

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
December 1, 2010 - 5:00 p.m.**

In Attendance were:

Randy Mair, Planning Commission – Chairperson
John Jorgensen, Planning Commission
Shelly Fabrizio, Planning Commission
Kent Olsen, Planning Commission
Dean Burton, Planning Commission
Edward Roberts, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Allan Smith	Zoning Amendment
Maurice Harvey	Newfield CUP
Ryan and Nicole Harvey	Newfield CUP
Brad Lyle	Zoning Amendment
Jason Danley	Zoning Amendment
Dave Nelson	Zoning Amendment
Tim Eaton	Zoning Amendment/CUP
Wayne Garner	Zoning Amendment
Jeff Henderson	Newfield CUP
Joe Pippy	Zoning Amendment
Darrin Brown-Tri County Health	
Joe Sager	Zoning Amendment
Lee Hill-UBAOG	
Cathy Hammock	Zoning Amendment
Geoff Liesik-Uintah Basin Standard	
Gordon Moon	

Chairperson Mair opened the meeting at 5:00 PM.

Chairperson Mair asked if any of the Planning Commission had any ex-parte contacts associated with any item on the agenda. There were none, so the hearing proceeded.

PUBLIC HEARINGS:

A. Request for a Conditional Use Permit by Newfield Production Company for a Conditional Use Permit to drill an oil well on property owned by Maurice and Vincent Harvey, located at 11384 South 3000 West, in the Pleasant Valley area.

Mr. Hyde stated the applicants are applying for this permit to authorize an oil well on the property, which is zoned R-1 due to the presence of a Johnson Water connection. Oil and gas wells are a conditionally permitted use in the R-1 zone. There are criteria for granting a conditional use permit, they are as follows.

1. The proposed use at the proposed location will not be unduly detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or general welfare.

Mr. Hyde stated Newfield has recently expanded their operations northward into the Pleasant Valley area. This area is zoned Agricultural-Residential (A-5), with a five-acre minimum lot size; however, parcels that have a Johnson Water connection are deemed to be zoned R-1. In areas where smaller lot sizes and higher densities are allowed, oil and gas well development can potentially be detrimental or injurious to property and detrimental to public health, safety and welfare. If conditions of approval are considered, these potential impacts can be mitigated.

2. The proposed use will be located and conducted in compliance with the goals and policies of the county general plan and the purposes of this title.

Mr. Hyde stated the Duchesne County General Plan contains the following statements with respect to mining activities: *"Today, extractive-use industries: livestock, timber, mining, and oil; remain the backbone of the region's economy. The County continues to encourage and support these industries, acknowledging that industry patterns, fluctuating markets, and changing political winds predict periodic good times followed by lean."* In this case, the drilling of this oil well will support the oil & gas industry in the county, which is an important part of the local economy.

If the applicant meets the Conditional Use permit criteria and complies with the conditions of approval, the purposes of the Zoning Ordinance will be met.

3. That the property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that will not be materially detrimental to adjoining and surrounding properties.

Mr. Hyde stated the proposed oil well would be located on an 80-acre parcel. If the dwelling(s) on this parcel had been divided from the remainder of the parcel, this oil well could have been located without a conditional use permit as the remainder would have been zoned A-5. However, due to the R-1 zoning of the parcel, conditions may be imposed to mitigate any materially detrimental impacts of the proposal on nearby properties.

All construction and development for energy production purposes in the A-2.5, R-1 and R-¹/₂ zones shall be carried out in accordance with the following standards and specifications:

- A. Damage Minimized: Drilling and production facilities, including roadways, shall be constructed in a manner that minimizes damage to watersheds, vegetation and natural resources.**

Mr. Hyde stated the site is not in a watershed location. According to aerial photos, the site is on the edge of agricultural land, in an unused corral area and would not remove agricultural land from production. This condition is met.

- B. Encroachment, Road Use Permit: For use of county roads, an encroachment permit or road use permit shall be required; a letter or copy of the permit with conditions for use, signed by the road supervisor or his designee, must accompany any application for a conditional use permit.**

Mr. Hyde stated this proposed oil well will receive access from 3000 West, which is a county road. There is an existing agricultural access that would be upgraded to access the well. The applicant has contacted the Duchesne County Road Department and found that no road approach permit will be required.

- C. Drainage of Surface Water: All facilities shall be constructed in a manner so as to properly drain surface water to an approved location.**

Mr. Hyde stated this location contains flat topography and the perimeter of the location will be bermed to control water flow; thus, surface water drainage is not anticipated to be a problem. Drilling of oil wells is exempt from Clean Water Act regulations.

- D. Facilities for Materials: Location of any facilities for liquids, chemicals, explosives, flammable, hazardous or toxic materials shall be in compliance with all applicable federal and state laws and building codes.**

Mr. Hyde stated due to the proximity of this proposed well to dwellings, before drilling commences, the applicant shall obtain Duchesne County Fire and Emergency Management Director approval of the locations and types of hazardous and flammable materials to be located at the site. If an existing fire hydrant is not within a suitable distance, applicants may be required to install one.

- E. Well Site Pumps: All well site pumps shall be located in a structure approved by the planning commission, and fenced with a six foot (6') high, locked chain link fence.**

Mr. Hyde stated due to the location of this proposed well within 501 and 541 feet of dwelling units, hazardous machinery shall be protected from public access. If the well pad is fenced and locked, it would not be necessary to build a structure around equipment. Such fencing shall be completed before the start of production. NOTE: There is a potential for an amendment of this code to require fencing only when a well hole is within 300 feet of a residence. If the code is amended before this well goes into production, the county will honor the 300 foot standard.

F. Painting Well Production Facilities: Well production facilities, such as pumps, separators and appurtenances, shall be painted to blend with the surroundings.

Mr. Hyde stated the well facilities should be painted an earth tone color to help them blend into the surroundings.

G. Distance from Dwellings: The well site shall be located more than six hundred sixty feet (660') from any existing dwelling.

Mr. Hyde stated the proposed well hole would be located 501 and 541 feet from the nearest dwellings; thus, a variance to this standard has been requested. This well is slated to have an electric engine, which will reduce noise impacts.

H. State, Federal Permit: The applicant shall have been issued an approval or permit to drill from the state division of oil, gas and mining, or other state or federal agency.

Mr. Hyde stated all authorizations from the Utah Division of Oil, Gas and Mining (UDOGM) shall be received prior to commencing the drilling of this well. The applicant indicates that the UDOGM permit has already been obtained.

I. Plan for Reclamation: A reclamation plan shall be submitted for each proposed mine, well site, pipeline, excavation, roadway, and area of disturbance. Roadways may remain in place upon capping the wells with approval of the county commission. Particular attention will be given to stream crossings.

Mr. Hyde stated state law gives the Utah Division of Oil, Gas and Mining the authority to regulate reclamation of well sites. DOGM states that such plans are required just prior to reclamation, so the reclamation can occur using the best available techniques available at that time. DOGM works with the surface owner to require acceptable reclamation based on the post-reclamation surface use. A copy of the reclamation plan has been provided to the county.

J. Access Road: Each mine, exploratory or production well shall be accessed by a designated county road or a private road, which road has been approved by the county as to the quality of construction, and for which there is adequate documentation guaranteeing the operators of the well and county staff, emergency providers, and law enforcement officers a perpetual right of access until such road is abandoned and reclaimed.

Mr. Hyde stated if the property owner has granted Newfield an easement across his property to access this proposed well site. This access must be improved to accommodate heavy truck traffic. Newfield should agree to allow county staff, emergency service providers and law enforcement officers to utilize this access road to facilitate the performance of their duties.

K. Sanitary Facilities: All production or exploratory well sites shall be served by sanitary facilities for employees, as approved by the sanitary sewer authority.

Mr. Hyde stated portable toilets need to be provided at active well sites for use by

personnel. After the well is placed in production, Newfield shall provide toilet facilities at convenient locations, as approved by the TriCounty Health Department, for personnel working in the project area.

L. Reclamation: All roadway improvements, mines, well sites, and other areas of disturbance shall be reclaimed in conformance with plans submitted.

Mr. Hyde referred to item I above.

M. Guarantee: A performance guarantee shall be submitted, in an amount required by the division of oil, gas and mining, with the county named as an additional obligee.

Mr. Hyde stated that it is DOGM's policy not to attach third parties (such as the County) to bonds required by their rules. In lieu of that, a copy of the required bond should be provided to the County.

N. Mitigation Plans: Nothing in these regulations shall prohibit a landowner from requiring the developer of an energy extraction or transmission project to complete inventories of the site for forage, timber, wildlife, objects of historic or scientific interest, or substantial unanticipated detrimental effects to the value of the property, and providing for a plan to mitigate for these effects.

Mr. Hyde stated the surface owner has signed a surface use agreement without requiring a mitigation plan.

Mr. Hyde stated the applicant has requested a Variance to the standard that requires oil and gas wells to be set back at least 660 feet from an existing dwelling. The closest dwellings are 501 and 541 feet away in this case. Section 8-15-8 of the Zoning Ordinance allows variance requests to be approved by the Zoning Administrator if "routine and uncontested." The applicant has submitted a written consent to the location of the subject oil well from all abutting property owners. Thus, the variance to the 660 foot setback standard has been administratively approved.

Mr. Hyde recommends the Planning Commission approve the Conditional Use Permit requested by Newfield Production Company, subject to the following conditions omitting numbers 4 and 8 as stated in the staff report.

1. Before drilling commences, the applicant shall obtain Duchesne County Fire and Emergency Management Director approval of the location and type of hazardous and flammable materials to be located at the site. If an existing fire hydrant is not within a suitable distance, the Director may require applicants to install one.
2. Applicant shall erect a fence around the well site, at least six feet in height, with lockable gate(s), prior to the well being placed in production. This requirement shall be waived if the zoning ordinance is amended to require fencing within 300 feet of homes prior to this well going into production.

3. Well facilities shall be painted an earth tone color to help them blend into the surroundings.
4. Applicant shall follow the reclamation plan entitled: "Newfield Exploration Company Castle Peak and Eight Mile Flat Reclamation and Weed Management Plan," at this site.
5. Access to this well site must be improved to accommodate heavy truck traffic. Newfield shall allow county staff, emergency service providers and law enforcement officers a right of access on this road to facilitate the performance of their duties.
6. Portable toilets shall be provided at active well sites for use by personnel. After the subject well is placed in production, the applicant shall comply with TriCounty Health Department sanitation requirements for personnel working in the project area.

Mr. Hyde also referred the commission to a letter from Tim Eaton, a Newfield representative, explaining their comments on the standards the staff report just addressed and some additional maps. Mr. Hyde asked if there were any questions of the staff report. There were none so the applicant was invited to speak.

Tim Eaton, a Newfield Production regulatory technician, stated we have fulfilled all the requirements and Newfield has agreed to the conditions in the staff report, asking the commission if there were any questions. There were none.

Commissioner Mair asked if anyone in favor or against the permit would like to speak. There were none, so the hearing was closed.

Commissioner Olsen motioned that the Planning Commission approve the Conditional Use Permit requested by Newfield Production Company, subject to the 6 conditions as listed above. Commissioner Roberts seconded the motion and it passed unanimously.

2. Recommendation to the County Commissioners regarding a zoning ordinance text amendment to amend and adopt certain definitions; amend the zones in which certain land uses are permitted; adopt rules for placement of Labor Camps in the county and amend the rules for the drilling of oil and gas wells in the A-2.5, R-1 and R-1/2 zones.

Mr. Hyde explained Duchesne County has determined that it is in the public interest to amend the zoning ordinance to address issues that have arisen associated with accessory and caretaker dwellings, labor camps, oil & gas wells, campgrounds and other matters. Some of those changes and definitions are as follows:

In Section 1, the definition of an Accessory Dwelling will be changed, also the following definitions will be added: **Caretaker Dwelling:** An accessory dwelling unit located on the same parcel as a permitted principal commercial or industrial use and **Labor Camp:** Labor Camp shall mean one or more buildings, structures, recreational vehicles,

modular units or related facilities together with surrounding grounds set aside for use as living quarters for groups of migrant laborers or temporary housing facilities intended to accommodate construction, mining, energy, utility or demolition workers. This definition shall not include facilities located on individual oil and gas well pads.

Mr. Hyde explained in SECTION 2, the table of uses in Section 8-6-1 of Title 8 would be amended as follows:

	A-5, A-10	A-2.5	R-1	R-½	C	I
Accessory Dwelling	CU <u>P</u>	CU <u>P</u>	CU <u>P</u>	X <u>CU</u>	X	X
Building Material or Garden Store	<u>P</u> <u>CU</u>	CU	CU	CU <u>X</u>	P	X <u>CU</u>
Campground	CU	X <u>CU</u>	X <u>CU</u>	X	P	X
<u>Caretaker Dwelling</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>X</u>	<u>P</u>	<u>P</u>
<u>Labor Camp</u>	<u>CU</u>	<u>CU</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>P</u>

Mr. Hyde asked if there were any questions on the proposed changes in section 2. Commissioner Mair asked if there would be any size requirements on the campground or caretaker dwellings. Mr. Hyde stated those issues would be resolved either in the conditional use process or thru TriCounty Health with their requirements.

In SECTION 3, the County looked at Utah Administrative Rules, Uintah County's regulations and TriCounty Health rules to be consistent with the different jurisdictions. Title 8 is amended to include a new Section 8-9-12 as follows:

LABOR CAMPS

A. Requirements: Labor Camps, in addition to complying with the sanitation requirements of Utah Administrative Rule, shall be permitted in accordance with the following standards:

- 1. Labor Camps are a permitted conditional use in the A-10, A-5 and A-2½ zones and are permitted outright in the Commercial and Industrial zones. Labor Camps are not permitted in the R-1 and R-½ zones.**
- 2. Applicants for a Labor Camp shall provide the Zoning Administrator with a site development plan containing the following:**
 - a. Dimensions, orientation and vicinity of the parcel.**

- b. Location, size, number and types of proposed housing units. At least 100 square feet of floor area shall be provided for each occupant.
 - c. Legal access to the camp.
 - d. Location, size, number and types of proposed dining, office, recreation or other non-residential facilities.
 - e. Location of water, sewage and solid waste disposal facilities.
 - f. Storm water control facilities.
 - g. Fire protection, power and medical facilities.
3. Culinary water, wastewater disposal and solid waste disposal facilities shall be approved in writing by the culinary water authority and the sanitary sewer authority prior to receipt of county approval.
4. Labor Camp applicants shall provide the county with financial surety that the camp will be dismantled and the area reclaimed to natural condition. The amount of surety shall be at least 125% of a contractor's estimate to restore the site to a condition approved by the property owner.
5. Labor Camp applicants shall obtain building permits for structures and obtain a Certificate of Occupancy from the county Building Official prior to occupancy.
6. In the event the applicant fails to provide the services and facilities required above, the labor camp may be closed and ordered to vacate. These remedies are in addition to the remedies provided in this title for failure to comply with this Ordinance.

Mr. Hyde asked if there were any questions concerning labor camps. Commissioner Burton asked if the structures would be regulated by the building department or the planning commission. Mr. Hyde stated that labor camps would receive a conditional use permit (with planning commission review) in certain zones, but would be a permitted use in other zones. The building department will regulate the placement of buildings in either case.

Mr. Hyde stated in Section 4 the only change would be item D.

Notwithstanding the requirements of Chapter 15 of this title, the Planning Commission is authorized to review and take action on requests for Variances from any of the conditional use permit standards in this Chapter, during the conditional use permit hearing, using the variance

criteria in Section 8-15-3 of this title, unless such variance requests are processed administratively under the routine and uncontested provisions of Section 8-15-8 of this title. To streamline the process

In Section 5 Mr. Hyde stated the new language concerning gravel pits is in underlined and bold print.

- A. Dust Free Condition: Must be maintained in a near dust free condition. A dust control plan shall be provided by the applicant to the county, the Tri-County health department and the state DEQ. **Rock crushers shall have a DEQ air quality permit in effect during operation, with a copy of such permit provided to the County, unless the crusher is considered exempt from permit requirements by the Utah DEQ.** Watering the site and street during times of operation is considered maintaining a near dust free condition;
- B. Bond Required: A bond shall be issued in the amount of five thousand dollars (\$5,000.00) for the first acre, and three thousand dollars (\$3,000.00) for each additional acre from which such material is taken as a guarantee of reconditioning. ~~This requirement may be met by naming the county as an obligee on the required division of oil, gas and mining bond.~~ The number of acres must be specified on the conditional use permit and cannot be enlarged or modified until the issue is re-presented to the planning commission for a new conditional use permit and the enlargement or modification is approved. **This bonding requirement may be waived in writing by the property owner but such waiver does not waive the reconditioning requirements;**

Mr. Hyde asked if there were any questions or comments on Section 5. There were none.

In Section 6 Mr. Hyde stated, due to some concerns from DOGM and various oil companies, the changes recommended to the 2005 ordinance are as follows:

8-13-5-4: OIL AND GAS DRILLING AND PRODUCTION FACILITIES:

All construction and development for energy production purposes in the A-2.5, R-1 and R-¹/₂ zones shall be carried out in accordance with the following standards and specifications. **In the event of conflict between this ordinance and the rules of the Utah Division of Oil, Gas and Mining, the rules of the Utah Division of Oil, Gas and Mining will control.**

- A. Damage Minimized: Drilling and production facilities, including roadways, shall be constructed in a manner that minimizes damage to **agricultural lands, irrigation systems,** watersheds, vegetation and natural resources. **However, nothing in this subsection shall prohibit oil and gas drilling and production facilities, including roadways on such lands, provided that damages will be minimized by the terms of a surface use agreement to the satisfaction of the property owner. If a surface use agreement is not able to be reached or obtained from the property owner, the matter may be heard by the Utah Division of Oil, Gas and Mining on appeal.**

- B. Encroachment, Road Use Permit: For use of county roads, an encroachment permit or road use permit shall **may** be required **if it is determined by the Public Works Director that energy production traffic will place an undue burden on the county road system. If an encroachment or road use permit is required,** a letter or copy of the permit with conditions for use, signed by the road supervisor or his designee **Public Works Director**, must accompany any application for a conditional use permit.
- ~~C. Drainage of Surface Water: All facilities shall be constructed in a manner so as to properly drain surface water to an approved location.~~
- D. **C.** Facilities for **Hazardous** Materials: Location of any facilities for liquids, chemicals, explosives, flammable, hazardous or toxic materials shall be in compliance with all applicable federal and state laws and building codes (including the Fire Code). **When oil and gas wells are located in an H²S area, H²S warning signs shall be located on the site at all times.**
- E. **D.** Well Site Pumps**Engines**: All well site pumps shall be located in a structure approved by the planning commission, and fenced with a six foot (6') high, locked chainlink fence. **Well site engines shall be powered by electricity when located within 660 feet of a dwelling, provided that the power company has adequate capacity to supply such power. Engines located at well sites not served by electricity shall be muffled to mitigate noise impacts.**
- F. **E.** Painting Well Production Facilities: Well production facilities, such as pumps, **tanks,** separators and appurtenances, shall be painted to blend with the surroundings.
- G. **F.** Distance from Dwellings: The well site (**measured from the well head**) shall be located ~~more than~~ **at least** six hundred sixty feet (660') from any existing dwelling, **unless the owner(s) of said dwelling consent in writing to a lesser distance. In cases where the setback to an existing dwelling is less than 300 feet, such well pads shall be fenced with a six-foot tall fence and signed to discourage entry, unless the property owner consents in writing to waive the fencing requirement. In cases where surface uses consist of commercial or industrial businesses, recreation facilities, public uses or educational facilities, fencing requirements for well sites shall be addressed in a surface use agreement with the property owner.**
- H. **G.** State, Federal Permit: **Before drilling,** the applicant shall have been issued **receive** an **a verbal** approval or **written** permit to drill from the state division of oil, gas and mining, or other state or federal agency. **Such authorization shall be provided to the County before drilling commences.**
- I. **H.** Plan for Reclamation: A reclamation plan shall be submitted **to the Utah Division of Oil, Gas and Mining, when required by that agency,** for each proposed mine, well site, pipeline, excavation, roadway, and area of disturbance.

Roadways may remain in place upon capping the wells. ~~with approval of the county commission. Particular attention will be given to stream crossings.~~

~~J. Access Road: Each mine, exploratory or production well shall be accessed by a designated county road or a private road, which road has been approved by the county as to the quality of construction, and for which there is adequate documentation guaranteeing the operators of the well and county staff, emergency providers, and law enforcement officers a perpetual right of access until such road is abandoned and reclaimed.~~

~~K. I. Sanitary Facilities: All production or exploratory *Well sites shall be served by sanitary facilities for employees*, as approved by the sanitary sewer authority.~~

~~L. Reclamation: All roadway improvements, mines, well sites, and other areas of disturbance shall be reclaimed in conformance with plans submitted.~~

M. ~~J.~~ Guarantee: A **copy of the performance bond or other good and sufficient surety** guarantee shall be submitted **to the county**, in an amount required by the **Utah** Division of Oil, Gas and Mining, **pursuant to Utah Administrative Rules** with the county named as an additional obligee.

~~N. Mitigation Plans: Nothing in these regulations shall prohibit a landowner from requiring the developer of an energy extraction or transmission project to complete inventories of the site for forage, timber, wildlife, objects of historic or scientific interest, or substantial unanticipated detrimental affects to the value of the property, and providing for a plan to mitigate for these effects.~~

*the italic text is the revised text from the public hearing.

Mr. Hyde referred the commission to their packets and the highlighted comments from Brad Hill, Newfield, El Paso, Allan Smith and a letter from Harvest Natural resources dated November 19th. He had requested a ruling from the Attorney General's office regarding the regulation of Oil and Gas exploration and the county's proposed ordinance changes. Both DOGM and the Attorney General's office have replied that as long as the county ordinances do not keep the oil companies and mineral owners from accessing the minerals the county can change and enforce their ordinances.

Mr. Hyde asked if there were any questions.

Commissioner Burton asked if there would be a fee on the road encroachment permit if it were to be implemented and what would the dollar amount be used for. Mr. Hyde stated it would be for maintenance and restoration due to heavy traffic and other road issues that might arise.

Commissioner Jorgensen stated the sanitary facilities should be for all locations not just new production sites. Mr. Hyde stated there have been some concerns regarding the lack of facilities, and hopes during the hearing maybe the oil companies can help with a solution. Commissioner Burton stated there could be a

clause in the ordinance that if there are complaints the company would need to address those issues with their employees.

Commissioner Mair asked if there were any other questions. There were none so the hearing was opened to the public.

Commissioner Mair asked if there were any comments as to **Section-1**. There were none. **Section 2**-There were none. **Section 3**-Labor Camps.

Darren Brown, Tri County Health and Mr. Hyde had some discussion on whether Labor Camps and Drill Site are the same and what rules would apply. Mr. Hyde stated it was not the County's intention to regulate facilities on include individual well sites as labor camps.

Wayne Garner, Construction Supervisor for El Paso stated they do not use man camps or labor camps for their crews, they rent homes for drilling personnel.

Commissioner Jorgensen stated labor camps are temporary trailer parks and should not be associated with drill sites.

Commissioner Mair asked if there were any other comments or questions regarding section 3.

Section 4- There were none.

Section 5-

Darren Brown from Tri County stated unless rock crushers put out an excessive amount of dust they do not require a DEQ permit. Mr. Hyde stated the ordinance would need to say *unless exempted by the DEQ*.

Section 6-

David Nelson, Millstream Properties stated they own several recreational, ranching and hunting properties and are having some concerns about the need for reclamation on existing locations, sanitary facilities, to preserve public hunting sites, the risks to the landowners in referring to the clause that ultimately states DOGM will have the final say. Feeling that the paragraph in subsection 1 and item A takes away any restriction the county might try to enforce with this ordinance revision. Mr. Nelson stated there is a need for fencing to protect homeowners but there is a need to protect both private and public business. Mr. Nelson does not want to limit any oil company or private business from doing their jobs and commends the way Newfield has conducted business with Millstream Properties, but feels that property owners should have some rights too.

Maurice Harvey, a Pleasant Valley resident stated his concerns about having a muffler system installed at each location to reduce noise.

Allan Smith appeared as a concerned landowner owning surface and mineral properties in both Duchesne and Uintah Counties. Stating his comments are in the

letter he wrote to the planning commission but is concerned that this ordinance is law. Mr. Hyde explained the County Commission ultimately would make the final decision. Mr. Smith feels the ordinance as a whole should be removed as regulation it would be just another obstacle in oil and gas wells on private property. Mr. Smith feels the county ordinance could be unconstitutional and explained his thoughts.

Wayne Garner, Construction Supervisor for handed a copy of an Oil and Gas Lease to the planning commission and stated the contents of that document explains what the oil company is going to do and what they are willing to do and what the property owner can expect from the company. The issues in this revised ordinance should be taken care of within this document which are legal and binding documents. Mr. Garner feels minimizes damage and does work with the land owners, do get permits from the road supervisor, most of their locations are electrical engines, their locations are painted to fit in with the surroundings, fencing is usually left up to the land owner, they build their roads to withstand heavy trucks and traffic, the sanitation issues are hauled away from each location and is or will be taken care of in house if they know there are complaints. Mr. Garner stated fire hydrants are not feasible for the oil companies to install (those should already be installed if there is a home nearby).

Cathy Hammock a Landman, Wayne Garner and the Planning Commission had some discussion about directional drilling vs. vertical drilling on personal property, land and mineral owner rights, the structures on different locations, the proposed regulations, agriculture, culinary and irrigation systems, sanitation issues and concerns. Commissioner Jorgensen stated the sanitation issues should be addressed with each company. Mr. Garner stated will take care of the problem if need be. Mr. Hyde suggested to Mr. Garner that the ordinance provisions for minimizing damage should be addressed in the surface use agreement.

Jeff Henderson, Regulatory Foreman, for Newfield stated Newfield applauds Duchesne County's efforts; they want to be good neighbors and feel they can work with the landowners so all can benefit. However, Mr. Henderson feels the county should not have any regulations that will prohibit the companies from drilling and exploration. Mr. Henderson feels signs warning of H₂S gas would be more feasible instead of monitoring equipment as that would be unreasonable. Newfield wants their field to be all electric eventually and are working with MLEA and Rocky Mountain Power to achieve and prioritize the different locations for the amount of power available.

There was some discussion between Mr. Henderson and the commission on the amount of power that is available, the distance the locations need to be from residents and if Newfield is okay with the language in the revised ordinance.

Mr. Henderson stated the fencing issue should be left to the owner; some want the fence and others do not. As to the sanitary facilities, there are many stops along the way and that issue could be taken care of in- house if need be. Newfield is not happy with the CUP process but they will comply with any recommendations.

Mr. Hyde stated the fencing provisions should be amended to require a fence around the well site or to omit fencing if the property owner does not want it.

Commissioner Jorgensen stated we are trying to balance the rights for both land owners and oil companies.

There was some discussion about reclamation, the number of wells Newfield drills and the locations of them, whether they are in an R-1 zone or a 5 acre zone.

Commissioner Olsen asked Mr. Henderson what the well spacing as if they are on private land. Mr. Henderson replied 20 acres for private but both wells are on the pad.

Commissioner Mair asked if there were any other questions.

Maurice Harvey stated he is in favor of the 660 foot spacing and does not want fencing because of the tumbleweeds will pile up against it.

Tim Eaton stated the farmers want to reclaim their land after the location is finished so they can continue farming.

Gerald Burdick, landowner had some comments on all the locations in the Pleasant Valley area and why they are not doing directional drilling. There was no response from Newfield.

Darren Brown commented on the sanitary facilities issue and Tri County procedures so they will continue with current regulations. Mr. Hyde will revise the wording in the ordinance. Mr. Brown stated letters will be sent to the different companies so they know what the procedures will be. Tri County is in favor of these regulations.

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

Mr. Hyde explained the revisions that will be made in the ordinance beginning with Section 1-regarding labor camps the definition does not include individual oil and gas well sites.

Section 5-Rock Crushers added in "unless the crusher has been exempted from permit requirements by the UDEQ."

Section 6-

1. Adding with DOGM's control. (with modifications if necessary)
 - a. Provided that damage is minimized in the surface use agreement to the satisfaction of the property owner or DOGM on appeal for the cases where property owner is unreasonable.
 - d. Signs instead of H2S monitoring equipment.
 - e. Depending on power company and the availability of power for

electric engines.

- g. Changing “well hole” to “well head” or add or consider changing any other land uses or dwellings and the fencing should be added unless the property owner agrees to omit the fence in the surface use agreement.
- k. Health Department recommended the original language stays in place.

Mr. Hyde stated those changes will be made if the commission is comfortable to send the revised ordinance to the County Commission.

Commissioner Jorgensen motioned to recommend approval of the ordinance with the changes as suggested by staff. Commissioner Fabrizio seconded the motion and it passed unanimously.

NEW BUSINESS:

A. Consider adoption of Sexually Oriented Business studies associated with a potential amendment of the Duchesne County Zoning Ordinance.

County Attorney John Stearmer reminded the commission about the preliminary meeting held in October. Tonight the commission needs to decide if they are ready to adopt the studies as their findings on the secondary effects of sexually oriented businesses in Duchesne County. Mr. Stearmer asked if the commission reviewed the studies and if they are ready for a decision. Commissioner Burton stated he had read the material and based on what he read he would be ready to vote.

Commissioner Jorgensen stated he is ready.

Commissioner Mair stated he is ready to vote.

Commissioner Fabrizio stated she is ready.

Commissioner Olsen stated he did not read everything but based on what he reviewed in the preliminary meeting and the information he has read he would be ready to vote.

Commissioner Roberts stated he is ready to vote.

There was some discussion between Mr. Hyde and Mr. Stearmer about the residual, secondary and negative effects of sexually oriented business and how they affect the community.

Mr. Stearmer stated the findings seem to indicate that when such businesses are dispersed, the crime rate seemed to be lower. Mr. Stearmer stated these studies

were a viewpoint from the country as a whole and saw the effects from a larger city and smaller towns.

There was some discussion between the Commission about the dispersal of businesses to have them separated or according to the studies to have them in a concentrated area. The Commission felt as a whole the businesses should be dispersed or spread over the area.

Mr. Hyde asked if the commission should consider a motion on each separate study or one motion on the study in their entirety. Mr. Stearmer stated the studies in their entirety as it would be a part of the minutes of the December 1st meeting.

Mr. Stearmer stated generally each study found there are negative secondary effects and as the ordinances were drafted they counteracted those effects. Along with protecting the public's right to free speech we also need to protect the public on the negative secondary effects of SOB's. Mr. Stearmer stated the county needs to be careful that we are dealing with the secondary effects and not the negative effects of SOB's.

Commissioner Mair asked if there were any other questions. There were none.

Commissioner Burton motioned to adopt the findings of the following sexually oriented business studies as their findings with respect to a potential amendment to the Duchesne County Zoning Ordinance:

Sexually Oriented Business Study, Tuscon, Arizona (May 1, 1991)

Sexually Oriented Business Study, Dallas, Texas (April 29, 1997)

Sexually Oriented Business Study, Ellicottville, New York (January 1998)

Sexually Oriented Business Study, Houston, Texas (January 7, 1997)

Sexually Oriented Business Study, St. Croix County, Wisconsin (September 1993)

The American Center for Law and Justice on the Secondary Impacts of Sex Oriented Business

IMLA conference Papers: April 2000 Edition-Closin Time: Effective Regulation of Adult Business' Hours of Operation.

IMLA Conference Papers: April 2000 Edition-Adult Business Regulation in the New Millennium: Avoid Prior Restraint in Zoning and Licensing.

IMLA Conference Papers: April 2000 Edition-Effective Regulation of Adult Businesses: Update from the Federal Court of Appeals.

Commissioner Jorgensen seconded the motion and it passed unanimously.

B. Adopt 2011 Planning Commission meeting schedule.

Commissioner Burton motioned to accept the meeting schedule for the year 2011. Commissioner Fabrizio seconded the motion and it passed unanimously.

C. Selection of a Chairperson and Vice-Chairperson for 2011.

After some discussion Commissioner Mair motioned that Commissioner Jorgensen be the Chair and Commissioner Burton serve as vice chair. Commissioner Olsen seconded the motion and it passed unanimously.

D. Discussion of terms expiring on December 31, 2010.

Mr. Hyde explained that Commissioner Peatross' term had expired and he is not eligible to continue. Commissioner's Olsen and Burton both are eligible for one more term. Mr. Hyde will need a letter expressing their willingness to continue serving.

Minutes: Approval of October 6, 2010

Commissioner Jorgensen moved to approve the minutes of October 6, 2010 meeting. Commissioner Burton seconded the motion and it passed unanimously.

Commission Comments and Staff Information Items

There was some discussion between the commission and Mr. Stearmer about the Hancock article in the paper last month. Mr. Stearmer made a short statement about that and the county will likely be going to trial in February. Mr. Hyde stated we have a gravel pit for the January meeting. Mr. Lee Hill attended the meeting as the UBAOG regional planner and is hoping to help the smaller communities as they deal with SOB's.

Adjournment:

Meeting adjourned at 8.05 p.m.