

COMMISSIONERS APPROVAL

IMAN 

CHILCOTT 

FOSS 

KANENWISHER 

STOLTZ 

PLETTENBERG (Clerk & Recorder)

Members Present.....Commissioner J.R. Iman, Commissioner Greg Chilcott, Commissioner Suzy Foss, Commissioner Ron Stoltz and Commissioner Matt Kanenwisher

Date.....March 18, 2011

► Minutes: Glenda Wiles

► The Board met for the continued public hearing of a motor vehicle wrecking yard on Angel Lane. This meeting is continued from March 11, 2011. Chairman Iman called the meeting to order at 9:00 a.m. Present at this meeting was Environmental Health Director Lea Guthrie and numerous citizens.

Commissioner Iman noted the minutes of March 11, 2011 are draft minutes in the process of being edited and are not the official minutes of the Board. Commissioner Iman indicated Mr. Nickerson was to discuss issues of potential mitigation with the neighbors.

Clint Nickerson stated over the past week he sent his neighbors and Commissioners a packet of the procedures his business plans to implement for the purposes of safety. He noted even if the Commissioners approve this location he still has to pass Federal EPA compliance. He then addressed various historical maps including 1995 which show many wrecked cars (approximately 700); 2004 which shows Paul Weirs scrap yard; 2009 which shows many commercial businesses. He noted right next door to this location is rail tracks used for transport. Clint feels someday this whole area is going to be commercial. An example is that Merchant's Delivery is right down the road.

Clint also presented a map of the facility and what his business plans to do. Immediately they plan to build a 10' high fence as well as plant some shrubs along the lane (within the easement). He stated the gate will remain and he is working on placing a culvert across the ditch as well as working with the Road Department for an approach permit. Phase two of this project site will also improve the entry at the corner of Angel and Old Corvallis. Clint stated the history of this location shows junk cars, thus he disagreed on

the value of the area being decreased from his business. He felt the fence and shrubs will make the area look better and also increase the property values. He still wants to have a car crusher at north east side of the lot, noting there will be large machinery and semis. He has lived in the Bitterroot all his life noting the 'whole county is already a mess'. He reiterated that this is a high traffic area with numerous commercial businesses. He feels this business is progress and he plans to make his business safe for the environment and follow the EPA rules.

Commissioner Iman then called for public comment.

Darcy Cody stated the rail road tracks only run a train once a month, nothing this area is not high industrial. In regard to the history of having junk cars on this parcel, Doc Ward restored the vehicles, and they all ran. The parcel has never been considered a wrecking yard.

Steve Zech stated he owns property on this lane noting the property is 5 acres and includes a log home. In 2004, the county passed regulations not allowing home owner to rent or lease out a separate building. He asked if this is a violation of that policy.

Sheryl Ireland stated they did haul three cars away of Doc's and not all of them ran. She noted the 2004 policy addresses one house per two acres.

Nancy Balance stated the March 11th draft minutes reference the need for a facility of this type in valley. She stated her property tax bill addresses the disposal of junk cars and asked for an explanation of that junk vehicle program. Environmental Health Director Lea Guthrie explained the junk vehicle program noting the use of state budgeted dollars in order to haul off non-operating, non-licensed vehicles and have them crushed. The program does not take in any campers, or metals of all kinds, just junk vehicles.

Raylene Ireland stated she lives on 40 acres south of Darby. She indicated she has materials from her property that can fill the swale referenced on the site map. She asked how many Commissioners have visited this proposed location, because they cannot personally pass judgment unless they have seen it. She also asked what is the time frame for the junk vehicles to be hauled (referring to the junk vehicle program).

Diane Ayers stated she has lived on the next lane for the past 30 years. She is delighted to have someone start a recycling business in the county but has concern for the location due to their shallow wells in the area. She asked Clint if he has plans for disposing of garbage that comes out of a used vehicle which will also include anti freeze, transmission fluid, brake fluid, power steering fluid, Freon and oil. She asked if the materials go into a 50 gallon drum, how frequently would that drum be picked up as she is very concerned what happens when the drum gets spilled.

Clint noted this is a valid concern and explained the waste is disposed of once every three weeks by a hazardous waste business. There is a particular piece of equipment called the Enviro Rack which is designed to process the vehicles (oil etc.) and they could purchase

that equipment handling the materials differently than what they do now. He confirmed they do handle the materials according to the requirement even without this piece of equipment.

Commissioner Kanenwisher asked if the log home is on the same lot as the business. Clint stated the log home is on the lot being rented and if business location is approved the owner of the parcel can split the log home off from the business.

Bob Kaphammer is a neighbor to the previous location of Clint's wrecking yard on Highway 93 just south of Hamilton. He has pictures of that yard from 2008 when the site was under investigation for not having a license. Bob noted DEQ had sent a letter advising Clint of an inspection and after Clint received the letter several vehicles disappeared before the inspection. The inspection noted no problems. Bob also noted after the inspection numerous cars and tires were back in the yard. He stated past actions are future behavior.

Present now was Interim Planning Director Tristan Riddell. Commissioner Kanenwisher asked Tristan about the parcel with a log home being rented as well as a business. Tristan indicated if it is a permitted structure and in existence, having the log home and business is not a violation of lease of rent.

Commissioner Foss asked Lea Guthrie about the document showing multiple visits to the previous location south of town. Lea indicated she met with Clint several times at their previous site south of Hamilton noting they had more than adequate shielding, and in fact did more than required. She was impressed with their fence. In general, they had very neat piles, and the gates were locked in the evening.

Brad Allen lives right across the street from the Angel Lane location. His well is in front of his house. He stated he does not mind what their business but he has the well water concern as well as the fact that Clint's dogs run around the neighborhood. Brad noted Clint's piles are neat but why does he put them right on the ground? He notices different kinds of appliances and wonders if they and the cars are leaking. If Clint has the funds to install a fence, why not buy your own property, then if there is a problem down the road then he will be responsible and not his Uncle who owns the property.

Land Hansen, Planner for the City of Hamilton asked the Commissioners to take into consideration the Old Corvallis Road Corridor, which was a joint endeavor of the City and County for future land use. He stated this type of land use was not seen when the corridor was developed. He suggested the Commissioners look at what the plan was for this corridor. The Fair, GSK and Pharoplex are part of the corridor plan but not a wrecking yard.

Roy Vallejo lives across the road on Angel Lane. He bought his property in 1972 and he is vested in the area. Clint is not buying this property, he is simply renting it and as such he can pick up and move anytime. Some people were unhappy with Doc Ward's cars and Doc finally got tired of hearing the complaints so he moved them. None of the neighbors

want an eye-sore in their neighborhood. He stated this type of business at this location will not enhance the community view.

Sheila Vallejo lives at 49 Angel Lane. She said Clint mentioned something about digging a container (3' down into the ground), and her concern is what goes in won't come out. She addressed the 18" separation of ground water noting we have tremors here as the county is on a fault line. She stated this is an illegal facility and has been illegal since 2008. Clint has received letters from DEQ telling him to come into compliance. She asked what guarantee does the neighbors have that Clint will come into compliance. How long does he get? There are numerous pot holes on Angel Lane and some neighbors share the cost of repair. But not everyone has helped, which includes Clint. In regard to the fence, Clint says in his letter an 8" size is good, then today he says 10", but 12" is preferable. In regard to parts, Clint says he won't sell parts then says he will. She had no complaints that Clint has a good idea and recycling is needed but not by in a residential neighborhood. If commercial businesses keep coming to the area, then we can sell our property to Clint. She agrees with Roy, as a renter Clint is not invested in the neighborhood.

Gene Honey owns a towing company on Old Darby Road and is a licensed wrecking yard. He stated Clint is out of compliance by DEQ. He knows Clint has received numerous letters on his non-compliance over the past two years. Commissioner Iman advised Gene to present only new information. Gene stated Clint should stop because he is out of compliance for two years and seven months.

Commissioner Foss asked who does the inspections on Gene's business. Gene indicated Ravalli County does under their contract with the State.

Bob Kaphammer asked how or what will Clint do with the tires and if there would be people living in empty school buses.

Nancy Balance asked about the disposal program and if the facility licensing can be for an 18 month period and revoked if he shows non-compliance.

Glenda noted three emails have been received for public comment, all three being against the location: Brian and Trudy Lenz, Jennifer Tucker, Kathy and Boy Hammer, plus on site pictures from Sheryl Vallejo.

Clint stated Gene is terrified that his business will be a threat to him. He stated he is not licensed yet and no one will find evidence that his business had any pot on it. The issue is whether this location works for this business, not whether he is within the confines of the law. That is between him and DEQ.

Commissioner Kanenwisher stated he wants to correct a comment he made earlier. In regard to the for lease or rent issue, he thought Steve Zech brought up a good point but the Interim Planning Director noted this business would not violate any policy.

Commissioner Kanenwisher then read MCA 76-3-202 which addresses exemptions for structures; therefore he will accept Tristan's comments as authoritative.

Commissioner Chilcott read MCA 75-10-516 (a) which reads the 'governing body may conduct a public hearing to determine whether the proposed facility will significantly affect the quality of life of adjoining landowners and the surrounding community'. So the Commissioners need to determine if the location significantly affects the adjoin landowners with their findings of fact. He noted the adjoining land owners are making their comments and it is not for him to say otherwise as he is not a neighbor.

Commissioner Foss stated she has been to this property noting this decision is not easy. For her it boils down to one issue that is the map which shows the area is moving to commercial. A saddle business is located on Angel Lane, and housing motor vehicles is not new to this corner lot. In regard to water concerns, the Environmental Health has given a glowing report of this business, plus the personal comments of Sanitarian Rod Daniel who gave an endorsement to this location and facility. Right now it is an eye sore but a fence and shrubs will help. Someone else could bring in a business that is worse than this one.

Commissioner Stoltz stated historically this has been a parcel with some type of motor vehicle business on it and he does not see much of a change with a motor vehicle wrecking facility housed there. Installing a fence and some shrubs plus moving the driveway will help the view of the facility. He also noted the water quality will be addressed by DEQ. Therefore he does not see any problems with this location being a wrecking yard.

Commissioner Chilcott noted the adjoining landowners have testified to the significant affect on their neighborhood. He appreciated that Clint is attempting to mitigate the visual impact. He also has concern with the number of inspections DEQ will make and what happens if antifreeze ends up in the wells.

Commissioner Iman addressed the aerial map, noting the green streak from Farmers to Bell Lane (runs behind the hay barn) represents the high ground water. He has significant concern about this. Some of the neighbors have concerns about what has not happened yet. There are numerous other properties along Old Corvallis Road that are business locations, so what are the conditions that this motor vehicle wrecking facility may be allowed to exist. Commissioner Iman noted the person who is conducting this business does not have a commitment in the land which makes the opportunity for non compliance huge. The renter can simply leave the parcel if a problem occurs, which he sees as a problem in the law. The residence on this parcel is pre-existing and not illegal. He stated he has serious concerns on how to enforce the issues after the fact.

Commissioner Kanenwisher stated he has looked at the map in regard to commercial areas and has driven the area as well. The only criteria this body can consider are the quality of life for the neighborhood. While he listens to the historical complaints of how

this property has been uses, he actually sees how this application will bring this under some authority where there was none otherwise.

Commissioner Foss addressed the historical use of the parcel being for the storage of vehicles. She agrees that if passed there would be some regulations and she will be looking at how quickly Clint will comply with the requirements of his license. She too has concerns over the vesting of the renter.

Commissioner Iman suggested they qualify the significant impact under MCA 75-10-516 (2-a).

Commissioner Chilcott asked Clint about doing something similar to this kind of business if he does not receive a license. Clint stated he does not need the Commissioners' approval to obtain a towing license. He needs the wrecking facility license because he dismantles some of the cars. He could just haul the junk cars to Salmon, Idaho, and dismantle them there but that is not good business.

Commissioner Iman asked for a point of clarification from Gene Honey in regard to having towed cars behind a fence. Gene stated his towed cars go behind a fence.

Commissioner Foss asked Clint if he only towed vehicles would he also have a fence in order to shield the vehicles. Clint stated he wants the two licenses, one for solid waste and one for hauling junk vehicles. If he has more than four junk vehicles, they must be shielded.

Lee confirmed shielding is necessary; it is when the vehicles are processed, then a separate license if required.

Commissioner Kanenwisher stated until this point the neighbors of the area could not require anything of a business at that location, but at least with this application the county and DEQ will require a number of things (regulatory oversight), and Clint has offered to do a lot of things that he does not have to do.

Lee relayed in regard to actual license process, the state advised her if Clint is making a good effort in being compliant they will continue to work with him.

Commissioner Kanenwisher made a motion to support this location for the motor vehicle wrecking facility. Commissioner Stoltz seconded the motion. Discussion of the motion: Commissioner Chilcott stated they need to have a finding of fact.

Commissioner Iman concurred. Findings of Fact:

- **Commissioner Kanenwisher noted the physical attributes and topography under the site assessment by the Environmental Health, 1-2 are credible.**
- **Commissioner Iman there is high ground water and high water table in the area, so this is a significant concern.**

- **Commissioner Kanenwisher noted this area is included in the neighboring municipality, and the City has identified this area as “Area 2 Old Corvallis Road Corridor with future residential growth.**
- **Commissioner Chilcott noted the need for the neighbors to have a view shed and the applicant has agreed to install a 10” high fence as well as shrubs for mitigation purposes.**
- **Commissioner Chilcott noted the neighbors have consistently said this location will affect the quality of life, and the land owner is aware of the liability he incurs.**
- **Commissioner Stoltz noted the area map shows there is significant commercial activity in the area.**
- **Commissioner Kanenwisher noted the historical use of this property for motor vehicle related businesses/operation, the last one being Kevin Ansell**
- **Environmental Health noted there is a septic approval for small auto shop on that property.**

Outside the findings of fact, but a personal comment, Commissioner Chilcott stated for the record this law is difficult because who else can make the determination that this location is signification except the people who live there. Therefore he will vote against this motion.

The Commissioners concurred to accept findings of fact and as such Commissioner Kanenwisher noted his motion includes the location of this motor wrecking facility will not affect the quality of life of adjoining landowners and the surrounding community, with the resolution being forwarded to the Department of Environmental Quality. Commissioner Chilcott and Commissioner Iman opposed this motion. Commissioner Foss, Commissioner Kanenwisher and Commissioner Stoltz approved the motion. Motion carried. (See Resolution No. 2667).

Commissioner Iman noted the local Environmental Health Department does not have authority over this site, the state DEQ does.

Lea stated DEQ will issue the environmental assessment and there will be another 30 day window by citizens for comment.

Commissioner Foss told Clint to go above and beyond and have good communication with neighbors. Clint concurred.

► In other business the Board met for a working session for Subdivision Regulations Revisions Chapters 2, 3 & 4 at 10:45 a.m.