



Gallatin County, Montana

311 West Main Street, Bozeman, MT 59715



Gravel Pit Work Session with County Comm. & Belgrade Planning4-16-08

Description Gravel Pit Work Session with County and Belgrade Planning, County Commission, Proponents and Opponents 4-16-2008

Date 04/16/2008 Location County Commission

Time Speaker Note

9:06:06 AM County Administrator Earl Mathers Opening statements. Hopefully this meeting will accomplish in clarifying our issues surrounding gravel pits.

9:09:22 AM Chairman Murdock Thanked the audience for coming. This is new ground for the commission [interim zoning]. Today's meeting is a beginning of how we will proceed to come up with technical data, rules, traffic information, etc... Comments regarding workload for groups who will be creating "conditions" to make gravel pit operators good neighbors.

9:12:47 AM County Planning Director Greg Sullivan Would like to focus mainly on the regulation today, and on good neighbor provisions at a later date. Commissioner Murdock stated that Commissioner White will be joining the group shortly.

9:13:41 AM Commissioner Skinner His expectation of this meeting is not to go through the regulations and try to make them fit with the good neighbor provisions at this point. There is a way to identify and solve issues from each side.

9:14:50 AM Introductions: Heidi Jensen (Belgrade City-County Planner), Jason Karp (Belgrade City-County Planner), Sandy Lee (Belgrade Planning Board), Scott Benowitz (Four Corners Planning Group and consulting engineer for the hard rock mining industry), Kathy Brekke (East Cameron Bridge Community Action Group), Hertha Lund (Attorney, Wittich Law Firm, representing Kathy Brekke), Susan Hellier (Kenai Engineering consultant of gravel pits), Cary Hegreberg (MT Contractor's Assoc.), Ron Pike (TMC/Sime Construction).

9:17:22 AM County Administrator Earl Mathers Ground Rules: Cell phones off/silenced; Listen/No sidebar conversations; "Seek first to understand, then to be understood" (Covey); Be brief and to the point (less than 2 minutes); Respect for others and their opinions; Overarching Objective: finding the middle ground (not always the common ground) and mutually acceptable solutions. (Hertha Lund stated that she does need to speak with her client and may violate the sidebar "rule.")

9:20:02 AM County Planning Director Greg Sullivan - Discussion on Step #1 Draft regulation and staff report were presented to the County Commission about a week ago. Comments today and from the last public hearing will be taken into account and incorporated into the draft regulations. Five bullet points: Applicants for CUP need to have completed open cut permit from DEQ; Applicants for expanding permits must prepare an environmental assessment, if not required by DEQ, for the Commission under the "interim regulations;" Section 5.2 creates two distinct zones--one for residential and one for non-residential use), but does not believe the Commission is interested in doing that at this point; the interim regulation does not contain specific performance standards [the Commission is interested in having broad categories]; Commission made decision last week to adopt interim zoning for Belgrade Planning area only. Marty Lambert and I had a meeting with DEQ Director Neil Harrington and their attorney Jane Amdol. They acknowledged that there is a problem of their lengthy time line to review applications. Applicants for a permit that would come to the County under the interim regulation would come to the County first, and possibly have several conditions attached to that permit, if approved by DEQ. Greg would like to propose: The environmental assessment could not result in denial of a CUP permit, but could create further mitigation requirements.

9:25:07 AM Discussion between Ron Pike and Greg Sullivan regarding hearing times, multiple hearings, etc... Would like to combine the hearings so that applicants do not duplicate same hearing topics/items. Cary Hegreberg questioned about DEQ's analyzing and regulating responsibilities, wants to make sure it wouldn't be duplicative. Susan Hellier agreed with comments already on the record. Cary wants to avoid public hearings in front of County Commission where the County has no statutory requirements to regulate. Marty Lambert answered that, based on what was already discussed with DEQ, there will be multiple hearings. There are off-site and on-site impacts. DEQ only regulates what is on-site. Traffic and other local concerns are not addressed by DEQ since that is technically off-site. Those issues would need to be addressed by the Commission, causing [necessary] separate hearings. Scott Benowitz reiterated what Cary mentioned; suggested a single joint public hearing led by DEQ and the County held in Gallatin County. This could be an opportunity for all issues: environmental, mitigation aspects, all aired in one place.

9:35:02 AM County Attorney Marty Lambert There are two processes that could occur simultaneously, although we do not know how DEQ will feel about an initial joint meeting. We could certainly talk to them regarding an initial meeting when an application is made.

9:36:43 AM General Discussion Ron Pike asked if the County is going to take over the water quality issues, ground water temperatures, etc...? Earl Mathers answered that he does not think it is practical for the County to envision it could do all the things Mr. Pike questioned, therefore it is encumbered upon us as a local government to work as closely with DEQ as possible. Gallatin County has more concern with the deterioration of infrastructure than DEQ may have. Marty Lambert restated that these are off-site issues, which would have County oversight. Greg clarified Cary Hegreberg's and Scott Benowitz's first comments regarding one hearing. Scott clarified that it wouldn't be the decision hearing, but an initial joint County/DEQ hearing. Regarding overlapping and/or duplicating work between the County and DEQ: Greg stated we require permits that are already required by the State (pg. 6 of the draft regulation). Susan Hellier does not agree that the Open Cut Mining law does not deal with off-site issues. A gravel pit operation does a hydrology report for an area; it is not just the X-acres of the mining site, it does address the local area. A DEQ staffer said a joint initial public hearing would help them identify the scope for DEQ's Environmental Assessment (EA). Discussion and clarification between Susan Hellier and Greg Sullivan. Discussion regarding Section 6.3 (page 7). Agreed that the regulation will be amended to include "approved environmental assessment." Gravel operators would like to see, "this area has these rules/guidelines....this area has those guidelines..." sort of regulation. Certainty, agreed upon by the County, community, gravel owners, would make it easy for everyone. Ron Pike suggested if #'s are correct, there is going to be 50 million tons of gravel used in Gallatin County alone in the next 10 years. Scott Benowitz questioned: 1) Can the mitigation be accomplished, and 2) How much is going to cost? Wants to follow up on something Jerry mentioned: How much gravel is there available to be mined in Gallatin County? Ron answered that there are certain spots around the County that are way more valuable as a gravel pit, and others that are good for a wildlife habitat. Earl asked if there were any economic deposit studies. The gravel industry is not aware of any such studies. Discussion regarding if MSU could do one. Greg feels that would be a great idea to do during the interim. Cary asked for a clarification on meeting timeline: what process are we going to follow to get the staff comments/information to work on the draft regulations.

9:56:19 AM Planning Director Greg Sullivan Clarified with Susan and Cary's comments for interim process and more certainty with conditions and then what Cary said: in the long term we would like the County to an analysis of where reserves are, a working group and lengthy process to come up with divisions of residential, higher density residential (and proposed). Susan answered this next year is very critical for some of the applications [we have] in the process right now. In the long run, it shouldn't be a guessing game for the neighbors or industry. Discussion regarding the level of certainty the industry will have. Discussion regarding gravel resources in the Gallatin Valley.

10:09:59 AM Greg Sullivan suggested to return to the topic of the regulation. Process would be: County would go [hold its public meeting] first, (so DEQ could have their scoping hearing) when applications are submitted with what is required in interim regulation, staff will do review (this entails a lot of back and forth communication between staff and the applicant). There will be a fee charged for this (yet to be determined since the County still needs to find out how much time would be required for a full review). Notice to other agencies will be given. The County is considering requiring a Traffic Impact Study (TIS); we'll ask Road & Bridge and MDT for input...during that 1-2 month review we'll compile a staff report, there will be notice sent out to adjacent land owners, notice published in paper of the upcoming hearing, then the hearing happens. Hearing process: staff presentation, applicant gives a presentation (plans for mitigation), Commission can ask questions, then an opportunity for public comment and an opportunity for the applicant's rebuttal. Then Commission goes into board discussion and possibly a decision.

10:13:57 AM Discussion Susan Hellier clarified that the County will want a good map and the open cut mining application; now a TIS as well. Didn't see anything else in draft regulation that is not in the Open Cut Program. Asked if a checklist of what the County wants should be included. Greg said the applicants will need to work with us to try to gather good information. We always need the ability to ask for additional information. Things we'll be asking for from you guys will be enough to satisfy the Road & Bridge (R&B) department. The conditions of approval will incorporate anything that the R&B would require. If the EA identifies things that the County has not identified, we will be able to ask for further mitigation, but not deny the permit. These are off-site issues that we are looking at, like traffic. Discussion regarding when DEQ does not grant a permit for gravel on-site and it causes a company to haul gravel from another pit site, adding further hardships to traffic concerns by having to haul material further (and right past a proposed site that was denied).

10:20:03 AM Belgrade Planner Jason Karp Stated that the CUP hearing process will allow the gravel pit applicant to make that case to the public and to the Commissioners by saying, "putting this gravel pit here is going to allow us to take trucks out of the middle of Belgrade," for example.

10:20:39 AM County Attorney Marty Lambert He put "C" in 6.2 to address this: "Traffic impacts, if any, upon other County roads or other County residents, should this particular application be denied."

10:20:54 AM Scott Benowitz Montana Environmental Protective Act (MEPA) analysis required no action alternative. You could have any number of alternatives to be evaluated under MEPA.

10:21:45 AM Cary Hegreberg Stated he was asked to convey the importance of flexibility of hours of operations. With MDT requiring jobs be paved at night to minimize traffic impacts during peak hours, flexibility is required at the pit/site/batch concrete or asphalt.

10:23:00 AM Kathy Brekke Commented if you live in the area that someone could have a newborn while a batch plant is running at 3 a.m. She hopes operators will consider the residents around the plants.

10:23:43 AM Scott Benowitz Four Corners planning group has had discussions on visual, audible and land value

impacts. Noise levels can be measured. However, if an application states that it reaches 90 decibels at the back of plant, this doesn't mean much to the neighbors. Some way to help the neighbors understand this noise level would be helpful. Visual impacts can be described in the application using simple photographs or even advanced software, which is now available.

10:26:21 AM Discussion on Step #2 CUP approval: be able to get from the County, a Zoning Compliance form, that this property is within zoning (please note this will be added to the form) the County will issue a Land Use Permit (LUP) based on further review, compliance of pre-operating conditions of approval; perhaps require additional mitigation. Once the open cut permit is in hand and the DEQ process is complete, the County will do a review then the LUP is issued and you're "off and running." Regarding compliance, we generally act upon complaint. Ron Pike asked if the County feels that if an applicant meets all the requirements, would the process at DEQ be easier, since the County is behind the CUP. Greg Sullivan reminded the group that the County does not have staff hydrologist or engineers; we have a level of expertise but not licensed/certified technicians to review these applications. Earl Mathers answered that he believes this would expedite the process at DEQ.

10:32:16 AM Commissioner Skinner In his opinion, the joint hearing idea for the CUP is a great idea. Seems that it would help DEQ perform the scope for the EA. Yes, ultimately the decision would be in front of DEQ, but being able to tell them what we've heard in the public hearing, and have them take that information into consideration would be very helpful.

10:33:00 AM Cary Hegreberg asked for the definition of residential and where it would be applied; particularly in reference to hot plants, batch plants, when would it be allowed, when not, etc...? Susan Hellier clarified that the Commission had not designated residential and non-residential. Greg Sullivan reminded that the regulations are still a DRAFT. They have not been edited since the Commission received them. Marty Lambert said the definition is still up in the air. MCA does not provide a definition of residential or non-residential. He looked into the traffic codes because it did define it a little. He is still at a loss how to define, unless you do this through the traditional zoning process. Cary Hegreberg said what's occurring all over the state is a landowner/company submits an application for a new gravel operation, in proximity to a quasi-residential area and the folks opposed to that operation immediately go through an emergency zoning or Type/Part 1 because that's what allows the County Commissioners to deny the gravel pit outright. We would like the certainty of areas defined as residential and where gravel operations would be denied. Specify the areas that are conditional and we may not deny. We want to avoid more of these contentious situations where local residents hold out hope for emergency designation for the purpose of denying an application, after it has been submitted to DEQ. Jason Karp stated in Belgrade is proposing zoning for residential and commercial districts. We will get there, but we will need the resident's and gravel operator's help. Meanwhile we'll have this interim regulation and basically treat the whole area the same for gravel pits. Susan Hellier asked what Belgrade's criteria will be for defining residential. Jason and Marty stated that it is already defined in the Belgrade Growth Policy, and the Future Land Use Map sets densities. Belgrade will be trying to set jurisdictions, R-1 and that's 1 house per X amount of square feet, etc... There are already high, medium and low densities outlined in the Growth Policy. On the ballot this November: the City will be asking to go to a Class II city. If approved they will be able to zone two miles outside their city limits. Planning Board is already working on this.

10:42:12 AM Continued Discussion Greg clarified what he's hearing from the gravel industry: that under the Tudvedt case, the Supreme Court said you could say 1 [house] per 640 [acres] and call it residential, and then the Commission could deny. If that happened there would be major concern. Under the interim, and under permanent zoning, you [gravel industries] would like more certainty for what residential is, where the County feels it is already (or will be). Montana Contractors Association essentially wrote the law that allows the County Commission to deny a gravel industry in a residential zone. A concern state wide is: a Commission could "wave a magic wand and call it residential." Cary Hegreberg agreed those were the concerns they would like addressed in the regulation. Jason stated that the East Gallatin Zoning District, is residential and it lists what are permitted uses. Some [zoning] districts may list permitted uses, some conditional uses, and if it is not listed at all, it is considered prohibited. He points out that zoning is not "set in stone," zoning is amendable. Cary Hegreberg said for the MT Contractor's Assoc. members would like to see a provision in these regulations, that any County- or publically-owned gravel pit in these jurisdictions, be subject to the same regulations. Susan Hellier would like to hear the "going forward" plan. Earl said we still need to devise that.

10:48:20 AM Public Comment Scott Dickey , Amsterdam area--Ground water protection is their #1 concern, would like a team to get together on working on the ground water specifics: two to help start that committee are Representative J.P. Pomnichowski and Senator Gary Perry; Carol Lee-Roark , Gateway area--Environmental consultant who has worked with mining companies; Betty Conard , Amsterdam area--Three things she noticed today 1) Need more public comment time, 2) Likes hearing what Jason [Karp] said about permitting gravel pits and how that could possibly change the zoning for that area; 3) Why are you looking at the whole county? Leigh Durham , Gateway area--Purchased property that now has three gravel pits surrounding it. Asked gravel pit owners/operators to look at the resident's property as their "income" too. We all know it does effect property values. Rich Morse , Gateway area--Commented regarding property values. Simple way to address this: regulate scope and duration of gravel operations. If a pit is permitted for 5 years, then becomes 10 or 20, property values do drop and will stay low. Urges County to keep #3.2.b (of the regulation). Always need the ability to ask for more information: size and life of pit should be available to the public. Shane Skinner , E. Cameron Bridge Road area--Thanked everyone and thinks we're on our way to working together. Agrees there should be designated areas. Upset because no notice was ever given to him as a property owner. Agrees there is plenty of room for gravel and we need to find a place to do it.

11:03:22 AM County Administrator Earl Mathers Asked everyone to make sure they've signed the sign-up sheet for accurate records. Asked if staff had any closing comments.

11:03:52 AM Planning Director Greg Sullivan Suspects first week of May that County Commission will have regulation, map and resolution (still tentative) to review. Could take multiple hearings to unfold. As a result of public comment that's been received, spend the next couple days trying to incorporate all the comments today into a final regulation, draft a resolution, have GIS department create a map. Hopefully this information will be on the web available for public review next week. Check [www.gallatin.mt.gov/planning/What's New?](http://www.gallatin.mt.gov/planning/What's%20New?)

11:05:55 AM Commissioner Steve White Apologized for being late. Commented to see if there is any possibility to have a DEQ representative at the May 7th hearing to verify we don't have any conflict.

11:06:56 AM County Administrator Earl Mathers Thanked everyone for coming. Meeting adjourned.