

Grand County Planning Commission Minutes

August 13, 2008

A regular meeting of the Grand County Planning Commission convened on the above date at 6:00 PM in the Grand County Courthouse, Council Chambers.

Members Present: Chairman Marcus LaFrance, Dave Cozzens, Chris Baird, Ed Bridges, Jean Binyon, and D.L. Taylor. Charley Every was absent.
County liaison – Gene Ciarus.

Others Present: County Staff Krissie Killoy, Mark Wright and Mary Hofhine, and other concerned citizens.

The Chair introduced the Commission and Staff then requested that all cell phones be turned off; if one goes off during the meeting you will be asked to leave.

The Chair outlined the procedure for the public hearing and asked the Commission if there were any conflicts of interest or ex-parte communications that needed to be disclosed. Jean Binyon declared that she had a call from Pam Hackney in regards to the proposed ordinance.

The Chair opened the public hearing and asked that the comments be germane to the issue and please do not be repetitive.

The Chair called on staff for a presentation on the proposed Ordinance. Staff explained the current changes to the draft ordinance, also acknowledging staff and commission for the drafting of the current ordinance.

The Chair opened up the floor to public comment.

Harold Shepherd – Moab representative for the Green Party – enumerate what was said at the last public hearing, questioned the process for the conditional use permit and is subject to permitting. Has spoken with staff and wants to make sure nothing is missed. Make sure the terminology in the ordinance is quantifiable. And once again would like to make sure the ponds are netted.

Terry Shepherd – Don't think we should accept waste from other states, cumulative impacts of sites to air, water and wildlife, using "may" instead of "shall" in the proposed ordinance. Bonding requirements should include the roads, it doesn't seem to be identified in the bonding section. Also want bird netting for ponds.

Barb Morra – (via speaker phone) this is a negative impact on tourism. Does not think the water should be used on the ground for any reason. Under the "need" monitoring plan section of the want the "or" changed to "and" should read ... *has a proven market **and** serves a public need.*

Sarah Fields – Ms. Fields had made changes and insertions to the formatting of the ordinance – a copy of the changes were given to staff for review.

Robert Lippman – resident of Castle Valley – concerned may question an underlying presumption that the County should or must accept these plants. There is a passing reference to toxic substance, there should be standards to address objectively plans of need and balance to the risk. Cumulative impact

should be looked at by the County, and bottom line a development zone. The County needs to be proactive.

Pam Hackney – resident of Castle Valley and a retired soil scientist. Offer a few things to improve the ordinance. A whereas component that states “protect the health and welfare of the citizens of Grand County”. Criteria to accept or deny an application, suggest additional requirements general provision such as county may impose additional requirements for protection of fresh water, public health and safety and/or environment. Consider eliminating certain road ways for transport such as Castle Valley Road. Written comments were submitted to staff.

Eleanor Bliss – Grand Canyon Trust - Eliminate the importation of toxic waste for storage, especially from outside the state of Utah. Disclose the identity of all chemicals used in drilling and production and the quantity and concentration of those substances. How will accumulated sludge be dealt with; specifically storage and removal from the site, define intermittent stream.

Jane May – Castle Valley resident – Do not refer this to the County Council at this time, do not believe the community will support that recommendation to allow oil and gas toxic waste. The community voted to not accept toxic waste in Grand County. This was done through an initiative on the ballot and 80% voted to not allow toxic waste in Grand County. Is the scenic by-way in conflict with allowing ponds within the site of scenic by-ways. DOGM be the oversee agency for any activity in the Cisco desert.

Julianne Fitzgerald – citizen of Moab - echoes the need to identify the chemicals in the waste product; reiterated the story about the nurse who was exposed to toxic chemicals from an oil plant employee. Also would like to ask that there be a limit the number of plants.

Michele Peterson – For safety reasons a request that signs be posted in different languages. Also netting of all ponds, there are insects and wildlife in the area of the ponds that may ingest the water, if other animals consume the insects and wildlife it may cause harm; would like them netted to keep wildlife and insects from the potential harmful effects of the water. Limit the number of the plants, if allowed at all.

With no other comment the public hearing was closed. Before asking for a motion the Chair reiterated that this review was started on June 11th; we have an existing facility and we are faced with an operator that wants to expand. After the first plant was allowed the Council put on a moratorium to allow the drafting of an ordinance to regulate the plants. The owner of the existing plant has put off an expansion until we put an ordinance in place, we do not live in a risk free society and our intent is to limit the amount of negative effects, as with any law. Due to the comments made, many are very valid, although I’m very hesitant to suggest this, I think we should continue the review until staff has time to review the responses and include, at their discretion, the concerns and edits into the ordinance.

Ed Bridges moved to table the decision on this ordinance until the August 27th meeting to give staff time to include the citizen responses into the ordinance for our review. Chris Baird seconded, the Chair called for the vote: Ed Bridges, Jean Binyon, Dave Cozzens, Marcus LaFrance, Charley Every, and Chris Baird voted “aye”. D.L. Taylor voted “nay”.

Motion passes the Chair asked staff to review responses and add the input at their discretion into the draft ordinance and have it ready for review by Commission on the 27th of August.

Mark Wright asked the Chair if public comment would be accepted – the Chair stated that the public hearing was closed, but if citizens wanted to bring comment to the Planning Office until Wednesday the 20th of August for review by staff and at staff’s discretion included the edits in the draft ordinance. The Commission should have a clean draft of the ordinance with strike through and underline of edits. On Friday the 22nd of August a new draft will be out for the public to review.

D.L. Taylor stated that his reason for voting against the ordinance was that he feels we need to involve DOGM more and listen to their recommendations. We can't stop oil and gas production they lease the land from the state and federal governments and pay property taxes and royalties. To say we aren't getting anything from them is untrue those fees are high. The oil and gas companies pass the cost of production on to us and we pay more at the pump.

The County Engineer explained that he has been working with DOGM and the draft ordinance will work in companion with the DOGM regulation. All facilities need to follow all regulations for state, federal and county regulations including all bonding and the most restrictive will apply.

Jean Binyon commented that when the Danish Flat application came in they provided more information than was asked for; it was a complete and thorough application. Would like a more inclusive term for parks; besides intermittent streams we need to protect sole source aquifers, signs stating that the water is not potable water and no smoking signs. We also define occurrence, but does not explain what to do if an occurrence happens. The August 11 draft had special requirements and this has not appeared again and the section that showed that drilling mud farms were not allowed is also gone.

The Chair explained that the drilling mud section was removed because it's not needed, it's already addressed in *Section a. Materials Accepted*.

Chris Baird suggested that the liner should be the standard that is being used at Danish Flats, which is 60 mil. Monitor of water quality analysis should also include arsenic, barium, cadmium, chromium, copper, iron, lead, manganese, selenium zinc, total petroleum hydrocarbons, benzene, toluene, ethyl benzene, and xylene. The operator should recognize that non-hydrocarbon chemicals, such as salts (ie. Brine water), can be just as toxic to wildlife. Also, wildlife having access to un-netted evaporation ponds that potentially contain toxic substances is a concern so would like the ponds netted. This information came from a letter dated August 11, 2008 from the Fish and Wildlife Service. Also would like to only accept produced water from wells in Utah and full disclosure of the components in the produced water.

Ed Bridges stated that it is practically impossible to net all the ponds since they are of considerable size and not to even consider it until we find it to be a proven problem. It seems that no one wants toxic waste brought to their state, we need to keep costs down and all states need to share the burden. This is a good use for Grand County, if the land owner feels it is an appropriate use of the land including BLM and the State. Would like the letter required by DWR for concurrence to be taken out of the draft, DWR may never give a letter a letter of concurrence would rather have comments in the place of concurrence.

Dave Cozzens stated that on the subject of alternative fuels in many cities you can purchase compressed natural gas which is much cheaper and would like to get vehicles converted to natural gas. The state and federal governments are making it difficult for that conversion. As far as accepting waste materials from other states; we are responsible to accept material, at least our proportional share of the bad with the good. We produced a lot of uranium products in the 40, 50, 60, and 70's that are scattered all over the country and would certainly not like to see all those come back here, just because they come from here. The responsibility of disposing the product rests with those who use the product.

Also questioned if the trucks that bring in the product are placarded? Mark Wright stated that all trucks are placarded some are dual placarded, if the hauler is required by DOT regulations then why would the county also require that, it would become erroneous when they are already being policed by the DOT system, if that is the concern.

The County Engineer stated that as far as production water, there is a receipt that accompanies every load and if the operator needs to have that with him at all times. If there is a spill on private property DOGM would be the monitor of spills on private property.

The Commission discussed the site distances for evaporation ponds, it was concluded that the only concern should be on the scenic by-ways.

Alternates to the BOA Code Amendment – staff explained that the Board of Adjustment had asked that alternates be allowed and requested an amendment to staff. Staff has provided a draft of the amendment and will advertize the public hearing for September 10, 2008 if the Commission agrees to the amendment.

The commission discussed the proposal and the Chair directed staff to draft an amendment and advertize for a public hearing on September 10th.

Adjournment: The meeting was adjourned at 7:33 PM.

Marcus LaFrance, Chairman