **Mr. Moulding** if he wanted to have this tabled, but **Mr. Moulding** said that he didn't think he wanted to table the item as it was probably going to take some time to be able to work through all of the issues involved. It was mentioned that perhaps a visit to another landfill site might be good, such as the Wasatch landfill. **Mr. Malmborg** said that there are a couple of hurdles that need to be looked at, 1) a zone can only go into a corridor, so the first issue is, is this area a corridor? There is some difference of opinion between the applicant and staff as to whether or not this is a corridor. 2) If you are in a corridor, do you change the zone for the specific piece of land to be MSW zone? And, 3) then an application for a conditional use permit would be made. The CUP would then address the need of such a use for the county. It would be appropriate to table the zoning decision at this time, as it needs to be determined if this property lies within a corridor currently.

Chairman Chad Munns then said that the commission would like to proceed with the general plan amendment and then the three step process that would follow as has been done in the past, noting that they might not agree with that decision. **Mr. Malmborg** said that they did not agree with that process in this situation as they felt that the corridor was already in existence at this

location. He then referred to the three items mentioned in the creation and location of a MSW zone, but does not say anything about having to do a general plan amendment. **Commissioner Laurie Munns** then stated that according to that interpretation then all of Box Elder County would be classified as a “corridor”. According to **Mr. Malmborg’s** definition a corridor could go anywhere in the county as long as it meets the three qualifications. **Mr. Malmborg** disagreed, saying that if it meets those three criteria then it qualifies for a corridor, but there are specific requirements that the planning commission will look at in determining whether or not to make a zoning change. **Mr. Malmborg** said that they felt that this site is clearly not within one mile of a residence; the ground water would need to be determined by the reports that have been submitted to the state. It needs to be determined whether or not this property meets these three criteria as outlined in Ordinance 350. If it doesn’t then it would be thrown out as per the code. What they were asking was if this property qualifies as a corridor and if so then they would move forward in requesting a re-zone. If the commission says that a general plan amendment is required then they would need more time to address what would be needed to fulfill that request. **Mr. Moulding** then added that he had talked with **Scott Lyons**, county planner, prior (60 to 90 days) to filing the application and had asked for maps and clarification, but they were not available, and the three items were discussed. In his mind this property met the criteria for an existing corridor.

Chairman Chad Munns said that **Mr. Moulding** is relying on his legal counsel and that is what the commission needs to do also. **County Attorney, Steve Hadfield** then said that his interpretation of the ordinance is different from that of the applicant’s and his counsel. He felt that a general plan amendment was required, and in looking at the ordinance and the history of the ordinance, it was first passed without the last sentence and the three qualifications. In reading the last portion it says “*No new Municipal Solid Waste (MSW) zone [it doesn’t say corridor]shall be located within*”: and the three things are then listed. That applies to the zone and not the corridor; the mention of the corridor is because a corridor has to be established and can only be done with a general plan amendment. A corridor is often mentioned when talking about the general plan and areas within the general plan. Therefore, a general plan amendment is needed, then the zoning and then the CUP.

Mike Malmborg then said that this is an area where they disagreed, but if the commission was going to require a general plan amendment then they needed to know so they could move forward in that direction. **Chairman Chad Munns** said that as that was the direction that was given by the county attorney it would be what the planning commission would want to follow. There was more discussion regarding the establishing of a corridor and in doing so with a general plan amendment that allows for another public hearing to get concerns, questions, suggestions, etc. from the public as to where a corridor would be located. Then once a corridor is established then the second step is done in re-zoning the area for a specific use, i.e. MSW.

Mr. Randy Moulding said that he had gone over this corridor issue with Staff and it was unclear, but he went ahead with the engineering and some drilling. Had it been clear he probably would not have done so. This issue could be stopped with the zoning. He asked if the issue of the corridor could not be granted at this meeting. He would like something formal that says this area does not meet the three criteria as outlined and then would be able to move forward with a general plan amendment. **Mr. Mike Malmborg** said that he didn’t think the commission had enough information to determine whether or not these 225 acres met the criteria as being a corridor and if not then he asked that any decision be tabled.

Commissioner Desiray Larsen said that the commissioners probably didn’t have enough knowledge to know what would make a corridor, but understood that it is a general plan

amendment might be needed. In looking at the three criteria outlined in the ordinance [350] did not feel that a decision could be made saying that this area met that criteria. There is enough difference between creating a corridor and a zoning map amendment that they should be split and dealt with individually. **Commissioner Jay Christensen** said that there has been a lot discussed regarding the legal aspects of the corridor, but part of the commissioner's position is to be a representative of the citizens of the county. With the public objects from the last meeting and the red flags that exist from research and other areas, they need to look at this place and determine if it is the right place and a best place for a landfill; in his opinion it is not. If water is jeopardized and people's property affected then the commission is not doing what they have been enacted to do. **Commissioner Kevin McGaha** said that his understanding was that the county general plan was the driving document for all of the other ordinances that are created. Therefore, the zoning issues need to flow from the guidance of the general plan. He would like to see a general plan amendment that would include citizen input, property owner input, along with any scientific data. Then a recommendation could be made to the county commission. The county will continue to grow and this is an opportunity to work through this issue now and determine where will be the best places for corridors. He would like to see the general plan process followed. **Commissioner Laurie Munns** then asked why have public hearings if the concerns of the citizen's were not going to be taken into consideration. **Commissioner Bonnie Robinson** said that it is necessary to figure out the corridor issue, as if not now then it could come before the commission again in the near future. A plan needs to be created to cover this and other issues. **Commissioner Laurie Munns** said that she felt the commission was being led by the counsel of **Mr. Moulding**. She noted that the planning commission is made up of seven lay-people with various backgrounds, occupations and education and all of this information is being thrown at them so quickly that there hasn't been time to really be able to work through all of it. The commissioners are representatives of Box Elder County and she doesn't want to make a decision that will lead to regret later. There needs to be more time to discuss this. **Chairman Chad Munns** asked Staff to explain exactly what this applicant had applied for. The application that was submitted was for a zoning map amendment (from un-zoned to a MSW zone) and also for a general plan amendment to authorize a class 1 landfill on the property. **Mr. Mike Malmborg** said that they did appreciate what the commission was trying to do and said that he/they were not trying to lead the commissioners. He was just trying to give his interpretation as to what the existing law said in the ordinance, but it was the decision of the planning commission to table or made any decision at this meeting. **Chairman Chad Munns** then referred again to the decision making standards the guide the planning commission and after some comments by the Chairman the following motion was made. It was noted that the Code had been referred to frequently during this meeting and that is what needs to be followed in making the decision.

MOTION: A Motion was made by **Commissioner Jay Christensen** to deny the application of Randy Moulding for a zoning map amendment, Z14-002 and forward a recommendation on to the County Commission for their action. Motion was seconded by **Commissioner Laurie Munns**. Motion to deny the application failed with **Commissioners Kevin McGaha, Bonnie Robinson** and **Desiray Larsen** opposed.

Commissioner Kevin McGaha said that going through the process of the general plan amendment would help to satisfy both of the applications (Mr. Munns and Mr. Moulding). This will help as the county continues to grow; look at the best place to put a corridor by taking into consideration the technical data, the public comments and other research.

MOTION: A Motion was made by **Commissioner Desiray Larsen** to Table the decision on Z14-002 for Randy Moulding and to direct Staff to gather more information and hold a work session for the planning commissioners to discuss the direction for the general plan amendment.

Chairman Chad Munns asked for clarification as to whether a general plan amendment was going to be required of **Mr. Moulding**. It was determined that **Mr. Moulding** would need to start the process for a general plan amendment to which he said that he did not think it was fair for him to have to apply for a general plan amendment that in the end would result in this property not being included in any corridor. Since the language of the ordinance was not clear to begin with it would not be fair to anyone, the applicant or the commission. **Mr. Mike Malmborg** then said that if a general plan amendment is required then they would come back with it and discuss in a work session if necessary. All agreed.

The Motion was then restated by **Commissioner Desiray Larsen** to Table the current zoning map amendment and the general plan amendment for Mr. Randy Moulding, Z14-002, and direct Staff to hold a work session. Motion was seconded by **Commissioner Bonnie Robinson**, and passed with **Commissioner Kevin McGaha** for the motion.

Commissioner Laurie Munns and **Commissioner Jay Christensen** voted against.

SP14-003, SITE PLAN REVIEW, WASHAKIE RENEWABLE ENERGY, WATER SYSTEM/INFRASTRUCTURE LOCATED AT 7950 W 24000 N IN THE PLYMOUTH AREA OF BOX ELDER COUNTY. (APPLIED 4-25-2014)

This application was before the planning commission at the May 15, 2014 meeting and was tabled at that time in order for county staff and other department to review the plan. This plan is for the installation of a water system for water lines and nine hydrants. This is for non-potable water only as the culinary water is currently being supplied by Culligan for use of their employees. **Scott Archibald**, of Sunrise Engineering and representing the applicant stated that this is being proposed as it was a requirement of the county in order for Washakie to protect the facility and its employees by having adequate fire protection with this system. This system is not tied into any other system or community in the area.

MOTION: A Motion was made by **Commissioner Laurie Munns** to accept the site plan review for the water system and infrastructure at the Washakie Renewable Energy facility in Plymouth. Motion seconded by **Commissioner Jay Christensen** and passed unanimously.

NEW BUSINESS

PROPOSAL TO CREATE AN INDUSTRIAL PROTECTION AREA AT THE PROCTOR AND GAMBLE SITE LOCATED ON IOWA STRING ROAD SOUTH OF BEAR RIVER CITY; PARCELS 04-065-0008 AND 04-065-0007. (FILED W/CLERK'S OFFICE 5-28-2014)

Staff explained that this petition is from Procter and Gamble and Rocky Mountain Power as they share property in this area and are looking to create an Industrial Protection area for their property. Utah State Code 17-41-303 outlines the regulations needed in reviewing the creation of Industrial Protection Areas and this fits into those guidelines.

- A. The effect of the creation of the proposed area on the planning policies and objectives of the county;
- B. Analyzes and evaluates the proposal by applying the criteria contained in Section 17-41-305;
 - a. Whether or not the land is currently being used for an industrial use;
 - b. Whether or not the land is zoned for industrial use;
 - c. Whether or not the land is viable for industrial use;
 - d. The extent and nature of existing or proposed improvements to or expansion of the industrial use; and
 - e. In the case of an industrial protection area, anticipated trends in technological conditions applicable to the industrial use of the land in question.
- C. Recommends any modifications to the land to be included in the proposed industrial protection area;
- D. Analyzes and evaluates any objections to the proposal; and
- E. Includes a recommendation to the applicable legislative body either to accept, accept and modify, or reject the proposal.

The application originates in the County Clerk's Office and needs to be reviewed by the Planning Commission before it is given to the County Commission for holding a public hearing and given final approval.

MOTION: A Motion was made by **Commissioner Kevin McGaha** to forward a recommendation of approval to the County Commission; seconded by **Commissioner Bonnie Robinson** and passed unanimously.

SUB-AMEND, SS14-012; TO AMEND LOT 10 OF THE FAIRBANKS SUBDIVISION, LOCATED AT 7490 S 530 W IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.

Based on the information that had been presented, Staff recommended approval for this amendment to the Fairbanks Subdivision Lot 10.

MOTION: A Motion was made by **Commissioner Desiray Larsen** to forward a recommendation of approval to the County Commission for the Amendment to Lot 10 of the Fairbanks Subdivision; Motion seconded by **Commissioner Jay Christensen** and passed unanimously.

SUB-AMEND, SS14-013; TO AMEND LOT 2 OF THE NERVA LANE SUBDIVISION, LOCATED AT 7800 S 925 W IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.

This amendment has been reviewed by the various county departments and Staff recommended approval of this amendment. The two lots that will be created by this amendment meet the necessary frontage and setback requirements of the code.

MOTION: A Motion was made by **Commissioner Laurie Munns** to forward a recommendation of approval to the County Commission for the Amendment to the Nerva Lane Subdivision Lot 2, resulting in two ½ acre lots. Motion was seconded by **Commissioner Jay Christensen** and passed unanimously.

VALLEY INVESTMENTS, SS14-014, RESIDENCE @ THE ORCHARDS, SUBDIVISION CONCEPT PLAT WITH APPROXIMATELY 210 LOTS/SITES TO BE LOCATED BETWEEN 8300 S & 8700 S ALONG HWY 89 IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.

This application for a large PUD subdivision located in South Willard was seeking approval of the concept plat in order to move forward with the detailed planning of the subdivision. *Mr. Jerry Preston* addressed the Commissioners stating that this property came before the Planning Commission in 2007 with approval for development with lots of ½ acre. When the economy declined no further action was taken. Since that time the developer has been paying into the up-sizing of the sewer lines from the Willard City Sewer Plant in order to create a development with smaller building lot sizes. *Mr. Preston* said that he has been working with the South Willard Citizen's committee in developing this plan and their concern was with having only one access to the development. He is now working with UDOT for another access from Highway 89. Based on the information that was given, Staff recommended approval for the Concept Plan of this development.

MOTION: A Motion was made by **Commissioner Jay Christensen** to approve the Concept Plan for the Residence @ The Orchards (Valley Investments) allowing the developer to move forward with Preliminary Plat. Motion was seconded by **Commissioner Desiray Larsen** and was unanimous.

SUB-AMEND, SS14-015; TO AMEND LOT 1 OF THE GLEN HOLLAND SUBDIVISION, LOCATED AT APPROXIMATELY 7520 W 6400 N IN UNINCORPORATED BOX ELDER COUNTY.

Based on the information presented, Staff recommended approval of the amendment to Lot 1 of the Glen Holland Subdivision extending the boundaries by adding an additional 0.53 acre to the existing lot.

MOTION: A Motion was made by **Commissioner Bonnie Robinson** to forward a recommendation for approval to the County Commission for the Amendment to Lot 1 of the Glen Holland Subdivision. Motion was seconded by **Commissioner Jay Christensen** and passed unanimously.

SP14-004, SITE PLAN REVIEW, WASHAKIE RENEWABLE ENERGY, HOLDING TANK AND SILO LOCATED AT 7950 W 2400 N IN THE PLYMOUTH AREA OF BOX ELDER COUNTY.

After reviewing this application, Staff recommended that the two items be split and addressed separately. A contract/agreement between the County and Washakie for road maintenance on

the roads leading to the facility was based on a four million gallon [tank] holding capacity and that has been surpassed; before the new site plan for the additional 2.3 million gallon holding tanks can be approved a new agreement needs to be reached between Washakie and the County. Therefore, it was recommended that this portion of the application be tabled. There were no concerns with the approval of the second portion of the site plan for the 1.7 million bushel silo at the site as the roads in question are not used for the silos.

MOTION: A Motion was made by **Commissioner Laurie Munns** to Table action on the two 2.3 million gallon holding tanks until an agreement is reached between the Applicant and the County. **Commissioner Laurie Munns** also made a Motion to grant approval for the 1.7 million bushel silo. The two Motions were seconded **Commissioner Bonnie Robinson** and passed unanimously.

VALLEY INVESTMENTS, CUP14-002; RESIDENCE @ THE ORCHARDS, CONDITIONAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT LOCATED BETWEEN 8300 S AND 8700 S ON HWY 89 IN THE SOUTH WILLARD AREA OF BOX ELDER COUNTY.

This application for a Conditional Use Permit is to allow a Planned Unit Development Overlay Zone on 75 acres in the South Willard area. A PUD overlay zone allows a developer more flexibility in lot sizes, uses, and structures with higher density and some open space. This property is located in the R-1-20 zone which allows for PUD overlay zoning. Staff said that during the preliminary approval of the development the Planning Commissioners will be able to work with the developer regarding the setbacks and heights of the structures. **Mr. Jerry Preston** said that without the approval of this PUD the concept plan that was approved earlier would not be able to move forward.

MOTION: A Motion was made by **Commissioner Laurie Munns** to grant approval for the Conditional Use Permit allowing the Planned Unit Development for Residence @ the Orchards. Motion was seconded by **Commissioner Kevin McGaha** and passed unanimously.

WORKING REPORTS-- NONE

PUBLIC COMMENTS

Mr. Tim Munns wanted to make it clear that this item for the Franklin Hill Landfill had not been approved at this meeting and further said that he was disappointed in the commissioners as a public hearing had been held regarding this proposed project and a number of citizens had voiced their disapproval about this proposed landfill in Hansel Valley. What was the purpose of having a public hearing if the public's concerns were not going to be taken into consideration? He felt that the wording of Ordinance 350 was clear and that the next time those that were in opposition to this [landfill] would also have legal representation with them. He also stated that two hydro geologic studies have been done showing that this area is a primary recharge area and that the water there is the only source of water for the valley. He felt that the commission had not listened to the citizens and the this area already met the criteria laid out in Ordinance 350 referring to the three conditions that are mentioned in the ordinance that state where a MSW

zone **cannot** be located. 1. One mile of any existing residential dwelling or dwellings; 2. A ground water primary recharge area, groundwater classified as 1B; and 3. Located over a sole source aquifer as determined by a hydro geologic study. **Mr. Munns** also said that he couldn't understand why Mr. Moulding would conduct studies and spend money if it wasn't crystal clear that a landfill would be allowed in this area. The water that comes from one of the wells on **Mr. Munns** property could supply water for up to 400 homes if changed from irrigation to culinary water status and ruining that with a landfill should not be allowed. In conclusion he said that the planning commissioners need to represent the feelings and wishes of the citizens and those were made clear during the public hearing at the May 15, 2014 meeting, and said that this battle against this will continue.

Commissioner Kevin McGaha said that he could understand that people were quite emotional about this issue, but that if a corridor is not established now, this is not the last time a petition such as this will come before the planning commission. It isn't just the land in Hansel Valley, but other areas of the county that will be affected by establishing a corridor for MSW zones. This is giving them the opportunity to act toward creating a corridor that will be referred to in the future.

Mr. Rod Arbon (Snowville & Curlew Valley) said that he wished he would have been to the site visited in Hansel Valley that was done on Tuesday as he would have been able to show those present just which way the water flows in the valley, how many gallons, and the depth of it. He was also opposed to the way the meeting was held tonight in that Mr. Malmborg was the one answering the questions and discussing this project with the commissioners and not Mr. Moulding. He told **Chairman Chad Munns** that he had given an excellent explanation of the code, but thought that it had fallen on deaf ears and why did a corridor have to be established before being able to move forward. The corridor is for Box Elder County and not for private individuals.

Mr. Thayne Hupp had been at the site visit and felt that it was more for Randy Moulding and his engineer. He said that he had the opportunity to speak, but Mr. Moulding was called over to listen to his comments when he wanted to talk more with the planning commissioners that were present. He did not think that the commissioners heard anything that he had to say at that time. He wanted to propose a site visit for the citizens and have equal time as Mr. Moulding did. He then read a prepared statement.¹

Mr. Tim Hyder (Snowville) said that they had a two hour meeting with their town council and everyone there was against this landfill. Mr. Moulding had been at the meeting and after hearing what Mr. Moulding had to say he was even more discouraged and against the landfill as he did not feel that a good plan was in place to manage this landfill. The people of the valley are strictly against this landfill. The commissioners need to make their decision in the best interest of the citizens of the county.

Jared Holmgren (council member of Bear River City) said that he is a landowner and would like to live in Hansel Valley sometime. Mr. Moulding has now come in and wants to change the land. Every landowner has signed a petition against this landfill and in regards to the corridor the reason there aren't any currently per Ordinance 350 is because there are already two approved landfills; Promontory and Little Mountain. This proposed landfill is going to be 250 acres with the possibility of more in the future. This will affect the quality of life for him and

generation to come. Further stated that lawyers twist the language of the ordinance as they are written by lawyers for lawyers, and the ordinance is clear in its language.

Mr. Chubb Munns resident of Garland and wanted to back up what had already been said. He wonders who would be responsible for picking up the garbage that would fall off of these trucks hauling the trash. Mentioned the sage grouse in the area and what would happen if it is listed on the endangered list by the government; it will affect everyone in the county. It is necessary to look at all of the avenues when doing the corridor. Those against this landfill have lived in the area much longer than Mr. Moulding.

Mr. Craig Hawkes, Mayor of Howell Town said that they had a petition signed by almost everyone in the town and all were against it. Also asked what was the monetary value of this landfill for the county? There are already two landfills in the county and commission needs to take citizen's comments into consideration.

Mr. Ross Balland agreed with the comments that have already been made and hoped they would be made available for everyone to see and also the function of the Planning Commission and zoning. The intent of landfills in Box Elder County has been around for a long time and the Ordinance [350] that was made in 2010 had that in mind. Those commissioners in making that ordinance had that in mind and thought that this ordinance made it clear, and now that it is before them again they need to do what is necessary to clarify it and be able to use as guidance in the future. Regardless of the amount of investment that Mr. Moulding has put into this there was no guarantee that it would go forth.

Mrs. Melanie Holmgren from Bear River City said that she was probably the oldest person in the audience and for 73 years has had connections with Hansel Valley. Also, she has seen water come down through the valley to the point of being land-locked. Water has come from the top of the valley to the salt wells and it moves very quickly. She has been able to ride her horse out there and is able to see the entire valley and doesn't want to see garbage. We are losing places like Hansel Valley because someone wants to come in and do what they want. Box Elder County does not need to be the garbage dump for places south of the county; all they have to do is sign a contract with a landowner (Randy Moulding). If there is a landfill, then the county needs to be in charge of it. Was grateful for being able to spend her lifetime here and appreciated the commission and asked them to think really carefully about the decision they make.

At the conclusion of the public comments, **Chairman Chad Munns** said that a lot of what was done at this meeting was based on what the County Attorney has advised them could be done legally. It was mentioned that this is the opportunity for this commission to get the ordinance in place to clear up any misunderstandings that there may be.

Mr. Reggie Peterson said that he remembered at the last meeting in May what the County Attorney had said and that was to "follow the law." He had a couple of questions, 1) relative to the ordinance, **Mr. Tim Munns** had a concern so he made a petition; 2) **Mr. Moulding** had an application about a CUP; the thing that he would like everyone to do is to remember that the county already has two permitted landfills and even though **Mr. Moulding** may be a good operator as far as landfills go, is there a benefit to the county with his landfill? When you talk

about the quality of life it needs to be considered whether or not it is a benefit to the citizens of Box Elder County. White's Valley and NURLA were mentioned during the meeting and **Mr. Peterson** talked about the wording in the Utah State Constitution: "the people of the State of Utah grant to those elected officials the right to administer, but we reserve the right to petition their decision." He said that he watched two county commissioners vote to sell the landfill and the same two accept the county landfill for NURLA. He was neither for nor against the landfill. We were told that the landfill was losing money, but it is still in operation. Decisions need to be made on facts and not on hearsay; both sides of the issue need to be looked at. He has listened to the comments from the citizens of Hansel Valley, Snowville, and Howell. Has faith in the planning commission and that they will do the best job in interpreting Ordinance 350 and the members of the planning commission will be making the decision and recommendation.

Commissioner Laurie Munns asked for clarification as to where the planning commission was in regards to Mr. Moulding's application and noted that a work meeting is essential in working through this. **Chairman Chad Munns** mentioned that another site visit was requested (by the citizens of Hansel Valley) during one of the public comments and that is a possibility. However meetings need to be noticed so planning needs to take that into consideration in scheduling. No work session was scheduled due to many of the commissioners being out of town at various times.

A **Motion** was made to adjourn at 9:47 p.m., unanimous.

Passed and adopted in regular session this 17th of July 2014.

Chad Munns, Chairman
Box Elder County
Planning Commission

i Thayne Hupp