

**Planning & Zoning Commission Meeting
County Administrative Offices, Duchesne, Utah
October 3, 2012 - 5:00 p.m.**

In Attendance were:

John Jorgensen, Planning Commission – Chairperson
Randy Mair, Planning Commission
Kent Olsen, Planning Commission
Edward Roberts, Planning Commission
Kathy Giles, Planning Commission
Allen Lindsay, Planning Commission
Mike Hyde, Community Development Administrator
CoraLee Sanchez, Planning Secretary

Visitors:

Darrin Brown-TriCounty Health Department	
Scott Hacking-Utah DEQ	
Allen & Susan Rydman,	IWM
Robert Fitzmorris	IWM
Ted & Melissa Rose	IWM
Ray & Shauna Mounteer	IWM
David Roth	IWM
Kevin & Crystal Elliot	IWM
Robert & Kathy Meeks	IWM
Bert & Bernice Pilling	IWM
Travis & Jenessa Chappell	IWM
Larry Skow	IWM
John Gray	IWM
Debi Tracy-Uintah Basin Standard	
Robert Teters	IWM
Dan and Karen Ross	Neola-Vacate road

Chairperson Jorgensen opened the meeting at 5:00 PM.

Chairperson Jorgensen asked if any of the Planning Commission had any ex-parte contacts associated with either item on the agenda. The Planning Commission conducted a site visit at the Integrated Water Management facility beginning at 3:30 PM in advance of re-opening the public hearing, Commissioners Jorgensen, Mair and Giles were in attendance. Commissioner Lindsay will excuse himself from the Integrated Water Management hearing and Commissioner Olsen will excuse himself from the Neola road vacation hearing.

PUBLIC HEARINGS:

A. Continuation of public hearing to determine if Integrated Water Management is complying with the odor control terms of their conditional use permit for their commercial produced water disposal facility located at 20250 W 2000 South near the Blue Bench landfill, north of Duchesne.

Mr. Hyde reviewed the history of the Integrated Water Management site from 1983 to September 5th, 2012 and stated the Planning Commission opened a public hearing to determine compliance with Condition #3 of their conditional use permit, which reads:

“After operations begin, applicants agree to take prompt action to control and eliminate odors if the county receives complaints. Applicants shall seek to establish an injection well and inject water most likely to cause odor problems.”

At the end of the September 5, 2012 meeting, the Planning Commission passed the following motion:

That the public hearing be recessed to October 3, 2012 at 5:00 PM. The applicant shall immediately provide the county with an updated odor treatment plan outlining the treatment methods and steps that will be taken to control and eliminate odors. When the public hearing is re-opened, if the applicant has not provided an updated odor treatment plan, no new produced water may be received at the facility. When the public hearing is re-opened, progress shall be evaluated based on the complaint log and any test results available. If progress is being made toward odor elimination, the Planning Commission may grant an additional 30-day period for odor control measures to fully take effect, in lieu of an order to cease receipt of water.

Mr. Hyde suggested to Chairman Jorgensen that the commission receive an update from the applicant. He reminded the audience to keep the meeting in order and respect each person as they are speaking.

Commissioner Lindsay left the room before Mr. Martin began his update.

JT Martin, a representative of Integrated Water Management, commented that IWM's right to a fair and impartial hearing was compromised at the last hearing. Since Duchesne County is not in compliance with HB-267 he is concerned that their due process rights and the rights for the public to speak without recourse will be jeopardized. He requested that the hearing be recessed until an ordinance pursuant to HB 267 has been adopted by Duchesne County.

Mr. Hyde stated his office received an e-mail on October 3, 2012 from Mr. Neil Lindberg requesting that the IWM hearing be recessed until the *Rules of Order and Procedure* have been adopted by Duchesne County as an ordinance to be in compliance HB-267. Mr. Hyde suggested the planning commission could recess the hearing until such time that Duchesne County is in compliance with HB-267. Since the request was received on the day of the hearing and we were unable to get both the public and the commission notified

of Mr. Lindberg's request, Mr. Hyde felt the commission could receive an update of progress from IWM and the Planning Commission could recess the hearing until the ordinance has been adopted to insure their right to due process.

Mr. Martin stated once again and for the record they are concerned about their due process rights. While he appreciates the opportunity to speak and give the commission an update on their progress he would prefer the commission recess the hearing until Duchesne County has adopted the ordinance and is in compliance. Mr. Martin referred the commission to their updated odor control handout; read thru it and stated he feels they have met and exceeded the conditions set forth and are in full compliance with their Conditional Use Permit today and will continue to do whatever is necessary to stay in compliance and make advances for improvement to the facility. Mr. Martin asked the Planning Commission if they had any questions or concerns. There were none.

Commissioner Jorgensen asked if there were any questions or comments.

David Roth, an area property owner has some concerns about the applicant's request to recess the hearing. He is a retired judge and attorney and stated the County is not in compliance with HB 267. Any decision that is made at the hearing tonight will not be applicable to IWM and their compliance with the conditions of the conditional use permit.

There was some discussion with the Planning Commission, Mr. Hyde and Mr. Roth about the applicant's request to recess the hearing and the commission's intent to make a decision based on the testimony heard at the hearing tonight or at another public hearing in the future.

After the discussion, Commissioner Jorgensen suggested since the county is not in compliance with HB 267 and since no decision can be made until the county is in compliance, the hearing should be recessed.

Mr. Ted Rose, a neighboring property owner, stated his concerns and indicated he is still sick, takes many prescriptions including morphine and is on oxygen full time. Mr. Rose cannot stay at his home because of the smell and cannot afford to drive back and forth either. He is convinced IWM is punishing the property owners by not making any improvements because they have complained.

Mr. Hyde asked Mr. Rose if conditions have changed for the better or worse. Mr. Rose stated it is worse and IWM does not care what is going on, it is not good for any of the residents and one day they will all be dead because the commission did not stand up and make IWM comply with the conditions of approval.

There was some discussion with the commission and Mr. Hyde about the recess date and when the County could be in compliance with HB 267.

Commissioner Mair motioned to recess the public hearing on this matter until December 5, 2012 at 5:00 PM in the Duchesne County Administration Building, Commission Chambers.

Commissioner Roberts seconded the motion and it passed unanimously.

Commissioner Lindsay rejoined the meeting.

B. Recommendation to the County Commissioners regarding a request to vacate that portion of 2160 West Street between 8950 North and 9000 North in Neola.

Commissioner Olsen excused himself from this hearing

Mr. Hyde stated the applicants are seeking to vacate the public right of way of 2160 West (Third West on the Neola town plat) between 8950 North and 9000 North. He referred the commission to their packets including some photos and the plat map showing the proposed vacation. The legislative body, the County Commission, has scheduled a public hearing for October 15, 2012. Notice of the Planning Commission and County Commission hearings was mailed on September 10, 2012 to all property owners abutting the subject right of way and within 300 feet of the subject right of way. Notice was mailed to the following affected entities on September 11, 2012: Moon Lake Electric, Neola Water and Sewer, Strata Networks, Questar Gas and the Duchesne County Road Department. Notice was posted at each end of the proposed vacation area on September 10, 2012. Notice was published in the Uintah Basin Standard on September 18 and 25, 2012. Notice also appeared in the Utah Public Notice Website and the Duchesne County website.

All property owners abutting the right of way proposed to be vacated (Dee S. Peterson, Derek and RaeLynn Dunsmore, and Dan T. and Karen Lea Ross) have signed a consent to vacation form. Good cause exists for the vacation as demonstrated by site photos, which indicate that the road has not been constructed and the right of way area is developed with private improvements, such as outbuildings, fences, landscaping and yards. No personal or public interests will be harmed by the proposed vacation as the abutting parcels retain legal access. The ½ acre minimum lot size in the area precludes further division of the abutting parcels. As stated in the Utah Code, even if the county vacates its interest in the right of way, the vacation ordinance does not impair the easement rights of utility.

Mr. Hyde recommended that the Planning Commission recommend to the County Commissioners the approval of Ordinance No. 12-304, vacating the right of way of 2160 West as requested.

Mr. Hyde asked if there were any questions of the staff report.

Commissioner Lindsay asked if there were any public utilities in the right of way now or in the future. Mr. Hyde stated there are none now and no additional lots could be created so there would be no reason for additional utility easements.

There were no other questions or comments so the applicant was invited to speak.

Karen Ross, applicant, stated there is no reason for the right of way; it is not constructed no one uses it, no one wants it and no one cares. Three neighbors were confused thinking the road was being constructed. After checking with the utility companies, Neola Water and the neighbors Mrs. Ross has concluded no one cares if the road is there or not so they are requesting the Planning Commission vacate the platted right of way.

Mr. Hyde stated there was a comment from a neighbor to the east thinking there should be a new access for the rodeo grounds to relieve some of the traffic during rodeo events. Mrs. Zager commented that she has access from 9000 North, so it would not effect her.

Commissioner Jorgensen asked if there were any other questions or comments. There were none and with on one in opposition to speak, the hearing was closed.

Commissioner Mair motioned that the Planning Commission recommend to the County Commissioners the approval of Ordinance No. 12-304, vacating the right of way of 2160 West as requested. Commissioner Giles seconded the motion and it passed 4-1, with Commissioner Lindsay voting against the motion stating it is a public right of way and should remain an access if needed for the future.

Commissioner Olsen returned to the meeting.

NEW BUSINESS:

None

Minutes: Approval of September 5, 2012 minutes

Commissioner Lindsay moved to approve the minutes of September 5, 2012. Commissioner Giles seconded the motion and it passed unanimously with Commissioner Mair abstaining.

Commission Comments and Staff Information Items

None

Adjournment:

Meeting adjourned at 6:50 p.m.