

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
April 1, 2009 - 5:00 p.m.**

In Attendance were:

Randy Mair, Planning Commission - Chairperson
Shelly Fabrizio, Planning Commission
Leon Sweat, Planning Commission
John Jorgensen, Planning Commission
Kent Olsen, Planning Commission
Chris Peatross, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Erin Borger	Source Protection
Gerald Meyers	Source Protection
Scott Hacking-DEQ	Source Protection
Dean Sweat	Source Protection-Tabiona
Ronnie Giles	Source Protection-Tabiona
Art Taylor	Source Protection-Duchesne
Moreen Henderson	Source Protection
Randy Crozier	Source Protection-DCWCD
Kirk Christensen	Source Protection-Altamont
Darrin Brown-Tri County Health	Source Protection
Carl Brown	
Adam Hutt	
Jim Martin-UDEQ	Source Protection
Kevin Duncan	Source Protection-Cedarview-Montwell

Chairperson Mair opened the meeting at 5:00 PM.

Chairperson Mair asked if any of the Planning Commission had any ex-parte contracts associated with either item on the agenda. There were none.

PUBLIC HEARINGS:

- A. Continuation of public hearing on a request by Chance and Dana Fillingim (CD Trucking) for a Conditional Use Permit to establish a commercial truck terminal and shop in an Agricultural-Residential zone at 5719 West 9000 South in Section 3, Township 4 South, Range 2 West, east of the Pariette Road, about 3 miles SW of Myton.**

Mr. Hyde presented the applicants letter dated March 23, 2009 to the Planning Commission. As a result, the public hearing was closed and the application considered withdrawn.

B. Recommendation to County Commissioners regarding the proposed Duchesne County Drinking Water Source Protection Ordinance.

Mr. Hyde stated, after several months of numerous drafts, the county has proposed an ordinance that will protect both the public and the water sources within Duchesne County. Mr. Hyde referred the Planning Commission to the map on the wall showing the different zones around the county and the different transient systems that are for recreational and part time residents and are not full time water sources in the county.

Mr. Hyde stated the purpose of this ordinance is to ensure the provision of a safe and sanitary drinking water supply to the residents of Duchesne County. by the establishment of drinking water source protection zones surrounding the wells and springs used by Public Drinking Water Systems in the unincorporated areas of the County and by the designation and regulation of property uses and conditions that may be maintained within such zones. Included under this ordinance are those source protection zones falling within unincorporated areas of the County, associated with public drinking water sources not owned or operated by the County.

Mr. Hyde stated the definitions in section 2 include Culinary Water Authority, Design Standard and Drinking Water Source Protection Zone” which means the specified surface and subsurface area surrounding a ground-water source of drinking water supplying a Public Water Supply, through which contaminants are reasonably likely to move toward and reach such ground-water source.

Mr. Hyde also stated these are the areas we don't want to see contaminated. The maps for areas are protected by the State of Utah for homeland security but have been furnished to us by them.

Mr. Hyde stated, on page 2, the ordinance identifies the different types of contamination, defined as a Pollution Source and Potential Contamination Sources. In making sure we stay away from the drinking water supplies, these definitions come from the State of Utah Administrative rules.

Mr. Hyde stated, in Section 3, Duchesne County has both large and small systems serving from seven to several hundred homes. It shall be the responsibility of the Public Drinking Water Systems of Duchesne County to submit a drinking water source protection plan to the Utah Division of Drinking Water pursuant to state administrative rule. Once the Division of Drinking Water has accepted said plan, the Public Drinking Water System or the Division of Drinking Water shall provide Duchesne County with electronic data and maps showing the Drinking Water Source Protection Zones that have been established.

In Section 4 of the ordinance, Mr. Hyde stated there are the ESTABLISHMENT OF DRINKING WATER SOURCE PROTECTION ZONES. There are hereby established use districts to be known as Drinking Water Source Protection Zones as identified and described below:

- (A) Zone One is the area within a 100-foot radius from a wellhead or spring source. This is the area where we can not allow any uncontrolled any
- (B) Zone Two is the area within a 250-day groundwater time of travel distance to a wellhead or spring source, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer, as specified on the "Drinking Water Source Protection Zone Map" on file with the County.

Mr. Hyde stated, in Section 5, any land use is permitted within existing agricultural, residential and commercial districts so long as uses conform to the rules and regulations of the regulatory agencies and this Ordinance. Applicable rules include, but are not limited to: Utah Administrative Rule R309-600 and rules adopted by the Culinary Water Authority and the Environmental Protection Agency. Any other open land use where any building located on the property is incidental and accessory to the primary open land use is also permitted. Also, any land use established before the effective date of this Ordinance, and uses incidental and accessory to such use, may be continued in the same manner thereafter, provided that such use is not determined by any court of competent jurisdiction to be a nuisance or health hazard under the provisions of federal, state, and/or local laws or regulations.

In Section 6 Mr. Hyde stated the following land uses or conditions established after the effective date of this Ordinance are hereby prohibited within drinking water source protection zones. In zone one (for all aquifer types) - The location of an uncontrolled potential contamination source or pollution sources as defined herein, in zone two (in unprotected aquifers) - The location of pollution sources as defined herein, unless their contaminated discharges are controlled with design standards which prevent contaminated discharges to ground water.

Mr. Hyde stated there are some steps to follow if a party disagrees with the boundaries of a drinking water source protection zone, such boundaries may be disputed according to the following procedure:

- (A) Applicant submits written comments to the Public Drinking Water System stating the reasons that the protection zone boundaries are being disputed.
- (B) If the Public Drinking Water System concurs, it may authorize a new hydrogeologic investigation at the expense of the one disputing the delineations or elect to conduct a new hydrogeologic investigation at its own expense, or by negotiating a sharing of expenses, if it appears that the boundary was established without considering geologic/hydrogeologic data.

(C) If the Public Drinking Water System declines to authorize a new hydrogeologic investigation, the applicant may appeal this determination to the Duchesne County Commissioners. In the event that the County authorizes a new investigation, it shall be conducted at the expense of the applicant or at the negotiated expense of the parties.

(D) Upon completion, the new hydrogeologic investigation shall be submitted to the Utah Division of Drinking Water for review.

(E) If the Division of Drinking Water finds that the new hydrogeologic investigation is sufficiently protective and meets the requirements of a delineation report according to the Utah Drinking Water Source Protection for Ground Water Sources Rule (R309-600, Utah Administrative Code), the county may enforce this ordinance according to the new hydrogeologic investigation.

Mr. Hyde stated, in Section 8, the policies and procedures for administration of any drinking water source protection zone established under this ordinance, including nonconforming uses, exceptions, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for Duchesne County, as presently enacted and as may be amended after the date of this Ordinance. Mr. Hyde also stated the only exception being that the applicable land use authority cannot grant a variance to the requirements of this Ordinance until the request is reviewed and the Culinary Water Authority (Tri County Health Department) and the Public Drinking Water System provides a recommendation. If it is necessary to have additional expertise to evaluate the variance, it shall be at the expense of the entity requesting the variance.

Mr. Hyde stated Section 9 allows for the Public Drinking Water System to seek enforcement of this ordinance in District Court if:

- (A) After providing notice of a violation to the County, the County notifies the Public Drinking Water System within ten (10) working days that it will not seek enforcement of the ordinance; or
- (B) The County does not seek enforcement within two (2) days of a notice of violation stating that the violation may cause irreparable harm to the groundwater source.

In Section 10, Mr. Hyde stated the applicability of this ordinance extends to both incorporated and unincorporated sections of the County, unless an incorporated municipality within the County enacts an ordinance in accordance with Utah Code Section 19-4-113 and/or Utah Code Section 10-8-15.

Hr. Hyde stated any party aggrieved by a decision made by the Duchesne County Community Development Administrator in the administration of this Ordinance may

appeal to the Duchesne County Planning Commission. Appeals of the Planning Commission may be made to the Duchesne County Commissioners. Appeals of the Duchesne County Commissioners may be made to District Court.

Mr. Hyde stated if the Planning Commission approved the recommendation the County Commissioners will open their hearing on April 13.

Mr. Hyde asked if there were any questions of the Planning Commission.

Chairperson Mair asked if Industrial zones would be included or should that be specified. Mr. Hyde replied unless it is stated in the ordinance the Industrial zones would be excluded.

Commissioner Jorgensen asked if there is an ordinance that a well must be 250 feet from a septic system. Mr. Hyde replied that Tri County Health Department rule applies to private wells that are not cased 100 feet deep and 2 inches thick. Mr. Hyde also stated this proposed ordinance is for public drinking water systems and not individual private wells.

Mr. Hyde stated Duchesne County was no longer under state mandate to enact this ordinance but feels it is in the public's interest to do so.

As there were no additional questions for the staff, Chairperson Mair opened the Public Hearing.

Commissioner Peatross needed some clarification on the two different zones and how they are separated.

Jim Martin, Utah DEQ, stated he has worked with Division of Drinking water for 15 years, and is here to explain about the establishment of the drinking water source protection zones and the difference between the two zones. He also explained the concepts of pollution sources, potential contamination sources and the responsibilities of the public drinking water systems.

There was some discussion between Commissioner Peatross and Mr. Martin about the two zones and their differences whether they are calculated areas or potential zones. Mr. Martin also stated the 2 mile radius areas are rare and often used where there are springs and the potential for contamination is unlikely.

Darrin Brown with Tri-County Health stated the health department supports and is pleased with the time and efforts it has taken to make this ordinance. Mr. Brown also stated Tri County Health regulates private wells and stated it is time to control the public water systems.

Gerald Meyers, water master of Mt. Tabby Springs, has some concerns about the zone maps, and if there are illegal systems within the source protection and where the State

of Utah received their information about the different water systems. Mr. Hyde stated existing land uses are grandfathered unless they are considered a nuisance and any other questions should be directed to the other agencies that are present tonight. Also Mr. Hyde stated the Mt. Tabby Water System is identified as a transient system on our map.

Commissioner Jorgensen explained to Mr. Meyers about the different programs for the agriculture and farmer's needs for those areas where there are livestock for over forty five days per year.

Mr. Meyers and Mr. Brown had some discussion about septic systems, flow rates and the new systems for the lots still for sale in the area. Mr. Martin stated there are some calculations used to make the zone requirements which are different for each of the seasons. Mr. Meyers stated their Board of Directors will be at the meeting on April 13th.

Lanny Ross from Johnson Water District stated his appreciation to the State of Utah and Duchesne County for structuring and completing this ordinance. Mr. Ross also stated, he feels the customers should pay for the study and not the water districts if they are not satisfied with the current protection zones.

Commissioner Jorgensen asked if they need a new well would you need a new protection plan. Mr. Ross stated Johnson Water is within the 2 mile radius and would need a new plan if a different source was needed. Mr. Martin stated Johnson Water would need a preliminary evaluation report to make sure there are not any uncontrolled potential pollution sources and the new location is safe. Mr. Martin also stated existing wells are grandfathered.

Randy Crozier, Duchesne County Water Conservation District stated there was some discussion about the two mile radius surrounding the Johnson Water source. Mr. Crozier stated he hoped the State of Utah will work with Johnson Water to address those issues. Mr. Ross stated their concerns were oil wells in the area and that lead to the two mile radius zone.

Scott Hacking, DEQ District Engineer, stated the ordinance balances out the problems that exist and feels that the committee did a good job in protecting the water sources in the county and supports their efforts.

Kirk Christensen, Upper Country Water, is in favor of protecting the water sources in the county and is also in favor of this ordinance.

Chairperson Mair asked if there were any other questions or comments. Mr. Hyde noted that Erin Borger, from the Utah Rural Water Association, was instrumental in drafting the ordinance and wanted to recognize her efforts. Ms. Borger stated this ordinance is imperative for the future development of the county and is pleased with the results.

Mr. Ross asked about the source protection for Starvation Reservoir. Mr. Hyde

explained there is a source protection document for the reservoir that defines protection zones. This proposed ordinance deals with underground sources but surface water protection might be a project for the future.

Kevin Duncan, Cedarview-Montwell Service District, asked for clarification on providing water without a source and stated they would need to purchase their water from another district therefore would they still need a protection plan? Mr. Hyde stated, for example, that South Duchesne Water buys their water from Duchesne City so they do not need a protection plan of their own. Mr. Duncan also stated he is in favor of the resolution and said it will be good for Duchesne County and their residents.

Mr. Meyers asked how many public and private water systems and water wells there are in Duchesne County. Mr. Hyde stated there are approximately 33 public drinking water sources and stated he did not have the amount of private systems.

There was some discussion with Mr. Meyers about enforcing pesticide application and any monitoring systems. Mr. Brown, Tri County Health, stated there are very few private water systems that supply more than one dwelling and they do regulate the private water systems. Mr. Brown also stated the health department will track any complaints due to pesticide application when they receive them.

Chairperson Mair asked if there were any other questions or comments. There were none, so the hearing was closed.

Mr. Hyde recommended that, in Section 8, if any variance was requested it would need to be reviewed by the culinary water authority (Tri-County Health) and the Public Drinking Water System. Also Mr. Hyde recommended not to make any changes in Section 7 regarding payment for new studies.

Commissioner Jorgensen moved to recommend approval of the proposed ordinance by the County Commissioners, with an amendment to Section 8 as recommended by staff. The motion was seconded by Commissioner Sweat and it passed unanimously.

Mr. Hyde expressed his thanks to everyone who participated in the drafting of this ordinance.

NEW BUSINESS:

A. Request by Basin Engine and Towing for modification of the fencing requirements of their conditional use permit granted on June 6, 2007.

Mr. Hyde stated there was not a representative from Basin Engine and Towing present. There was a conditional use permit issued in June of 2007 to operate an engine repair

and towing business at the intersection of 6250 south and highway 40. There was some discussion about the fencing issues and the proposals Mr. Smith has. The Planning Commission stated they would postpone this discussion until the applicant is available.

There was also some discussion about the number of companies who are not in compliance or do not have a business license with Duchesne County. The County is trying to remedy that problem.

Minutes: Approval of March 4, 2009

Commissioner Olsen moved to approve the minutes of March 4, 2009. Commissioner Sweat seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

Mr. Hyde stated there are no applications yet for the next meeting. There is a possible subdivision request for Roger Brockbank if the application and survey get turned in. Commissioner Mair stated there is a gas line safety and awareness conference at the Western Park in Vernal on April 14, 2009.

Adjournment:

Meeting adjourned at 6:24 p.m.

Larry Blackhair from the Ute Indian Tribe appeared and stated the tribe is actively acquiring land for future development in both Uintah and Duchesne Counties. The tribe will be in the next four or five years preparing a master plan and does not want to conflict with development in either county. The Planning Commission welcomed the opportunity to coordinate land use with the tribe.