



# COUNTY OF ELBERT

## COMMUNITY & DEVELOPMENT SERVICES DEPARTMENT

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### MINUTES ELBERT COUNTY PLANNING COMMISSION MEETING March 28, 2013

Note: These meeting minutes are only a summary of the meeting. Duplications of the audio recording are available, for a fee, by contacting Community & Development Services.

The regular Planning Commission Meeting was called to order at 7:00 p.m. by Chairman, Grant Thayer.

#### PLEDGE OF ALLEGIANCE

#### ROLL CALL:

Commission members present: Tom Beshore, Ron Turner, Paul Crisan, Rick Brown, Paula Koch, Sue Link, Susan Saint Vincent, Grant Thayer and Bob Ware.

Staff present: Curtis Carlson, Senior Planner; Faith Mehrer, Administrative Assistant

#### STAFF REPORT ON BOARD OF COUNTY COMMISSIONERS ACTION(S):

**A. There were no land use items heard by the BOCC since the last Planning Commission Meeting.**

#### CONSENT CALENDAR:

**A. Paul Crisan made a motion to approve the meeting minutes from January 24 with corrections to attendees; Mike Kelley and Susan Saint Vincent did not attend the meeting. Susan Saint Vincent seconded the motion. Motion carried 6 to 0**

**B. Susan Saint Vincent made a motion to approve the meeting minutes from February 28 2013. Tom Beshore seconded the motion. Motion passed 6 to 0.**

**C. Paul Crisan made a motion to appoint Rick Brown the alternate for the Board of Adjustments. Paula Koch seconded the motion. Motion carried 9 to 0**

**COMMUNITY INPUT:**

**PUBLIC HEARINGS:**

**A. SU 12-0003 Haulin' Hass Tire Recycling**

- a. Curtis Carlson presented an overview of the proposal for Haulin' Hass Tire Recycling. He stated that they are tire haulers, registered with the State of Colorado, and they process waste tires by compressing them into bales. This is not their primary source of income and they plan to keep it small enough that they will not need to hire any employees. The amount of tires to be stored on-site will not exceed 1500 at one time. He explained that the tire bales will mostly be used for things such as windbreaks, snow breaks, and livestock protection where there are not a lot of trees for protection. The land that the Hass' will use for the tire recycling site is zoned A. Curtis explained that the operation will not use water and no waste water will be produced. The only effect on traffic will be the incoming and outgoing of semi loads of tires and bails, estimated at approximately three per month. Outgoing trips will be less than incoming due to the compression and bailing of the tires. A letter from the Colorado Department of Public Health and Environment, the Water Quality Control Division, detailed its position on facilities that do discharge storm water from their industrial activities. The letter stated that, no storm water discharge permit would be required because there is no discharge of storm water to surface waters of the State. If the conditions at the facility change, a permit must be obtained 90 days prior to any discharge. Referral letters were sent out to the appropriate agencies for comments. All identified issues have been mitigated. Curtis Carlson closed by stating that Community & Development Services recommends approval of Haulin' Hass Tire Recycling Special Use Review.**
- b. Paula Koch stated that she had some concern about there being no response from the fire protection district. She asked how the tires would be stored for safety from fire by lightning or other means.**
- c. Ron Turner stated that he shared Paula's concern, saying that Kara Gerczynski of the Elizabeth Fire Department mentioned to him that Big Sandy, being a volunteer department, sometimes has trouble responding in the time frame that is specified for referral responses.**
- d. Curtis Carlson assured the Planning Commission members that if the fire protection district did return a response to CDS, even if late, CDS would report their findings to the Planning Commission.**

- e. **Paul Crisan asked if the area around the stored tires and bails is a mowed area to mitigate fire danger in drought. Kara Hass replied that weeds and trash are kept clear around the tires and that the tires are stored in small piles.**
- f. **Rick Brown asked about the current market for the bailed tires. Kara stated that they are most widely used for agricultural purposes; wind breaks, erosion control and in some cases they are used in building homes.**
- g. **Ron Turner asked if the wire used on the bails is stainless steel. Kara explained that they are galvanized steel. She went on to explain that, even if the wire breaks after the tires are compressed, the bail will not expand much due to the extreme compression.**
- h. **Paul Crisan asked how many tires made one bail. Kara explained that approximately 100 car sized tires makes a 5' x 5'x 3' bail.**
- i. **Rick Brown asked why the tires are considered hazardous before bailing. Kara explained that one reason is; they collect water when they are not bailed, which can cause an abundance of mosquitoes.**
- j. **Rick Brown asked how long tires would sit on the property before being bailed. Kara said that the State requires that they sit no longer than 90 days.**
- k. **Tom Beshore asked if there was an “exit strategy” that was required by the State. Kara explained that they did have an engineer set up an operating plan that included an emergency closing plan and clean up.**
- l. **Paula Koch expressed her support of the project stating that the applicants had educated themselves well and that she feels it is a good service they are providing.**
- m. **Sue Link said that she thinks they have a good idea and as long as they are in compliance with State and County guidelines, she is in support of the project.**
- n. **Susan Saint Vincent stated that she appreciated their diligence in learning and adhering to State guidelines and is always in support of responsible recycling.**
- o. **Tom Beshore voiced concern about the Fire District not having sufficient time to formulate a response.**
- p. **Paul Crisan supports the project.**
- q. **Rick Brown said that he is comfortable with the regulations that the State has established and feels that this is a good local business.**

- r. **Ron Turner stated that he feels the applicant's efforts are commendable.**
- s. **Bob Ware said that the applicant brought forward a good proposal and that it was clear that they have done a lot of work on it.**
- t. **Grant Thayer stated that a facility like the one proposed is needed in Elbert County.**
- u. **Bob Ware made a motion to approve SU12-0003. Haulin' Hass Tire Recycling. Sue Link seconded the motion. Motion carried 9 to 0.**

#### **B. Special District Service Regulations.**

- a. **Curtis Carlson began the proposal for the Special District Regulations by thanking the members of the Water Advisory Committee (WAC) for their contributions. He explained that the intent of the regulations is to create a process for creating new and modifying existing Special Districts, while giving Community and Development Services adequate time to review the applications so that impacts to the health and safety of the County's residents can be appropriately identified. He explained the definition of Special District, for the purpose of the proposed regulations, as any quasi-governmental entity organized under Colorado Law that would exercise any of the following; taxing power, spending power or power of eminent domain. The regulations propose an application process that includes an anticipated 300 days from pre-submittal to recordation. The proposed Special District Regulations would be added to the Elbert County Zoning Regulations in Part II, Section 26 and would contain the instructions for pre-application review, formal submission of service plan, standards of approval, guidelines for public notice, the role of the Planning Commission and Board of County Commissioners, and definitions. Curtis presented "Appendix A" outlining the general statutory requirements which include; a description of proposed services, a financial plan, preliminary engineering or architectural survey, description of facilities, estimated cost, any arrangement of a proposed agreement with political subdivision, evidence that applicable criteria are met, additional information that may be required by the BOCC, a service plan and contents required in the annual report. He also included "Appendix B" that provided details about financial information of the service district.**
- b. **Paula Koch asked about clarification between large and small scope special districts.**
- c. **Rick Morgan stated that there were no changes to the listing of types of Special Districts from the workshop rendition of the draft regulations. The**

change that was made is, there is no longer a fast track process for small scope Special Districts. All Special Districts will go through the same process.

- d. Paula Koch brought attention to the allowance for CDS to set the process back to the beginning if the correct documents were not submitted. Curtis Carlson explained that during the pre application period, if all documents are not submitted (incomplete application), this would “set the clock back” to the beginning in order to ensure that Community and Development Services has an appropriate amount of time to review the documents. This would only occur during that first 5 day period. He went on to explain that if it is found later on in the process that the information submitted lacked important details, CDS would pause the timeline while the details are added, then pickup where the process left off without going all the way back to day one.
- e. Paula Koch asked about the Special District service plan information requirements for mortgage payments. Appendix A, I, 1 states that mortgage payments including insurance and district mill levy or service fees shall not exceed 35% of household income. Rick Morgan explained that this statement would be stricken from the document, as it is “marginalia”, and would not be part of the regulations.
- f. Paula Koch referred to Appendix B, B, 7, b, financial analysis for cost for water for affected citizens. She asked that Curtis clarify if this would only pertain to water projects. Curtis Carlson explained that, if there are requirements not applicable to a certain project, the applicant can state that on their application.
- g. Susan Saint Vincent asked, if a submittal is determined to be incomplete and the applicant must start from the beginning again, would they be required to also re-submit fees. Curtis explained that the purpose for starting the process over is solely to re-set the time line to allow for the collection of additional information. Fees would not be required to be re-submitted.
- h. Susan Saint Vincent asked if there is a designated news paper for public notices. She voiced concern that, because Elbert County news papers are small and published on a weekly basis, the public notice may not be seen by many. Curtis Carlson explained that the news paper that applicants are required to post public notices in is designated by the Board of County Commissioners and must be local. The applicant can post public notices in the Denver Post, or another daily news paper for broader notice if they choose.
- i. Tom Beshore asked who the review committee professionals, mentioned in the regulations, are. Curtis explained that the review committee would be the WAC. Tom Beshore asked, if an existing water district wishes to sell water to a gas company, what steps they would have to go through to accomplish that.

**Rick Morgan explained that any material modification to an existing service plan would require them to go through the entire application process, public notifications and all. Tom asked if that would include review by the review committee. Rick stated that it would and that the review committee is over and above usual referral process. Having the project reviewed by the review committee would not eliminate the requirement for the usual referral process. The review would occur within the 60 day envelope and would not require additional time. Tom voiced concern about the review committee; if someone on the committee were against a specific project, how hard could they make it for the applicant to gain approval. Rick explained that the review committee does not vote on approval of the project therefore, they would not have any power over whether or not the project is approved by the Planning Commission.**

- j. Rick Brown made several suggestions for changes in language in the document. He voiced concern about the fees. Rick Morgan explained that there is flexibility in determining fees because the actual dollar amounts would not be included in the regulations.**
- k. Ron Turner thanked Curtis for the time line illustration and asked if the days translated into Elbert County Working days. Rick Morgan answered that the days on the timeline are calendar days, not Elbert County working days.**
- l. Bob Ware likes what he sees and has no questions.**
- m. Brooks imperial stated that he feels the proposed regulation has taken the process out of the political arena and put it into a closed door process. He said that, from a land rights holder's prospective, this is black hole. The clock on the timeline can be re-set at any time. He went on to say that law should be definite and this draft is not. We can't expect people to risk their capitol and time with rules like these. Elbert County has no water district, no ground water management district, no service water district or Board Members that were publicly elected. The WAC has been inserted into a regulatory process. He does not feel this is wise. Grant Thayer asked if Brook's main concern is that he feels the WAC has been elevated to a level they should not have been. Brooks answered yes, that they have been given authority that they should not have been given and they have the ability hold up development.**
- n. Tony Corrado, Chairman of the WAC, explained that their role is strictly advisory. They have no authority over any function within government. They are only there to advise the BOCC. His commitment to the BOCC is, unless the Committee reaches a consensus, all dissenting view points are to be given to the BOCC. The applications are not their presentations; all they expect to**

**do is present analysis for opinion. All recommendations will be presented fairly and openly to the BOCC, with dissenting view points.**

- o. Rick Morgan expanded on Tony’s explanation stating that the WAC has no authority, only an opportunity to inform the PC and the BOCC for the benefit of an educated decision.**
- p. Grant asked about Brook’s statement that the service plan should be a political process rather than regulatory. Brooks replied that they should be voted on by the public at the end of the evaluation period, by the affected people. He feels this is a political question before the voters. Taking their decision and moving it to a series of committees, who can spend as much time as they want with it, is not appropriate. He stated that the way he understands special district law after reading the statute, is that the BOCC decides on the approval for special districts. He said that the proposed regulations are layering in bureaucracy because the BOCC does not want to make political decisions. They would rather farm it out to committees, which he sees as another step removed from the actual affected parties. He feels this is starting up a process that is ripe for political abuse. Rick Morgan stated that the statutes that Brooks refers to has been followed in the proposed special district regulations and does not add a single day to the timeline, it simply makes the public more informed.**
- q. Don Draper, a citizen attending the meeting, stated that he was glad to see that the proposed regulations to not include any “fast track” process for any of the applicants.**
- r. Bill Thomas, a citizen attending the meeting, stated that he has been frustrated through the years that there was no concrete process to follow regarding special districts. He is looking forward to the consistency that the regulations, if approved, will bring.**
- s. Paul Crisan added that he feels, from a business standpoint, the regulations are a good business decision.**
- t. Rick Brown thanked all who contributed to the draft regulations.**
- u. Grant Thayer said that he had been puzzled in the past by the lack of predictability in the process in the past. He said that he feels that having these regulations in place will benefit Elbert County.**
- v. Brooks Imperial stated that he did not like it. He felt that the ability to “reset the clock” at any time if all documents are not submitted is too excessive. He said that he would feel better if the Water Advisory Board was taken out of the process for the proposed regulations.**

- w. **Grant Thayer explained, that the committees cannot just reset the clock and, for the clock to be reset there has to be reason. The process starts again from the beginning only if the Community & Development Services Department finds that the application is incomplete. The WAC has no authority to stop or re-start the process.**
- x. **Paula Koch reminded Brooks that re-starting the process would only happen within the first five days.**
- y. **Rick Brown made a motion to approve the Special District Regulations with the recommended edits by the Planning Commission. Susan Saint Vincent seconded the motion. Motion carried 8 to 1.**

**UNFINISHED BUSINESS:**

**NEW BUSINESS:**

**ANNOUNCEMENTS:**

The meeting adjourned at 9:24 pm.