

Grand County Planning Commission Minutes

January 14, 2009

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: Chair Marcus LaFrance, D.L. Taylor, Dave Cozzens, Charley Every, Jean Binyon, and Ed Bridges.

County liaison – Gene Ciarus.

Others Present: County staff Krissie Killoy, Mark Wright and Mary Hoffine, 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 also outlined the procedure for the public meeting and asked the Commission if there were any conflicts of interest or ex-parte communications that needed to be disclosed.

Since the Commission is without a Vice-Chair due to Mr. Baird's election to the Council, the Chair appointed Jean Binyon as the interim Vice-Chair until the election of officers in February. The Commission agreed with the Chair's decision.

Public Hearing – Danish Flats, Phase II – Conditional Use Permit review for an Evaporation Pond and Facilities for produced water disposal.

The staff read into the record the General Plan as amended to date, the Land Use Code as amended to date, and all supporting documents.

Staff stated that this application is submitted by Gerald Knutson, on behalf of the property owner San Arroyo Livestock and leased by Danish Flats Environmental.

The applicant is requesting site plan and conditional use permit approval for an evaporation pond facility for produced water disposal. The proposed phase two facilities would be located in northeastern Grand County adjacent to existing phase one. The site is approximately 2.5 miles north of Interstate-70 (at exit 214) approximately 40 miles southwest of the Utah-Colorado state line. The legal description is Section 8, Township 20 South, and Range 24 East.

The applicant proposes to accept produced water from oil and gas wells. The water will be pretreated to remove free oil and then transferred to five-acre evaporation ponds. The process includes two three-stage concrete receiving tanks, a sludge pond, and 12 five-acre evaporation / storage ponds. The site has been designed to utilize gravity feed for transfer of liquids. Light hydrocarbons, heavy sediments, and sludges will be recovered in the receiving tanks. Lighter sludges and sediments will be collected from the sludge pond. The ponds will be located over 1000-foot thick Mancos Shale Formation and will be double lined with a leak detection system.

Evaporation pond facilities are a conditional use in the RG zone district. Conditional Use Permits shall be approved where the County determines that there will not be a significant negative impact upon residents of surrounding property or upon the public

Staff went through the conditional use and site plan requirements with the Commission and concluded the following items were still needed;

- In accordance, with LUC Sec. 7.10.1 state permits for proposed sewer disposal and potable water may be required,
- Down gradient topography and applicable setback,
- Drainage, reclamation, and monitoring plans,
- Bonding amount,
- Process for monitoring and collecting of fees.

The Chair asked if a representative from Danish Flats would like to make a presentation. Mr. Gerald Knutson, applicants Engineer and representative made a presentation explaining that the current facility is almost at capacity and the addition is needed to accommodate the additional needs of the industry. They will not be changing or increasing their traffic needs, Phase II plan meets the requirements of the new County ordinance. There are three State agencies that have given their acceptance, DOGM, State Water Quality and Air Quality. There has been some misconception to the air permit issued to Phase I, which was issued by DAQ as a small source exemption permit. Danish Flats has another site in Wyoming same design and facility. Colorado has just finished up their regulations for Evaporation Ponds and are accepting water at their facilities. We understand the staff conditions listed in the report; these are minimal and can be accommodated. Mr. Knutson introduced Jim Bradish CEO, of Danish Flats, and Cindy Nicol compliance officer and are available for questions.

The Chair opened the public hearing and asked that those making comments to introduce themselves.

Harold Shepherd – introduced himself as the Coordinator of the Local Green Party. Still have some major concerns of this expansion there are issues of air quality. It is their understanding that an exemption was given to the existing pond by DEQ; with the expansion of the additional 12 ponds there has been no determination to the new addition and think this may lead to impacts to air quality. DEQ has also provided us, through a GRAMA request, with the particulates that exist which involves benzenes, xylene, toluene, hexanes, and others. Also there are concerns about netting, these concerns also come from the fish and wildlife; their websites has numerous documentation on the impacts that these sites have on migratory birds. The ground water quality in this area is already in poor condition any leaks from this facility will add to the problem. Mr. Shepherd thought that he heard that the County will require that the facility get water right permits. Because this is waste water and they use a huge amount of water, the oil and gas process uses about million acre feet of water per oil well, water right permitting will be very important to us. Unfortunately we felt we brought forth some legitimate comments for the waste water ordinance, including reference to the New Mexico oil and gas rules where we have experience; however most of our comments were not put in the ordinance so we are back again with the same concerns.

With no other citizen comment the Chair gave the applicant time to make a closing statement.

Cindy Nicol, Compliance Officer for Danish Flats explained that the background data in the packet indicates that the plant is well below the regulatory limit of 5 tons per year emission. The sampling calculations were done with summa canisters with 24 hour sampling. We did receive our conditional exemption permit. Ms. Nicol explained the background data information and that it is available for review.

The Chair closed the public hearing and before asking for a motion the Chair suggested that the Commission make statements or ask questions before the motion.

Ed Bridges asked if staff was comfortable with the application and if it is complete. Does not want to send it forward until it is complete, but is in favor of the project.

Charley Every asked Ms. Nicol if the background data is complete and what does it indicate. Ms. Nicol explained that the permit they have received is for below 5 tons per year and they can operate with the exemption, if they were to go over then they would need to acquire a different permit. For Phase I we have the sampling and data, for Phase II we don't have water or ponds so there is nothing to test or compare. Charley also asked staff if the County can collect a monitoring fee from Phase I prior to Phase II going into operation. Staff explained that Phase I is non-conforming and will not need to pay a monitoring fee, Phase II will need to provide the fee because it falls under the new ordinance.

Dave Cozzens questioned Mr. Shepherd's figures that an oil well uses a million acre feet of water, the numbers don't work, interested in seeing the documentation on the numbers.

Jean Binyon asked if the 8 ponds in Phase I were full. Mr. Knutson stated that they are almost to capacity. The surface evaporation is 50 inches a year. A lot of the data that she needed was not in the application information. Discussed the data provided and the data still needed with Ms. Nicol and those results need to be provided from the independent certified lab directly to Grand County. Discussed the access road and maintenance, Mr. Bradish explained that there is a maintenance agreement with Grand County and what they have provided for the ground cover on the road.

D.L. Taylor questions have been answered only question that he has is the million acre feet of water from oil wells that number seems excessive and would like to see the documents.

Marcus LaFrance stated that he feels the application needs to be complete in order to make an administrative record. There are 6 items in the staff memo that personally would not want to make conditional approval without seeing the documentation. The documents provided by the applicant are hard to follow and if this is something that a judge will be reviewing we should make sure that they can be followed. There seems to be a lot of "fluff" we need to know who prepared these documents, when they were prepared and what the qualifications are for the documents. We need clean documents; the County Engineer needs to provide us written review that we will be able to understand and to include in the record. We need a reclamation plan with bonding to be reviewed by the Planning Commission in detail. We need a copy of the new road agreement for the record. All this documentation needs to be current, it may be repetitive, but it is essential; the more specific the documents the better. We need certification by the sanitarian for water and sewer. Site plan does not provide the detail we need to see, there are a number of easements that are on the title report that are not showing up on the site plan. Very concerned about the maximum allowable emission tonnage.

The Chair suggests that the Commission postpone action until a complete application is provided.

Charley Every stated based on the technicalities that we don't want to be overlooked, in fairness to the applicant the Chairman should review the application before it is considered complete and then send it forward for review by the Commission.

Jean Binyon asked if there should be a time limit on when it should get back to the Commission.

Charley Every moved to postpone the action on the Danish Flats CIP until a complete application is provided and approved by staff and accepted by the Commission Chair for the next meeting of the Commission (January 28) and the public hearing has been closed.

The Chair explained that these are technical issues that become a part of the record and the need for this application to be thorough.

Jean Binyon seconded and all voted in favor.

Consideration and recommendation of potential Planning Commission members, this is continued from the December 10 meeting. Marcus LaFrance as an applicant stepped down and the interim Vice Chair, Jean Binyon took over.

The Vice Chair explained that there was an interview of 7 applicants one of these applicants was selected as a member to the Board of Adjustment. The Commission will only review 6 applications.

Charley Every questioned the other two applications in the packet this week, Steve Russell and Kalen Jones. The Vice Chair explained that the Commission closed the application process last meeting and the new applications will be to fill Chris Baird's position on the Commission since his election to the Council. Staff has reposted the position and the Commission will interview to fill the term for Mr. Baird's position on the 11th of February.

Charley Every asked if we only are filling 2 positions and if this will be an open vote. The Vice Chair stated that she prefers an open vote.

Ed Bridges recommended that a letter be sent to those not selected for the position be informed that they can be considered for the position the Commission will be reviewing on the 11th of February.

The Vice Chair called for the vote by hand for the applicants as follows;

Marcus LaFrance – 5

Bill Love – 1

Charles Pipkin – 0

Rex Tanner – 4

Mike Duncan - 1

Dave Stolfa – 1

The Commission questioned how many times they could vote, the Vice Chair explained that since they had not decided they could vote for as many as they would like to recommend to the Council.

Ed Bridges moved to strongly recommends to the Council that they appoint Marcus LaFrance and Rex Tanner to the Planning Commission. D.L. Taylor seconded. Ed Bridges, Charley Every, Dave Cozzens, and D.L. Taylor voted "aye", Jean Binyon voted "nay".

The Chair took back his position.

Approval of the minutes. The December 10th minutes were accepted with changes as noted.

Workshop - Staff explained to the Commission that the code doesn't have a definition of 30% slopes and we would like to provide that to the Commission for a public hearing at the next meeting. The Commission directed staff to advertize for a public hearing on the code amendment.

The County Engineer discussed with the Commission if there is a need for a code amendment to require a final drainage report at preliminary. The Commission asked why they couldn't be a policy by the department; the code currently allows that to happen when the Engineer requires it.

County Council Update – Gene Ciarus gave a brief report on the Council meetings.

With no other items on the Agenda the Chair called for adjournment.

Adjournment: The meeting was adjourned at 7:50 P.M.

Jean Binyon, Interim Chair