



City of Rigby
Planning and Zoning Commission
Meeting Minutes
December 10th, 2015
Kevin W. Hathaway- Administrator

Chairman Williams called the meeting to order at 7:11 p.m.

Kevin Hathaway conducted a roll call vote. Those present were Comm. Chairman Williams, Comm. Belk, Commissioner Ellsworth, Commissioner Finlayson, and Commissioner Moore (By phone).

Absent: Comm. Warner, Commissioner Treasure, and Commissioner Bennett
Chairman Williams determined that a quorum was present to conduct the business of the commission.

Also present were Dave Walrath, Jefferson County Public Works Administrator, and Kerry Romrell, Jefferson County Road and Bridge, City Attorney Robin Dunn, City Clerk Dave Swager, and P&Z Administrator Hathaway. There were also several members of the public in attendance.

Chairman Williams retrieved the sign in sheet for those wishing to provide testimony in the public hearing scheduled, to hear a zoning change request from Jefferson County Road and Bridge to change from C- Commercial to I- Industrial at the county Road and Bridge complex located at 290 N. 4000 E. between Hwy. 48 and 235 N., Rigby, ID. 83442.

Chairman Williams began the public hearing at 7:15 p.m.

Dave Walrath, Public Works Administrator for Jefferson County, was asked to present the proposal. The purpose for the request is to allow the county to install two new bulk fuel storage tanks, one (1) 10,000-gallon tank for diesel fuel and (1) one 5,000-gallon tank for gasoline. The proposed location was next to the current 8,000-gallon road oil tank located in the containment basin in the northeast corner of the road and bridge complex. Installation of these tanks would allow the county to purchase fuel at a more competitive price in larger quantities. This would also allow the county to upgrade the current fueling system that is not in a containment area, and currently takes up significant space in their yard. The tanks would be installed above-ground and vertically. He also stated the containment area would hold approximately 20,500 gallons of fuel, if a leak occurred. *Mr. Walrath concluded his remarks and asked if there were questions.*

Comm. Belk asked Mr. Walrath if the county had considered installing the tanks underground. Mr. Walrath stated he felt an aboveground installation was more suitable due to issues including corrosion, and liability from leakage.

Chairman Williams clarified that the installation would be vertical and in the containment area.

Comm. Belk asked why the county requested a change in the zoning from C- Commercial to I- Industrial. Mr. Walrath stated he had been advised that the zoning change would be the most correct way to permit this use, but also stated he would not be opposed to a more suitable option if one were available, and that the county did not intend to do anything else permitted by the Industrial zoning designation, at this location. **Comm. Moore** (by phone), asked if this issue had not already been discussed before and dealt with by the P&Z board. **Atty. Dunn** stated that some of these issues had

been discussed at the time of the zoning change to C- Commercial, and had been dealt with then, relative to that zone change, at that time.

Chairman Williams reviewed the sign in sheets for those wishing to make public comments related to the zoning change request. There was no one signed up to testify in support, or to testify, that were neutral. There were three in attendance signed to speak in opposition to the zone change request.

First to testify was David Peterson, residing at 548 E. 1st S., Rigby, ID. 83442. Mr. Peterson also submitted written testimony, a copy of that letter, is attached to these minutes, and on file. Mr. Peterson stated concerns with safety risks, including fire and contamination. He was also concerned with the potential devaluation of his property. He was adamant in his opposition.

Second to testify was Marguerite Peterson, also residing at 548 E. 1st S., Rigby, ID. 83442. Her concerns were similar to Mr. Petersons. The concerns were related to safety and contamination, and also further industrial development that may occur if rezoning were allowed. Her opposition was also very adamant.

Third to testify was Richard Gail Simmons, 596 E. 1st S., Rigby, ID. 83442. Mr. Simmons concerns related to concerns with changing zoning to industrial as well as safety. He felt that the fire dangers had not been adequately addressed, and was concerned with controlling access to the facility. He was also critical of the current management of contamination at the complex and stated he had road oils that had seeped onto his property. He stated that he also feels there are better more suitable locations for this installation. He was strongly opposed to the proposed changes.

Comm. Belk asked if Mr. Sommers had received a copy of the proposal. Mr. Sommers said he had received a copy, but that it did not give him enough information or confidence enough to support the proposal.

Chairman Williams asked Mr. Walrath if he had rebuttal testimony to offer, related to the concerns of those speaking in opposition to the proposal. Mr. Walrath stated he did, and assured everyone first of all, that there was no contamination in any form, coming from the road and bridge yard. He stated he was very familiar with the contamination issues mentioned, through his work for nine years with the Idaho Dept. of Water Resources. Mr. Walrath also reiterated that the containment basin where the proposed tanks would be located would contain 20,500 gallons of material, if a leakage occurred. Mr. Walrath also mentioned again that the fire safety issues would be minimal and they could be managed. He also stated that he felt aboveground tanks were no more of an issue for fire safety than underground tanks would be.

Chairman Williams concluded the public comment portion of the hearing at about 8:03 p.m. Deliberations by the commissioners began. **Comm. Belk** was concerned and reluctant to change zoning from commercial to industrial, and felt a conditional use permit was a more appropriate option to consider. **Comm. Finlayson** stated she also felt concerned about changing the zoning classifications, especially since this property is bordered by residential properties. **Comm. Moore** stated she agreed with the two commissioners in her concern over changing the zone classification. **P&Z Administrator Hathaway** addressed the commission, and stated that the industrial classification was the more correct classification to consider if the installation of bulk fuel storage tanks was the only consideration, but it is not. The storage tanks will allow savings to the county in their operating costs and that is a good thing. The proposed method of installation is tried and true and has been, and continues to be, safe to operate when properly constructed and managed. One stated concern by those speaking in opposition is safety. Another concern is that the tanks are too close to adjacent residences. Other concerns are that they would have a negative impact on property values, due to them being unsightly. An amendment to add the permitted use of, "Public Works Facility to include

maintenance, fuel and material storage, shops, and yards, by special permit of the zoning commission.” to the commercial zoning classification would be an option. It would not allow other uses without a permit. Another potential option that would be allowable with a “special” or “conditional use” permit would be to move the proposed installation at least 300’ feet from the nearest residence, or installing the tanks underground.

Comm. Belk asked Atty. Dunn about what possible actions the commission could take with the permit application.

Atty. Dunn stated the commission could take one of “at least” four options with this permit application.

- (1) Approve the permit. This choice would probably trigger a change or update to the comprehensive plan.
- (2) Amend the permitted uses in the Commercial Zone classification to include public works facility to allow the activity.
- (3) The county could seek a “conditional use permit” for the requested usage, or a “special use” permit.
- (4) Deny the request. All options require further work and/or hearings.

Comm. Belk would like to amend the permitted uses allowed in the commercial zones to include a public works facility to include bulk fuel storage.

Chairman Williams would like to ask Dave Walrath some more rebuttal questions. In answer, Mr. Walrath answered that access cameras would be installed to track traffic and enhance security. There is already an 8,000-gallon tank used to store road oil, in the same containment basin. **Atty. Dunn** stated the Dura-Patcher tank is considered a “nonconforming” use currently. **Chairman Williams** asked how far the proposed tanks would be located from the adjacent homes. Is it 300 feet? The opponents Anderson who gave testimony earlier requested measuring the distance from the tanks proposed location, to their homes. **Comm. Finlayson** also voiced safety concerns related to the distance from the tanks to the houses. **Comm. Ellsworth** voiced safety concerns. Access/security concerns. They need regular testing and inspection, and he feels “special use” and/or an underground installation are the best options. Mrs. Anderson is concerned with aboveground tanks, since trucks and heavy equipment have knocked over fencing around the road and bridge yard. She is afraid they may hit the tanks if they are aboveground.

Comm. Belk questions if the 300 feet distance is only for aboveground for resale fuels, such as a convenience store. **Atty. Dunn** stated that it could be interpreted that way, but it also could be challenged for any aboveground installation. Feels it should be measured if an aboveground installation is sought. **Chairman Williams** feels that it should be measured. **Comm. Belk** stated that Google maps show it to be about 200-210 feet. Not sure that the distance is applicable for a public facility. **Comm. Finlayson** thinks it would be good to make sure it is a safe distance of separation. **Comm. Belk** read the letter from the Central Fire District approving the proposed installation, subject to other regulatory codes. Concerns about property devaluation and ascetic issues are valid concerns, but the proposed 15 feet high tanks should not be unreasonable.

Comm. Belk made a motion to amend the permitted uses in a commercial zone to include addition of *“Public Works Facility to include maintenance, fuel and material storage, shops, and yards, by special permit of the zoning commission.”*

There was no second. Motion died for failure of a second.

Chairman Williams asked if there were other suggestions or motions. **Comm. Finlayson** discussed “special” or “conditional” use permits. **Comm. Belk** confirmed the county would still need to reapply. **Atty. Dunn** stated it would probably be the most appropriate for the commission to deny the permit

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Chairman Williams asked if there were other suggestions or motions. **Comm. Finlayson** discussed “special” or “conditional” use permits. **Comm. Belk** confirmed the county would still need to reapply. **Atty. Dunn** stated it would probably be the most appropriate for the commission to deny the permit request in its current form, and the county could reapply for a “conditional” use permit, if they chose to. **Comm. Moore** (by phone) stated her support for this option. **Comm. Finlayson** made the motion to deny the request of Jefferson County for a zoning classification change from “C” commercial to “I”-Industrial, at the county road and bridge location, be denied. **Comm. Moore** seconded the motion. **Chairman Williams** requested a roll call vote. **Comm. Belk- Yes; Comm. Ellsworth- Yes; Comm. Finlayson- Yes; Comm. Moore-Yes.** The vote is unanimous. Motion to deny the permit is passed. **Chairman Williams** concluded the public hearing portion of the Planning and Zoning Commission meeting at 8:21 p.m. and took a break.

Meeting reconvened at 8:26 p.m. by **Chairman Williams**. **Chairman Williams** made a request to amend the agenda to hear an informational report from John Anderson representing the Airport board. **Comm. Finlayson** made a motion to amend the agenda for a report. **Comm. Moore** seconded the motion to amend the agenda to include the report by Mr. Anderson. Mr. Anderson read a letter from Jefferson County P&Z Administrator Naysha Foster. (A copy of the letter is attached to these minutes for your review) **Comm. Finlayson** complimented Mr. Anderson on the well written proposal of a draft ordinance related to the airport operation. **Chairman Williams** agreed to meet with Mr. Anderson and review the proposed ordinance before the next P & Z meeting. **Chairman Williams** asked that the review for possible action on the draft airport ordinance be placed on the agenda for the next meeting.

Old Business:

A staff report prepared by former P & Z Administrator Bingham, answering questions by **Comm. Warner** from the 9-10-15 P & Z meeting, related to the area of impact report was included for review by the commissioners. There were no additional questions by the commissioners at this time.

Chairman Williams discussed the date for the next P & Z meeting, to be held on January 14th, 2016 @ 7 p.m. He reminded the commissioners that they would need to be prepared to select a new chairman and vice-chairman at that meeting.

Having no further business, the meeting was adjourned at 8:44 p.m. on a motion by **Comm. Moore**, and seconded by **Comm. Finlayson**. End.

Minutes approved 1/14/2016 by unanimous vote of commission.

Reed C. Williams - Comm. Chairman Reed Williams

Kevin Hathaway - Attest Kevin Hathaway; P&Z Administrator

Dated- 1/15/2016