

August 18, 2010
NOTICE OF REGULAR MEETING AND PUBLIC HEARING MEETING OF THE
BENTON COUNTY PLANNING BOARD

WHEN: August 18, 2010
TIME: 6:00 p.m. The Benton County Planning Board will meet to receive Public Comments on any of the proposed projects on the agenda.
PLACE: Benton County Administration Building, 215 East Central Avenue
Quorum Courtroom, 3rd Floor (Suite 324), Bentonville, AR 72712

MINUTES FOR REGULAR PUBLIC HEARING

1. **Call to Order**

2. **Roll Call**

Mr. Borman, Mr. Cole, Mr. Curtis, Mr. Gurel, Mr. Knight, and Mr. Ward were in attendance. Ms. Bachert, Mrs. Sidwell, and Mrs. Stewart represented the planning department.

3. **Disposition of the Minutes** of July 21, 2010 public hearing meeting as distributed. All members approved the minutes as distributed.

4. **Reports of Planning Board members**

Mrs. Stewart notified the Board of Staff changes. She stated that Ms. Bachert will be reviewing planning projects, Mrs. Sidwell will remain the Planning Assistant and will also be the contact for anything ordinance related, and Mrs. Stewart will be working to resolve complaints that come into the planning department.

5. **Public Comment**

Mr. Allen Fortenberry, C.E.O. of Beaver Water District spoke regarding the Lowell Mine Expansion. He voiced his concern but could not point to anything in particular. He added that Beaver Lake is a source of drinking water for approximately 250,000 people and is his main concern at all times. Mr. Fortenberry commented that the mine operation is within 3 miles of the lake, the Arkansas Department of Health established the operation as a Priority 3 on their source water assessment. The assessment ranks operations on a scale of 1 – 10 with 10 being of least importance as a potential source of contamination.

Mr. Fortenberry stated that the Rogers Group had invited his office out for a site visit and it was beneficial. Mr. Fortenberry requested that the Board notify the local water utility when a large scale development may impact the water quality of the lake. He added that he would be happy to provide the Board with a map of the vicinity. Mr. Fortenberry requested that the Board give his office more time to learn more about the project and gain confidence.

Mr. Knight asked what Mr. Fortenberry thought may be the worst case situation that could happen with this project. Mr. Fortenberry stated that primarily concerns are with storm water and the handling of storm water. He added that from an engineering and geological point of view; an overburden taken from a karst formation is almost like a pipeline from the ground water and surface water. Mr. Fortenberry commented that there was also an asphalt operation that does not belong to the Rogers Group but he would need to find out more about that and concerns about petroleum products.

Mr. Ward asked Mr. Fortenberry how much time he would require if the Board elected to table the matter. Mr. Fortenberry stated that any time that the Board may dictate. Mr. Gurel asked if 30 days would be adequate. Mr. Fortenberry stated that it would be adequate.

6. **Old Business:**

A. Board Discussion – **Planning Board Membership Ordinance**

Mr. Cole stated that at the Committee of 13 meeting it was voted to forward the ordinance on to the Quorum Court. Mr. Curtis stated that Mr. Glass presented it to the committee as a clean up ordinance.

B. Board Discussion – **Commercial Development Matrix**

Mr. Curtis stated that there was a question from the committee regarding administrative approval for low impact projects. He added that he did not feel that it was the intent that everything that was in the low impact category would be approved administratively but rather would be available if the Board desired it. Mr. Curtis stated that he had explained to the committee that the Board would look at everything regardless of classification but could at some time give the power to Staff to administratively approve something. Mr. Borman stated that for the time being the Board should see everything. Mr. Ward agreed. Mr. Curtis stated that the Quorum Court meeting would be next Thursday, August 26.

7. **New Business:**

A. **JP District 02 – Large Scale Development Expansion – Lowell Mine Expansion – Rogers Group - 4850 East Highway 264, Lowell 72745**

The outstanding stipulations from the TAC meeting are as follows:

- Details on site plan for vegetated berm

Vice President Tim Gorman and Environmental Manager Van Medlock of Rogers Group represented the project. Mr. Gorman stated that there will be no additional truck traffic, no increase in blasting, and storm water runoff is not changing. He added that one of the issues discussed was an addition of a berm. Mr. Gorman stated that the site plan has been modified and a typical detail is shown with the berm with trees and landscaping. He added that 300 feet is the approximate distance from the roadway with a maximum height of 20 feet to help block the operation from the highway. Mr. Gorman stated that a Seismograph study of the area showed that it did not affect the most contiguous neighbor Mr. Jack Autry. He added that Rogers group will meet with Beaver Water District to address their concerns. Mr. Gorman stated that he has brought in his team to answer any questions and would like to have a vote tonight regarding the expansion.

Mr. Borman asked if Rogers Group would be mining on both sides (the expansion and the existing site). Mr. Gorman stated that they would be mining at one location at a time. Mr. Borman asked if they had moved any equipment to the new side. Mr. Gorman stated that they had not. Mr. Borman asked if there would be any harm with delaying this until September 15 to alleviate the fears

that the Water District may have at this time. He added that he would like to commend Rogers Group for the way they have dealt with their neighbors in the past. Mr. Gorman stated that their biggest issue is closing the public comment portion of the meeting. Mr. Borman stated that the public comment has been closed. Mr. Gorman agreed to table the project.

Mr. Medlock stated that he did not want to table the project. He added that he had spent time with representatives from Beaver Water District going over what we do and how it relates to our environmental operations. Mr. Medlock said that given the fact that the majority of the property drains back into the quarry where there is an excess of 250 acre feet of storage and to get the water out it must be pumped; he felt they could accommodate a lot of concerns related to the property. He added that where they have had problems with big rains; the water comes from across the street and washes out our crossings. Mr. Medlock stated that they have dealt with that and have put in bigger pipe. He said that the property that is requested to add is 16.3 acres and is already draining into the same area and it was not anticipated that there would be any additional sediment or turbidity in the discharge. Mr. Medlock declared that PH-wise and sediment-wise he did not feel there is any additional discharge concerns related to storm water runoff from their property.

Mr. Medlock addressed some concerns surrounding fuel storage at the site adding that all of their tanks are double-walled so that the site is in compliance and maintained by trained employees. He added that Rogers Group has agreed to include Beaver Water District in the emergency notification process with respect to spill containment. Mr. Borman asserted that there may be a communication gap and it would be his preference that Rogers Group and Beaver Water District take the next three weeks to talk and get all the issues rectified. He added that there is only two ways to proceed; table the project or force a vote. Mr. Curtis echoed the Chairman's feelings. Mr. Ward concurred.

Ms. Bachert asked if the applicant was required to prepare a SWPPP with the new disturbing of the 16 acres or how many acres you will do in a phased manner. Mr. Medlock stated that their permits from four years ago were modified at that time to include the storm water and the mining property. He added that it was available. Ms. Bachert asked if the property was in a flood plain. Mr. Medlock stated that it was not and at its deepest point it is at 1210 feet and the lake elevation is at 1130. Mr. Cole asked if the permit was an existing SWPPP that was being modified. Mr. Medlock stated that it is the same SWPPP that is being modified now to include language about contacting Beaver Lake Water District as well as update it to add them as an emergency contact in the case of an event or occurrence. Mr. Gorman stated that the SWPPP already includes this property.

Mr. Borman stated that Rogers Group did not need to come back to the September TAC unless they wanted to come back and give the Board a report. He added that otherwise, they would see them at the Public Hearing on the 15th. Mr. Gurel asked if there would need to be any further notification of adjoining property owners. He added that if anyone was to come to the public hearing next month they would be entitled to speak. Mr. Borman agreed but said the project would not need to go through the process again.

Rogers Group asked the project to be tabled until the next public hearing.

B. JP District 01 - Large Scale Development Variance Request – The Loop Building Sales – 19145 Hwy 62 E, Garfield

Mr. Gary Crist represented the project. The following are stipulations from the TAC meeting.

- Any future expansion will require that the applicant return to the Board for approval.
- Applicant must submit two separate variances: one from Large Scale Development and another from the fees.
- Board requests Staff obtain an opinion from the County Attorney concerning a waiver from fees or a reduction of fees charged.
- Buildings must be sited outside the county road setback of 50 feet from the center of the road.
- A maximum of 10 model buildings are allowed on site.
- The site must be maintained in a clean and orderly manner.
- Signage will be limited to only one banner and sign location must be indicated on the site plan submitted to the Board.

Mrs. Stewart stated that she had not received a response from the County Attorney. She added that the project is located on a state highway. Mrs. Stewart commented that she had given the applicant contact information for Ms. Brandy Campbell of the Arkansas State Highway Department. She added that Ms. Campbell is in charge of permitting signs along state highways. Mr. Borman stated that it should not be an issue if the sign is set back out of the right-of-way. Mr. Curtis commented that the big billboards are out of the right-of-way too; but still fall under the state jurisdiction. Mr. Gurel requested a stipulation be added.

- Signage must comply with the State Highway Department regulations.

Mr. Curtis made a motion to allow the variance from the large scale development regulations; Mr. Ward seconded the motion. All members voted in favor of the motion. The variance was approved.

Mr. Ward made a motion to approve the project with the existing stipulations and the additional stipulation that the applicant must contact and comply with the State Highway Department regulation; the motion was seconded by Mr. Knight. All members voted in favor of the motion and the project was approved pending stipulations.

C. Board Discussion - **Blue Book Amendment Request – Survey and Plat Requirements** - Elizabeth Bowen, Benton County GIS Coordinator

Mrs. Stewart stated that there was no new information regarding the amendment request. Ms. Bachert asked the Board if they had received and reviewed the email she had sent. Several board members confirmed that they had received the email. Ms. Bachert stated that some of the information that Elizabeth had provided would not apply to unincorporated areas; only cities.

Mr. Curtis stated that he vaguely remembered the discussion when there was a surveyor on the board and he could not remember why things didn't carry on. Mr. Borman declared that it was due to technical issues because not all surveyors had the equipment necessary. Mrs. Stewart commented that Elizabeth had conveyed to her that there was one surveyor that did not have the equipment necessary but may now have the required equipment. Mr. Curtis asked "if that is the case, why are we hesitating?" Mr. Gurel asked if the change would put some of the surveyors out of business. Mr. Ward said that he thought that it was the issue. Mr. Cole asked if it would match with what the cities are requiring.

Ms. Bachert affirmed that in her email to the Board, "Going back to what Elizabeth had given us, there were different options for you to choose from." She added that "some of the options referred to classes B properties and so on." Ms. Bachert stated "that was what I was trying to explain in my email that it would only apply to a city and not an unincorporated area." She added that "a document that I had attached, the survey is based on U.S. public land survey system." Ms. Bachert stated that "although I questioned at the last meeting, I am not a professional surveyor and do not have that background to be the authority or even to give you some sort of quality information that you have requested and therefore I suggested in the email that you contact a surveyor to find out is there a difference between what Elizabeth is asking compared to what the State is requiring." She added "is it better to do what Elizabeth is requesting and then you can change the language because she submitted that to cities. Looking at it and researching it I found that even particular with their classes the way it's written and that's why I sent it to you." Ms. Bachert announced that "it talks about suburban areas that are a class B and that is not what an unincorporated area is, so it is very particular."

Mrs. Stewart stated that the purpose of trying to get the state plane coordinates is to make the unincorporated areas data as good as; if not the same as. Mr. Ward added it would make things as accurate as they can be and that is simply all it is. Ms. Bachert said that the attachment is a State regulation and then you can determine the language. She added, "That was what I was getting to, not should you or shouldn't you do it. There is different language in there, there are different systems. That apart, the choices that we were given to choose from you can't just choose from something a city uses versus an unincorporated area."

Mr. Ward asked if the County had an official surveyor. Mrs. Stewart stated that Mr. Ronald Ridout was the County Surveyor. Mr. Ward asked if the Board could get an opinion from Mr. Ridout regarding the adoption of the amendment.

Mr. Borman asked that the amendment request be tabled until next month.

Mr. Gurel asked if we really had that many complaints. Mrs. Stewart replied that planning has complaints going back several years that have not been addressed and are still pending. She added that complaints have been investigated and then left to sit in a file. Mr. Gurel asked if they were enforcement of stipulations laid out by the Board. Mrs. Stewart stated that it may well be part of it. Mr. Ward said "like Our Shop." Mrs. Stewart said that a complaint was drawn up on that project in a formal affidavit and sent to the Prosecuting Attorney's office and it disappeared. She added that J.D. Oldie's affidavit and all supporting documents were sent by her personally to the Prosecutor's office and the judge dismissed the case so we are getting ready to resubmit that one.

Mr. Gurel stated that after the Commercial Development Matrix is approved by the Quorum Court, the Board will need to work with Staff to develop a checklist for Low, Medium, and High Impact. Mrs. Stewart stated that she had sent drafts to Mr. Curtis along those lines.

Adjournment

The meeting was adjourned at 6:40 p.m.