

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 11, 2011

► Minutes: Stacy Bartlett

► The Board attended the Montana Association of Realtors meeting on subdivision law and land use planning from 8:30 a.m. until noon.

► The Board attended a public hearing for a decision on the application request for Bitterroot Auto Removal and Recycling Services for a motor vehicle wrecking facility license on Angel Lane in Hamilton. Present were Environmental Health Director Lea Guthrie, Bitterroot Auto Removal Service owner, Clint Nickerson and several citizens.

The hearing was called to order at 1:30 p.m. Commissioner Iman read the legal notice, and reviewed the DEQ letter regarding procedure for license. Environmental Health Director Lea Guthrie reviewed the Environmental Health Staff Report on the site assessment. Lea also listed what criteria the DEQ would use on their environmental report, shielding criteria and compliance enforcement. Lea presented to the Commissioners a list of DEQ criteria per Commissioner Imans' request.

Roy Vallejo, resident of Angel Lane asked about criteria for shielding. Commissioner Chilcott read the State Statue definition.

Gene Honey of Darby passed out a copy of his formal complaint filed against Clint Nickerson. He stated Clint has continued to operate without a license and has been issued two notices from DEQ regarding this violation.

Nancy Hendrickson and Jenny West representing the City of Hamilton commented on the City's concern with future housing development in this area and this business not being a

suitable use for this property. This property is all zoned for housing; there is also concern for the high ground water. 3 maps were submitted of the area which is zoned for housing.

Sheila Vallejo asked if present actions will duplicate past actions such as a fire, loose aggressive dogs, and high noise levels 7 days a week. She stated they are seeing cars being brought in and drainage with no EPA barrels for storing this drainage. Will there be inspection of waste control and removal? She is opposed to this facility.

Clint Nickerson, owner of Bitterroot Auto Removal, stated EPA has been on the property and drainage is transported by Oily Waste Products. He feels there is a misunderstanding with the public. He is trying to build a recycling center, but he cannot do this financially unless he can take the cars. He is standing in front of the Commissioners trying to do the right thing and will complete any environmental precautions necessary to protect the property. He commented on citizens dumping in the woods because there is no other facility. He feels this business is very needed in this community. He will address any issue that comes along. He is trying to do all the steps necessary and is trying to do the right thing. He thanked the Commissioners for their time.

Steve Zech commented on a letter sent to the Commissioners, DEQ, and Environmental Health. He is a neighbor and he is concerned about the high ground water stating that the wells are small and shallow in this area. If there is a spill in this area, the county and state would be liable for the water in these homes. He stated that this is part of a proposed development area II of the City and they do not want a "junk yard" in city limits. He asked the Commissioners to consider these points. He also pointed out that this business owner has already moved once and asked, is he is going to move again because the property owner will not rent to him any more?

Commissioner Kanenwisher asked Steve with his experience, does he think the business would have an effect on quantifiable impact to these homes? Steve stated yes.

Commissioner Kanenwisher also asked if there is law for a renter to get legal permission to use the property in such a manner and disclose to the property owner. Steve stated he also questions this and reminded the Commissioners of possible liability.

Sherry Ireland co-owner, asked "doesn't junk on any property take away from value of property?" Steve Zech answered he agrees a facility is necessary in this county, but not in a housing area. It should be in an industrial area per se.

Council on Aging Representative, Paul Travitz asked if letters from public will be public record. He stated they are not against the business, just the location. He commented on why the property owners are not here.

Raylene Ireland stated there is no industrial area in Ravalli County that she sees. She listed Chucks Welding and Sweet Pea Septic as examples of those properties in residential areas that are shielded. She sees junk dumped in the woods of the county which is why this business is very needed.

Darcy Cody stated that if people can haul stuff to the woods, they can haul it to Missoula. She is worried about ground water, when the water is high it rolls into her front yard. What happens if you are sloppy or have a spill? She is opposed to this business in her neighborhood.

Rod Daniel disclosed that he is a county employee, but is only commenting as a private citizen. He stated he thinks the county needs a place for junk vehicles. Clint would be taking parts from these cars and selling them and this would be a good business. He feels Old Corvallis Road is a good enough area as any as long as DEQ approves it.

Clint Nickerson clarified he would not be selling parts. He is not licensed for this and is not interested. His interest is cleaning up the valley. Each vehicle will be drained of fluids, and certain parts will be removed i.e. gas tanks, catalytic converters, etc. Some grill guards or accessories may be removed. He wants to crush and recycle. He will protect the ground. He will take the necessary precautions and stated there will always be "what ifs".

Commissioner Foss asked where parts were shipped. Clint stated he ships to Pacific Steel in Missoula. Commissioner Foss also asked if Clint has the landowner's permission and are they aware of his business. Clint stated there is a letter in the Commissioners packet from the owner Mr. Angel.

Commissioner Stoltz asked if the previous recycling business was in a residential area. Clint stated yes it was on Pennsylvania Avenue. This location is in the middle of town and equipment is worn out, therefore he is not interested in locating there.

Darcy Cody, commented on the above location stating that business was on city water; the residences on Angel Lane are on wells.

Jennifer West stated they did not crush cars at the above mentioned property; mostly cardboard, cans, etc.

Landowner, Chet Angel has talked to Clint for several hours and is ok with the business. He feels the county needs to have this facility. He will be watching Clint along with the State. His opinion is Clint will do a good job.

Commissioner Iman asked if Mr. Angel is aware of the liability he may incur with this business on his property. Mr. Angel replied yes he is aware.

Gene Honey offered another 16 petitions opposing this business. He asked the Commissioners to review the DEQ letter telling Mr. Nickerson to stop operating until a license is approved. He asked the Commissioners to deny support for this license application due to Mr. Nickerson disregarding and violating the law.

Commissioner Stoltz asked if Gene Honey is going to expand his business to take recycling. Gene stated yes they are looking to expand and sell some parts. They will stay specialized in motor vehicles, however and will not take other recyclables.

Steve Zech commented on the ditch flooding every year which is another point of hazard.

Mrs. Vallejo asked the question, does anyone else in the room want to live next to this? She does not.

Clint addressed Mr. Honey on the DEQ letter. He stated he can keep 4 cars without a license if certain restrictions are followed, which he stated, are. There was a scrap iron business, wood place, and a motor home storage in this area as well. He presented the DEQ letter to the Commission.

Commissioner Iman closed public comment and stated all written public comment via letter and e-mail will be entered into the record. Commissioner Kanenwisher asked that another letter he received be entered into the record also.

Commissioner Iman called for a 10 minute recess while the Commissioners reviewed written public comments.

Commissioner Iman called the meeting back to order and the written comment was read.

Commissioner Iman asked for further discussion. Commissioner Kanenwisher did not agree with Mr. Nickerson's interpretation of the DEQ letter. He read the letter and interprets it as Mr. Nickerson not being in compliance.

Mr. Nickerson commented that he has not put a fence in until Commissioners approve or deny support. He commented that the State told him to wait to build fence until Commissioners approve or deny. If denied, he will pack up and move to Salmon, Idaho.

Commissioner Chilcott commented on statutory language of quality of life and this situation is unique when we use findings of fact.

Commissioner Kanenwisher agrees that this is a legitimate business and is needed. He does not agree that this location is the only place for it.

Commissioner Foss added she is a huge proponent for business and recycling is needed, but this is a gateway to a neighborhood and there is liability for ground water. She also commented that Mr. Nickerson is not the landowner; therefore he does not have that commitment. She does not see this business as a fit to this property.

Commissioner Stoltz stated he does not agree with his colleagues. Proof of ruining quality of life in this neighborhood is not proved. He stated that if a mechanic shop was already in the neighborhood, then that is already ruined. He does not see a quality of life deduction and stated recycling is needed.

Commissioner Chilcott stated recycling is needed, feels there are better areas suited for a recycling business. The Commissioners' decision is based solely on quality of life. He is not completely confident DEQ will monitor this property based on another property issue.

Commissioner Kanenwisher cited 75-10-5-11, DEQ vs. Robinson.

Gene Honey stated his interpretation of code of vehicles.

Commissioner Iman recognizes zoning in the City of Hamilton's growth policy. City sewer does extend along the public road in this area.

Commissioner Kanenwisher stated private property is for use and transfer of use with value, he is a private property advocate and stated the surrounding neighbors would be "subsidizing" their property values for this business. Historically what the property has been used for is not part of their decision criteria today. He stated he sees no effort to remedy conflict with his neighbors.

Commissioner Stoltz stated as a county we have a double standard by allowing this type facility on fairgrounds property, but not on this property. He commented that the county is also subsidizing the recycling at the fairgrounds with government funding and are denying a private business.

Commissioner Foss stated the difference is the fairground property is not centered in a neighborhood.

Commissioner Iman added point of order that the location of the fairgrounds for recycling is on a limited time frame and has a specific end date and specific use.

Public comment was reopened.

Mr. Nickerson stated the historic use of the property and the DEQ letter should be considered by the Commissioners. He could go out tomorrow and get towing license and keep vehicle storage on his property. He also stated the entrance can be moved to Old Corvallis Road. Commissioner Chilcott stated had Mr. Nickerson done due diligence with his neighbors prior to this point, some of the conflict could have been resolved.

Mr. Nickerson stated he is going to do what he wants to do anyway. Commissioner Kanenwisher commented that Mr. Nickerson moved last time because his neighbors didn't like it, but wherever he moves; his neighbors still won't like it.

Commissioner Foss stated there are properties outside of city limits that would better fit.

Gene Honey commented again on Mr. Nickerson's operating for over a year without a license.

Roy Vallejo stated he purchased his land from Mr. Angel to retire. Had he known a junk yard would be put in, he wouldn't have made that purchase.

Darcy Cody commented again on her concern about well water.

Commissioner Iman closed public comment.

Lea Guthrie gave clarification if the Commissioners deny support for this business they will need to send a letter stating such to DEQ.

Commissioner Chilcott asked Mr. Nickerson if there were other elements he could use to mitigate conflict with his neighbors. Commissioner Kanenwisher asked what those elements would be. Mr. Nickerson stated fencing would be put up immediately, leveling out the swell, putting in a culvert and constructing a new entrance on Old Corvallis Road would all be done first. He also stated vehicles will be separate from other recycling. A concrete slab and sump pump will be put in. Commissioner Kanenwisher asked what type of fencing and Mr. Nickerson replied he has already received a bid of \$22,000 for steel fencing to be put in around entire property. He stated he would shield only the vehicles and all other recycling will take place inside a building. Storage buildings would be used to store card board, etc.

Commissioner Chilcott suggested the Commissioners continue this meeting at a later date to give Mr. Nickerson a chance to meet with neighbors to mitigate their issues.

Commissioner Iman ordered a point of clarification of the letter from DEQ. The deadline for extension granted by DEQ expires after Friday, March 18th. Commissioner Iman also pointed out any change of entrance on Old Corvallis Road would have to be approved through the Road Department.

Mr. Nickerson stated he would love the opportunity to meet with his neighbors to try to work out issues.

Commissioner Chilcott made a motion to continue this public hearing to 9:00 a.m. March 18th, for Mr. Nickerson to come back to the Board of Commissioners with a plan resolving issues with his neighbors. Commissioner Kanenwisher seconded the motion. Mr. Nickerson agreed to a continuation. There was no further discussion. All voted "aye". The motion passed unanimously and the hearing will be continued at 9:00 a.m. March 18th.