

FREMONT COUNTY COMMISSIONERS MEETING MINUTES
March 28, 2011

Present for the meeting was:

Commissioners

Skip Hurt, Lee Miller and Jordon Stoddard.

Also attended by: Clerk Abbie Mace, Deputy Clerk Cathy Conger, and Prosecuting Attorney Joette Lookabaugh

Public Hearing Work Meeting on Stoddard Brothers Appeal and Draper Appeal

Stoddard Brothers Appeal – Commissioner Miller stated that it has been interesting and there is a lot of documentation and testimony. They have done everything to comply. He doesn't have any personal stake in it. He doesn't like gravel pits and doesn't like it in his neighborhood however they have done everything they are supposed to do to be in compliance.

Commissioner Stoddard stated that in his opinion the old Appendix J is part of the code because it was never repealed. He would like them to research that to make sure that the Appendix J is treated as it should be.

Commissioner Hurt reviewed the appeal information. There was no ruling on previous appeals. The intentions of the commissioners were for the new Appendix J to replace the old one. At the hearing we did hear case law that justifies that. To his knowledge they have not signed or issued a permit at this point. In our code it does not give a specific time as to when a development agreement has to be done if it is remanded back to the Planning & Zoning Commission. In regards to the road system not being met there are letters from Ms. Vik where she looked at the roads and found them to be sufficient. DePatco cleaned the pit up that was questioned. Commissioner Hurt believes that pit to be independent of this issue. Regarding the concern regarding extraction in an industrial zone our county allows extraction anywhere in the county. LESA is not anywhere in the comp plan and does not need to be done in this proposal. He feels that Stoddard Brothers have done the things required by law to comply with our Development Code and Comp Plan.

Commissioner Stoddard questioned why they did not specifically repeal the old Appendix J when the new one was developed.

Commissioner Miller believed that repealing the old appendix was automatic when they adopted the new appendix.

Commissioner Stoddard questioned if it was what the gravel pit people wanted or the public wanted.

Commissioner Miller stated that we had the hearing and that was what those that attended wanted.

Commissioner Hurt commented that it was the shortest meeting they have ever had; only three attended and no one testified. It was our intention to replace the older one and the newer one is more restrictive. There have been a number of case laws where it was upheld in court.

Commissioner Stoddard feels like this should be looked at on a case by case basis rather than going on case law.

Prosecutor Lookabaugh stated that case law is what decisions are based on. Facts are reviewed based on case law.

Commissioner Miller stated that the Planning & Zoning Commission has looked at this twice, have researched this and made their decision unanimously. He has full confidence in that commission.

Commissioner Lee Miller made the motion to affirm the Planning and Zoning Commission decision on the Stoddard Brothers gravel pit permit. Commissioner Skip Hurt seconded the motion. Discussion was held regarding putting in the condition of approval a 200 foot buffer on the east end of the property; and the approximately \$550 filing fee returned to the appellant. Commissioners cautioned the Stoddard Brothers to be aware of their operation and if they are out of compliance or in violation the permit will be pulled. It needs to be done correctly in every way. A full voice vote was heard with Commissioners Hurt voting "aye" Commissioner Miller voting "aye" and Commissioner Stoddard voting "nay". Motion carries by majority vote.

Commissioner Hurt expressed appreciation to everyone for attending. Commissioner Miller explained that we made an oath to uphold the law and that is what we have to do.

Draper Appeal – Commissioner Stoddard does not feel that this is compatible with the area that it is in. It is an agricultural area that it is in and they have applied for a Class I Permit knowing what they were doing.

Commissioner Miller stated that it has had some issues such as the scoring issue. He would like to know why it was scored five on one and a one on the other. He feels that it may not be compatible however there are other rentals in the same area. Through the permit process they went through they had to redo some things to meet the guidelines. They went back to Planning & Zoning and they approved the permit. Buffering is an issue that would help with compatibility regarding lights and noise. The barn has always been there and it has always been the same size. There has always been a business there and was very noisy. How much noise conflict at that time he doesn't know. We do know that it was a commercial use on that property which is what a cabin rental is.

Commissioner Hurt feels that bulk and height is not an issue. There have been other businesses there prior to this. The hours of operation were different however both are still commercial. There were issues with the road but we have the deed giving that to the business owner. There are others that are closer then the Drapers. Screening would assist with the discrepancy in the scoring. The screening would be between the building and the Draper's property. There are options with screening types. There are other rentals in the area. There was an issue with the fire department not being able to get to the top floor however that appears to have been mitigated by the Ashton Fire Department. An issue with water to fight fires and that can be mitigated with smoke detectors and carbon monoxide detectors. There are a lot of issues here that seem to be mitigated. In his own mind he has an issue with compatibility but the question that has to be addressed is if it is lawful. Compatibility with land owners shall be assessed and that has to be reviewed.

Commissioner Stoddard feels that if we allow this in agricultural areas it is not good for the county or the people who are in the agricultural business. He doesn't feel that they should have to be subject to this.

Commissioner Hurt does not feel that this is clear enough in his mind to make a recommendation.

Commissioner Miller wants to study this a little longer. He doesn't feel that he can make a good sound decision at this time.

Commissioner Lee Miller made the motion to reschedule this discussion for April 11, 2011 at 10:10 a.m. Commissioner Jordon Stoddard seconded the motion. A full voice vote was heard with all voting in favor.

Sewer Supervisor Dan Lostutter RE: Snowfluent Presentation

Mr. Lostutter showed the commissioners some pictures of the snow hills that are formed from making snow out of wastewater. We have already put out more than we have in previous years. There was an incident a week ago Sunday where there were people sledding on the snow piles and they were asked to come down. They had crawled all over the piles. The piles are about 44 million tons. There is signage all over warning people to stay off the piles. They stated that they did not see the signs and walked in on the snow mobile trails. Mr. Lostutter would like to either fence it or buy a snow cat and every two days push the snow around so it doesn't make the large piles that it does now. He presented two estimates on snowcats. The Tucker Snowcats are smaller than what they use to groom the trails with. He can put a crane on the back of these to help maintain the lift stations. We currently have three lift stations that are running on one pump because he can't get to them without tearing up snow mobile trails. If we had this with a crane on the back we could take care of them effectively. Road and Bridge does not charge for plowing when they have to get into a lift station to do repairs. We work together. We have 13 lift stations that we have plowed out. Last Chance alone has been done 4 times. They have a trailer for this that they use for the backhoe. They have a jet rodder that we can put skis on to assist us as well.

Parks & Recreation Director Tamra Cikaitoga feels that the Tucker snowcat is a better machine and it has more horsepower. She has a little bigger machine. The service that he will get from Tucker snowcat representatives can't be beat. We have had good luck with the Tuckers. Snow Groomer Foreman Terry Martindale and the crew are very experienced with these and can help them a lot. They are made for pushing the snow. They have a rubber track and there are a lot of different uses.

The Tucker estimate was \$140,000, and the Piston Bully was \$122,000. Fall River Electric demoed these and the Piston is 199 horse and 130 horse for the Tucker. There is a state bid contract that we could possibly piggyback. However we can find out if we can get in on this. The Tucker Company would probably pay to send a couple of guys up to be trained. Discussion was held on how they steer. All four tracks can be independent. Rubber tracks are recommended because they have less maintenance.

Mr. Lostutter stated that six or seven years ago we started having problems with the pressure lines. We would be able to get to the pressure lines for repairs easier. We are going to try to plow one pressure line tomorrow.

They won't help with this winter. They will more than likely have to build it for him. They are custom made. He has found some older ones but they are not set up the way that he needs it.

Public Works Director Marla Vik feels that the safety factor alone is worth it plus to maintain the sites. They could have used it 13 times just this year to get to lift stations. The Tucker can hold 1000 lbs and the crane is about 500 lbs. Most pumps are not terribly heavy. A couple are that are almost 1000 lbs. The heavier ones we can usually get to with the help of road and bridge or a contractor.

Commissioner Lee Miller made the motion to have Dan Lostutter go forward and explore costs and bidding process. Commissioner Jordon Stoddard seconded the motion. A full voice vote was heard with all voting in favor.

Road Maintenance Resolution

Ms. Vik presented a map to the commissioners regarding road maintenance determinations. Discussion was held on which roads we plow and which ones we don't. The proposed resolution was reviewed.

Commissioner Lee Miller made the motion to adopt Resolution 2011-10 Classify Road Maintenance Policy & Procedures. Commissioner Jordon Stoddard seconded the motion. A full voice vote was heard with all voting in favor.

Clerk Abbie Mace RE: Reimbursement for Plowing Roads

Prosecuting Attorney Lookabaugh will be answering the request from Huckleberry Loop road.

Social Services – Debbie Adams Re: Indigent Claims

Cancelled

Miscellaneous

Commissioner Skip Hurt made the motion to approve the minutes for March 7th, Public Hearing Noskire Appeal March 9th, Public Hearing Yellowstone Retreat March 9th, Public Hearing Richard Horner/Draper Appeal March 10th, Public Hearing Stoddard Brother/Huber Appeal March 10th, March 14th, Public Hearing Preferred Land Use Map March 15th and March 21st. Commissioner Jordon Stoddard seconded the motion. A full voice vote was heard with all voting in favor.

Commissioner Jordon Stoddard made the motion to amend the agenda to discuss bids for remodel on newly purchased annex building. Commissioner Lee Miller seconded the motion. A full voice vote was heard with all voting in favor.

Commissioner Stoddard would like to have the permission to simply give the bid rather than bring it to the commissioners. The commissioners are fine with him making that decision because the cost is under \$5000.00 and meets the legal qualifications to do so.

Commissioner Lee Miller made the motion to allow Commissioner Stoddard to award the bid on remodeling the south annex building and to take the funds from Buildings and Grounds.

Commissioner Jordon Stoddard seconded the motion. A full voice vote was heard with all voting in favor.

Discussion was held on vacated roads and what the county's responsibility is.

Commissioner Lee Miller made the motion to amend the agenda to go into Executive Session 67-2345 (b). Commissioner Jordon Stoddard seconded the motion. A full voice vote was heard with all voting in favor.

Commissioner Skip Hurt made a motion to go into Executive Session pursuant to IC 67-2345 (b) to consider the evaluation, dismissal or disciplining of or to hear complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student at 11:14 a.m. Commissioner Jordon Stoddard seconded the motion. A roll call vote was taken with Commissioner Jordon Stoddard voting "Aye", Commissioner Lee Miller voting "Aye", and Commissioner Hurt voting "Aye". Commissioner Skip Hurt declared the meeting open at 11:40 a.m.

Commissioner Jordon Stoddard made the motion to amend the agenda to include the inmate telephone agreement and the contract for cleaning the annex building. Commissioner Lee Miller seconded the motion. A full voice vote was heard with all voting in favor.

Discussion was held on the phone system for the inmates with Sheriff Len Humphries.

Commissioner Lee Miller made the motion that we sign the contract for telecommunication for the inmate telephone system. Commissioner Jordon Stoddard seconded the motion. A full voice vote was heard with all voting in favor.

Discussion was held on an estimate for the janitorial services for the annex building. Commissioner Stoddard will discuss this with Prosecutor Lookabaugh.

Commissioner Skip Hurt made the motion to approve the claims for March 28, 2011 as submitted. Commissioner Jordon Stoddard seconded the motion. A full voice vote was heard with all voting in favor.

Commissioner Skip Hurt made the motion to amend the agenda to include an Executive Session 67-2345 (b). Commissioner Jordon Stoddard seconded the motion. A full voice vote was heard with all voting in favor.

Commissioner Skip Hurt made a motion to go into Executive Session pursuant to IC 67-2345 (b) to consider the evaluation, dismissal or disciplining of or to hear complaints or charges brought against a public officer, employee, staff member or individual agent, or public school student at 12:13 p.m. Commissioner Jordon Stoddard seconded the motion. A roll call vote was taken with Commissioner Jordon Stoddard voting "Aye", Commissioner Lee Miller voting "Aye", and Commissioner Hurt voting "Aye". Commissioner Skip Hurt declared the meeting open at 12:38 p.m.

There being no further business to come before the board, the meeting was adjourned.

Skip Hurt, Chairman
Fremont County Commission

Attest: _____
Abbie Mace, Clerk