

Planning Commission and the Board of County Commissioners Joint Hearing
February 26, 2013

I. CALL TO ORDER

Chairman Dwight Freeman called the meeting to order at 1:40pm; other members in attendance; Vernon McCallister, Gene Glover, Mike Mitchell, Grover Hathorn and Rose Vanderpool, Secretary.

Members absent: Leonard Brown

Others Present: See attached list.

II. Acceptance of Agenda:

III. Accept Minutes:

IV. NEW BUSINESS: Chairman Freeman and Chairman Shriver explained to the audience the outline of today's proceeding;

1. Mr. Monsson will explain his recommended revisions to the Rio Grande County Oil and Gas Regulations Article XII. Addendum.
2. Questions from the Planning Commission and/or the BoCC to Mr. Monsson
3. Questions from public to Planning and Zoning, BoCC and/or Mr. Monsson
4. Recommendations from Planning Commission to approve in whole or in part
5. BoCC final action

Mr. Monsson proceeded with a power point presentation in which he explains the changes; there are policy issues that still need to be worked out, incorrect language. Mr. Monsson explained county authority verses state, pre-emption who controls. There we eighteen separate definitions not used anywhere in the regulations, penalties and enforcement, laws, findings really don't have a place in these regulations; sound, color of equipment are duplication of COGCC Rules, there is no need to mirror COGCC Rules; changes to the Surface Owner Bill of Rights to Notice Owner of Rights. Mr. Monsson added to the transportation, fire, emergency response and county roads requirements. Performance bonds were discussed and Mr. Monsson states that collecting on a bond is tough and eliminated Performance Bond and added Financial Assurance specific to roads and for erosion control. Mr. Monsson suggested to the Board to delegate existing regulations to allow Land Use Administrator to approve minor changes, for instance; if a new well comes in and is over 2 miles from any building or residence may be approved if it is determined by the LUA to be a minor issue if not then the LUA will move it forward through the process. Water compliance, added new ground water testing language (what-when-who) I didn't take that out even though the CoGCC has this in place. I did change a few things with exact language requirements, must post frac chemicals on fracfocus website, he also added that flowlines and gathering lines are gps'd and recorded with the Clerk and Recorder's Office as well as call before you dig program.

Discussion points

1. Setbacks (500' – 1000' be consistent with the CoGCC Rules)
2. Administrative Approval for minor changes
3. Water sampling and testing (data to be shared with property owners)
4. Notice of owner's rights
5. Duplication of CoGCC Rules or not
6. Flowline/gathering lines

Chairman Freeman asked if requesting for gps location and recording with the Clerk's Office was unusual. Mr. Monsson was not sure of the practice but expressed the importance of requiring it. How are they marked? Mr. Hathorn is a Building Contractor and always calls the call before you dig and the locations are not always accurate of where those lines are. Discussion was held in regards to what type of markings would work or be required.

Water sampling requirements can be equal to state but can we be more restrictive than the state? Mr. Monsson stated that the county can legitimately mirror state rules but added what you sample for is only as good as what you test for. The State covers what you need. Baseline, subsequent testing. If you don't go too far with what the CoGCC requires you should be okay. Chairman Freeman asked if the state shares with the county the results/data from water sampling. Mr. Monsson stated that you could certainly request the lab results from CoGCC as well as sending a copy to the well owner.

Karla Shriver asked Mr. Monsson if we could add something that would address procedurally that (any) application would not come before the commissioners until all the requirements of the Planning and Zoning have been met. Mr. Monsson stated that the P&Z could make their recommendations pending whatever additional information has been asked for and/or agreed upon has been fully submitted to the Land Use Administrator, and then move on with scheduling a hearing to the Board of County Commissioners. The process will proceed when the items have been received. Complex projects may take up to ninety days from the P&Z hearing to the BoCC.

Questions from audience;

Ref: Pg. 6.1.4 Surface ownership- what happens if that doesn't happen? Lack of a surface ownership agreement is not grounds for a denial.

Setbacks; setbacks have become a lot more controversial than water in recent the state still has not formally adopted the setbacks amendments.

Well pad liner: 8.8.1.5 the county would like that to remain in the code and leave the word "shall" as written. Mr. Monsson argues that having something in our regulations that is not required by the state could be construed as an operational conflict. There is 80/20% chance of losing this in court. Requiring a liner throughout the entire pad could be detrimental to reclamation. It may seem like a protective mechanism but in reality it could end up being a bad thing.

Commissioner Bricker asked Mr. Monsson how many changes were made to our current regulations and that we may need a second opinion on his recommendations. Mr. Monsson

explained that he doesn't have an exact number but that he changed wording, duplicative items that are elsewhere in the regulations as a whole.

Chairman Freeman asked Mr. Monsson if he took a look at the emergency response portion; are they adequate? Mr. Monsson stated that he had worked on El Paso County Oil and Gas Regulations and modeled these regulations on.

Chairman Shriver opens the floor to audience for questions; John Bricker stated that he has been in business in Rio Grande County for over 30 years dealing with this subject of Insurance/Bonds. Mr. Bricker stated that of course insurance companies don't like to forfeit bonds but they will. Mr. Monsson suggests that it's easier to collect on a cash line of credit or certificate of deposit. Mr. Bricker also had comments in regards to the surface owner bill of rights; it has been completely re-written as well as the county hiring expertise in Oil and Gas. Mr. Monsson stated that it boils down to money. Mr. Monsson mentioned that Montrose County has entered into an Inter-Governmental Agreement (IGA) with the state. That may be something to research further and Rio Grande County could do something like that. Mr. Steve Reznik referred to pg. 6 of the definitions 'split estate' it is referenced in the regulations so that should stay in; pg., 25 8.6.2 the generally should be deleted; pg. 28 8.7.5.13 delete 'including economic feasibility'; pg. 41 8.9.5 leave 'shall'. Susan Constance state she was confused where the county land use defines zoning; certain things require a conditional use process some things are prohibited. Commissioner Bricker stated that Rio Grande County is zoned however, Oil and Gas is the only industry that has pre-emption and can go where ever they want. Robert Willschau cautioned the Board's to tread lightly on people's property rights. Concern's on changing or removing 8.8.1 Water Quality language was discussed in length as well as inspections, inspectors, money to hire qualified personnel. Mr. Monsson stated that the state paid for the training in Montrose County but the employees are paid by the county. This could be something to explore; county support for inspectors. Planning and Zoning do as much as they can, Rose does an amazing job, but put another office for someone to keep abreast of the continuing changes at the state level as well as focusing here locally.

Chairman Freeman entertains a motion; Mike Mitchell moves to recommend approval to the Rio Grande County Board of County Commissioners the following;

1. Land Use Administrator authority to approve administratively minor facilities and/or minor changes.
2. Setback per COGCC Rules
3. Water sampling and testing (data to be shared with property owners) per CoGCC
4. Split Estates to remain
5. Surface Owner Agreement to be changed to Notice of Owners Rights and updated language.
6. Marking tape for flowlines and/or gathering lines
7. Split Estate to be left in
8. A final clean copy presented to the BOCC

Grover Hathorn seconds motion; motion carried unanimously.

- The Board of County Commissioners Chairman Karla Shriver entertains a motion to continue the hearing at a later date to be determined after we receive the final draft copy and review; Commissioner Pam Bricker moves; Commissioner Doug Davie seconds; motion carried unanimously.

V. Old Business: None

VI. Adjournment: Meeting adjourned at 4:30pm.

Secretary

Chairman