



## PLANNING & ZONING COMMISSION MINUTES

Wednesday, November 9, 2011

The regular meeting of the Cochise County Planning & Zoning Commission was called to order at 4:00 p.m. by Chair Lynch at the Cochise County Complex, 1415 Melody Lane, Building G, and Bisbee, Arizona in the Board of Supervisors Board Room

### CALL TO THE PUBLIC

Chair Lynch said that, seeing no members of the public in the audience, that the Call to the Public would be skipped.

### ROLLCALL

Chair Lynch noted the presence of a quorum. He instructed the Commissioners to indicate their presence and their respective Districts.

1. **Present:** Jim Martzke, Duane Brofer, Rusty Harguess, Jim Lynch, Ron Bemis, Gary Brauchla, Pat Edie, Cruz Silva
2. **Absent/Excused:** Dan Abrams

### APPROVAL OF THE MINUTES

Mr. Lynch called for a motion to approve the minutes of the September 14, 2011. Mr. Brofer made the motion; Mr. Martzke seconded. The motion passed with seven in favor and one abstention.

**Motion:** Motion to approve the minutes with the correction stated,

**Action:** Approve, **Moved by** Duane Brofer, **Seconded by** Jim Martzke

**Vote:** Motion passed (**summary:** Yes = 7, No = 0, Abstain = 1)

**Yes:** Jim Martzke, Duane Brofer, Jim Lynch, Ron Bemis, Gary Brauchla, Pat Edie, Cruz Silva

**Abstain:** Rusty Harguess

### *Item 1*

**PUBLIC HEARING, DOCKET SU-08-10A (Walnut Gulch Holdings, LLC):** The Applicant, Walnut Gulch Holdings, LLC, requests that the Commission table Docket SU-08-10A to a time certain, namely, to the February 8, 2012 meeting. The proposed modification to the approved Special Use would allow the airstrip to be paved and become an airport for a future airport

subdivision. Fort Huachuca, Libby Army Airfield, and the Federal Aviation Administration have all expressed concern about the resulting increase in air traffic through restricted airspace that already sees a considerable volume of flight operations. The Applicant has asked to table the Docket in order to attempt to reach a compromise solution to the issue with the aforementioned parties.

Chairman Lynch stated staff's recommendation to table the Docket to a time certain (February 8, 2012) and called for the staff presentation. Senior Planner Keith Dennis provided a brief explanation of the Docket, which is a request to modify approved Special Use Permit for a private ranch airstrip. The 2008 approval was conditioned with restrictions limiting the use of the airstrip, as well as the types of aircraft eligible to use the strip. The Applicants now seek Commission approval to allow the airstrip to be used as the runway for a proposed airpark subdivision. Staff's transmittal of the Docket elicited concerns from Fort Huachuca and the FAA. The Applicants asked to have the Docket tabled until the February meeting in order to afford them time to address these concerns prior to Commission action.

Martzke made the motion to table Docket SU-08-10A to the February meeting; Ms. Edie seconded and the motion passed (8 – 0).

**Motion:** Motion to table Docket SU-08-10A

**Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Pat Edie

**Vote:** Motion passed (**summary:** Yes = 8, No = 0, Abstain = 0)

**Yes:** Jim Martzke, Duane Brofer, Rusty Harguess, Jim Lynch, Ron Bemis, Gary Brauchla, Pat Edie, Cruz Silva

**Abstain:**

Mr. Turisk then spoke, and indicated that the Applicant for Docket SU-11-12 was present. Chairman Lynch then called for the staff presentation on the Docket.

## ***Item 2***

**PUBLIC HEARING, Docket SU-11-12 (Radio Bilingue):** The Applicant seeks a Special Use authorization from the Planning and Zoning Commission to install an 80-foot radio transmission tower with a satellite dish enclosed in security fencing, along with an eight-foot by twelve-foot pre-fabricated secured equipment maintenance shelter. The Cochise County Zoning Regulations permit a Wireless Communication Tower exceeding 30' in height per Section 607.38, with a Special Use authorization. The subject property (Parcel No. 410-01-004D) is located on the south side of Geronimo Trail, just east of the Douglas airport and approximately 1,500 feet west of Milepost 2, Douglas, AZ.

**Applicant:** Buck Lewis Engineering representing the Applicant, Radio Bilingue.

Beverly Wilson, Interim Planning Manager presented Docket SU-11-12, (Radio Bilingue): in which the Applicant seeks a Special Use authorization from the Planning and Zoning Commission to install an 80-foot radio transmission tower with a satellite dish enclosed in security fencing, along with an eight-foot by twelve-foot pre-fabricated secured equipment maintenance shelter. The Cochise County Zoning Regulations permit a Wireless Communication Tower exceeding 30' in height per Section 607.38, with a Special Use authorization.

The subject property (Parcel No. 410-01-004D) is located on the south side of Geronimo Trail, a 9.5 acre parcel on "D Hill," just east of the Douglas airport and approximately 1,500 feet west of Milepost 2 in Douglas, AZ. Teresa Price of Buck Lewis Engineering represented the Applicant, Radio Bilingue.

Ms. Wilson explained the details of the Docket through explanation and photo evidence, and further explained the Docket in terms of the site development standards for wireless communication facilities set forth in Section 1813 of the Zoning Regulations. The need for a co-location study, the height and setback requirements, and the standard requiring an anti-climbing security fence were all explained by Ms. Wilson.

She then listed factors in favor of approval, most notably compliance with applicable Special Use factors as well as the capacity of the proposed tower for future co-location of other wireless communication equipment. Staff cited no factors against approval, and concluded the presentation.

Chairman Jim Lynch then invited Commissioners to question staff on the Docket. Mr. Bemis indicated that the materials provided by the Applicant relative to FAA compliance and approval expired in November of 2010; he asked if the approval had been extended or if it would be prior to operation. Ms. Wilson explained that the Applicant was present and could answer the question in more detail, but her understanding was that such approval was in the works.

Mr. Lynch then called for the Applicant, Ms. Teresa Price of Buck Lewis Engineering, and explained to her the terms of her testimony. Ms. Price provided a brief introduction to the work and regional broadcast area of her client, Radio Bilingue, and indicated she was present primarily to answer questions from the Commission rather than provide a pre-prepared presentation.

Mr. Silva asked Ms. Price the height of the next highest tower on D Hill. Ms. Price said the tower was 38 feet tall and was designed to accommodate a lower frequency radio signal, and that as such, the radio spectrum capacity of the existing tower was insufficient for Radio Bilingue's needs.

Mr. Bemis repeated his question regarding FAA approval and compliance to Ms. Price. She said that the FAA had been given updated information, and that the prior approval was valid up until construction was complete.

Mr. Lynch declared the public hearing for this Docket open; seeing no one who wished to speak, he closed the public hearing and invited discussion amongst the Commissioners. Seeing no such discussion, he then asked for the staff recommendation. Ms. Wilson offered a recommendation of conditional approval, and explained the conditions recommended.

Mr. Lynch called for questions and/or discussion of the recommendation. Seeing none, he called for a motion. Mr. Martzke moved to conditionally approve Docket SU-11-12 with the approval conditions recommended by staff; factors in favor being the findings in fact. Mr. Silva seconded the motion, and it passed unanimously (8 – 0).

**Motion:** Motion to conditionally approve Docket SU-11-12 with the approval conditions recommended by staff; factors in favor being the findings in fact.

**Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Cruz Silva

**Vote:** Motion passed (**summary:** Yes = 8, No = 0, Abstain = 0)

**Yes:** Jim Martzke, Duane Brofer, Rusty Harguess, Jim Lynch, Ron Bemis, Gary Brauchla, Pat Edie, Cruz Silva

**Abstain:**

### *Item 3*

#### **PUBLIC HEARING, Ordinance, Bylaws, and Mentoring Guide:**

The Chairman then explained that a brief work session would now take place, particularly as regards what he described as “attendance issues” amongst the Commissioners. He explained that he had been in consultation with staff, Chairman of the Board of Supervisors Pat Call, and had also attended Commission workshops at the recent Arizona Planning Conference. As a result of these consultations, it would be necessary to update the Commission’s By-Laws, particularly regarding attendance. He suggested that the secretary call for a quorum earlier than usual to verify the attendance ahead of each meeting, and maintain a spreadsheet tracking attendance. The Chairman would utilize this document to track attendance, and that in the event of two unexcused absences, would confer with the appointing County Supervisor to discuss whether or not to allow that Commissioner to continue serving on the Commission.

Mr. Bemis stated his approval of Mr. Lynch’s suggestions and explained that these would provide a process for mutual accountability on the part of the Commission.

Mr. Martzke stated his preference for receiving the quorum call by email rather than by telephone.

Mr. Lynch stated that the Commission would not make a decision on the matter at this meeting, but enjoined his fellow Commissioners to review the By-Laws and make their recommendations as to how these should be changed.

Mr. Brofer asked to have the language in question pointed out in the By-Laws, which Mr. Lynch provided.

Mr. Lynch asked the Commissioners and staff to review the By-Laws and Ordinance establishing the By-Laws, and send him comments.

Interim Planning Director Michael Turisk explained that in earlier times the Commission would meet with the Board of Supervisors on an annual basis for a work and planning session. He stated that this event should be revived and again put into practice.

Mr. Brofer stated that the requirement in the By-Laws that the Commission meet at least once per month. He stated that, since there was no meeting in October, the Commission was out of compliance with this section of the By-Laws. He suggested it be changed.

Mr. Lynch again admonished the Commission to collect and return to him comments on these issues.

Mr. Lynch suggested that new members of the Commission be provided more information regarding the Commission’s purpose and procedures, and that sitting Commissioners mentor new members upon appointment.

Mr. Lynch turned his attention to the matter of Commissioners’ communication with each other and with outside agencies. He explained that the Commission dealt with technical and social issues, and that in the case of outside agencies such as state and federal agencies, County policies regarding these

issues were set by the Board of Supervisors. Staff is tasked with implementing those policies, and he recommended that the Commission not spend much time discussing, or basing a decision on policy issues already in place and beyond the Commissions' purview.

Mr. Bemis stated his agreement with Mr. Lynch regarding the need to stay focused on matters within the purview of the Commission, but warned against adhering too closely to such admonishments, citing the need to occasionally press such issues in an attempt to gain knowledge of more subtle facts or issues of a given case.

Mr. Lynch invited the Commissioners to consult with staff at any time, particularly in advance of any meeting, regarding technical or other considerations or questions should the need arise, and that such consultation was legitimate and would not violate open meeting laws. He reiterated the importance of not basing a decision on a land use matter upon the concerns of outside agencies. He then asked some of the more long-term members for their input on this matter.

Mr. Martzke pointed out that outside agencies, in particular ADOT, were sometimes inconsistent with regard to their requirements. He offered an anecdote regarding a power line across the highway in Tombstone as an example of inconsistent standards and enforcement. This he offered in support of Mr. Lynch's comments, stating that variations in state standards are a challenge for staff and should be considered but only up to a point.

Mr. Bemis stated that a thorough understanding of technical issues, even those raised by outside agencies, was nonetheless crucial for Commissioners, who may be called upon by the appointing Supervisor to justify their vote on a given land use issue.

Mr. Lynch then discussed justification for votes. He said that his consultations with other Commissioners from around the state revealed that nearly all votes among surveyed Commissions statewide were unanimous. He stated the importance of Commissioners' ability to justify why they vote the way they do, and suggested that Commissioners may want to state for the minutes the reasons behind their votes on Dockets, so that the record of such is preserved and may be reviewed later, particularly by the Supervisors.

Mr. Bemis asked for clarification on this suggestion, which Mr. Lynch provided.

Mr. Martzke stated that rulings on controversial issues would in particular benefit from such a practice, but that in less controversial Dockets this may not be as necessary.

Mr. Lynch again asked Commissioners and staff to return comments to the Chairman regarding changes to the Ordinance and By-Laws.

There was a brief discussion as to how and when the changes might be heard and acted upon by the Commission in the ensuing months.

Mr. Brofer suggested that public input be given more consideration in future proceedings. He asked why the Commission should entertain comments from the public if they are not going to be taken seriously. He suggested that Applicants should be admonished to work more closely with the public to resolve issues prior to a public hearing.

Mr. Lynch spoke to the division between technical and social issues, the latter being more emotional. He spoke to the need to balance the two, stating that the social issues can sometimes outweigh the technical. He reminded the Commission of the public's right to appeal any decision by the Commission.

Mr. Martzke suggested that to the extent that staff receives comments from the public, opposition nearly always outnumbers support – and that opposition can be based on anything from thoughtful, reasoned concerns to emotional objections divorced from the technical issues surrounding a case. He stated that public input can influence the Commissioners' votes as much as technical issues regardless of the contents of such objections, but that sometimes the public does not object to a use until after it has been approved and the time for comments has long passed.

Mr. Bemis stated that as the County population and population density continue to grow, land use conflicts will increase. It is incumbent upon the Commissioners, he said, to read and understand Dockets so as to render good, informed decision making on land use cases. He also expressed concern about the he characterized as a lack of public participation in public hearings.

Mr. Lynch called the discussion regarding the By-Laws to a close, and asked for the Planning Director's Report.

## **PLANNING DIRECTOR'S REPORT, INCLUDING PENDING, RECENT AND FUTURE AGENDA ITEMS**

Interim Planning Director Michael Turisk delivered the Director's Report, beginning with a report of the Board of Supervisors' decision on the Easter Mountain Ranch rezoning in the J-6 area.

He stated that two Special Uses would be heard by the Commission in December: a 20MW solar power plant, and a residential care institution, each of which was in the vicinity of Douglas, AZ. A Tentative Plat extension request for the Rio Mesa subdivision was also on the agenda, as were two regulation change Dockets, relating to Lot Modifications and Enterprise Redevelopment areas.

Mr. Turisk concluded by wishing the Commission a Happy Thanksgiving.

## **ADJOURNMENT**

Mr. Lynch called for a motion to adjourn. Mr. Brofer moved to adjourn; Mr. Bemis seconded and the meeting was adjourned at 5:10 p.m.