
**PLUMAS COUNTY
AIRPORT LAND USE COMMISSION**

Minutes - July 15, 2009

The Plumas County Airport Land Use Commission convenes in their regular meeting on July 15, 2009, at 2:03 p.m. in the Planning & Building Services Conference Room; Chair Carl Felts presiding. Members appointed are as follows:

1. Carl Felts, Chair;
2. George Terhune, Vice Chair;
3. Herb Bishop, Commissioner;
4. William Weaver, Commissioner;
5. B.J. Pearson, Commissioner;
6. Alan Holloway Commissioner,
7. Cal Westra, Commissioner.

I. CALL TO ORDER AND ROLL CALL

Present: Carl Felts, George Terhune, B.J. Pearson, William Weaver, Alan Holloway, Herb Bishop

Absent: Cal Westra

II. REVIEW AND APPROVAL OF AGENDA

Felts calls for a motion to approve the agenda as amended. Motion is made by Weaver. Pearson seconds the motion and a unanimous affirmative voice vote is recorded.

III. REVIEW AND APPROVAL OF MINUTES

Felts calls for a motion to approve the minutes of the June 17, 2009, meeting. Motion is made by Pearson. Weaver seconds the motion and a unanimous affirmative voice vote is recorded.

IV. INTRODUCTIONS

The following attendees introduce themselves to the Commission:

Supervisor Lori Simpson – District 4
Supervisor Terry Swofford – District 1
George Bundy – Beckwourth Fire
Toodie and Bob Marshall – Plumas County Airports Association.
Greg McCaffrey, Chief – Beckwourth Fire
Jay Newman, Captain – Fire Prevention - Cal Fire
Rebecca Herrin, Senior Planner – Planning Department
James Reichle, Esq., Plumas County Counsel
John Cunningham, Building Official – Building Department

V. **PUBLIC COMMENT PERIOD**

Felts opens the Public Comment Period. No comments are made.

VI. **BOARD OF SUPERVISOR'S CORNER**

Opportunity for County Supervisors to address issues related to the ALUC.

Attending Supervisor, Lori Simpson, reports that the General Plan Consultant contract with *Design Workshop* has been approved by the Board of Supervisors.

VII. **REPORT BY JOE WILSON – FACILITY SERVICES** – No Report.

VIII. **STAFF REPORT**

A. **Status of Projects** – No Report.

IX. **COMMISSION COMMENT PERIOD**

A. **Chair Report** – No Report.

B. **Commissioners' Comment** – No Comments

C. **Subcommittee Reports** – No Report.

X. **OTHER BUSINESS**

A. **Old Business**

1. **High Sierra Propane / Muckraker, LLC (Herrin) – Discussion and Possible Action.**

Continued discussion regarding the installation of two 30,000 gallon propane tanks on an industrially zoned property at 95 Industrial Way, Beckwourth.

Terhune begins the discussion by saying he believes for ALUC purposes the information that was received from County Council effectively settles the High Sierra Propane / Muchraker, LLC issue. Felts counters that the permit has been issued and that if it generates a safety issue for the public, it can be recalled. James Reichle, County Counsel, states he came to the meeting not to advise the Commission but to answer questions and explain how he reached his conclusion. Reichle elaborates that this matter is not a case where there is a statute where you do "a", "b", and "c" it's locked in. Reichle states in these cases, in terms of facts, the court essentially does a balancing act between the strong public policy and the proper enforcement of zoning and this Commission. Reichle adds that on the other hand, this country has a certain interest in maintaining private property rights. Reichle states that what the court does in each situation is a balancing to see whether the extent of the reliance is such that the person has gained a right to hold off the government and that it is his opinion, after reading numerous cases, to the Board of Supervisors of the probable result is that the principles are sound and it is his prediction that if this matter was taken to court it would

hold as indicated. Reichle adds that Felts point, however, is valid and that if there was a superceding safety law that trumped the County and the State Fire Marshall cited the County for a violation, the fact that there is a permit would be no defense. Felts comments from the ALUC point of view, it is a safety issue. Reichle explains that it is not just whether there is a safety issue but a specific violation of an enforceable standard. Felts asks Chief Greg McCaffrey if he has any information from the State Fire Marshall and McCaffrey responds that they don't want to come into the matter at this point and be involved in a matter they didn't help to create. Felts states that after this meeting, he is obligated to let the Division of Aeronautics know what we want them to do; and that other information he has, after talking to his legal advisor, is that the ALUC may be in a position to take this matter to the Plumas County Grand Jury because there obviously have been infractions by the County. Reichle comments to Felts that he realizes Felts is not using the term infraction in a legal sense since an infraction is a violation of statute and that has not occurred in this instance. Felts says the information he has is heresay and that it would require a formal body to investigate to confirm the information. Reichle adds that when he spoke to the State Fire Marshall he was told the State didn't have jurisdiction to act in this matter at this time. Pearson states that the ALUC will not know whether this is a criminal matter unless there is an investigation where people are put under oath and questioned as to who did what and why they did it. Reichle comments that if every time someone in the County makes a mistake there has to be a criminal investigation, the County would come to a halt. Supervisor Swofford comments that there are other safety issues in the county he is more concerned about and he believes this matter is more of a political issue than anything else. Swofford cites some examples of other tanks in place throughout the county that are not being addressed. Bob Marshall, attendee, points out to Swofford the difference between the effect that a crash would have on a propane tank verses tanks designed to contain other materials. Terhune refers to Reichle's letter to the ALUC and elaborates on following points:

- * Location in zone 3 of the ALUCP is not an absolute prohibition. The Commission would have authority, upon proper demonstration of the facts, that if there had been no practicable alternative to this location, it could have been located there fully legally and that changes the idea that this is an absolute safety issue.
- * The Commissions role should be limited to forwarding information to the State to see whether the State wants to take action and that if there is suspicion that this matter might fall under the criminal action, than any individual that has that information should take action on it with the County authorities but not have the Commission initiate that action.

Terhune adds that he is willing to make a motion that the Commission's action is limited to forwarding any information to the State Division of Aeronautics and they are then free to take such action as they believe is necessary. Felts asks the Commissioners if they have additional

comments. Pearson and Reichle exchange comments about the awareness on the part of County two years ago that this property is not in a fire district and the knowledge the planner had at the time he approved the project. Felts asks the Planning staff if it is common for the Planning Department to have one planner sign off on a matter of this magnitude and Becky Herrin, Planner, explains the process to Felts. Terhune comments that this case is one of the reasons why the General Plan must be in consistency with the ALUC plan. Pearson comments that he agrees with Swofford that this is a political matter and also a matter of political favors. Discussion continues among the Commissioners and Reichle regarding Planning Department procedures and obligations. Felts calls for a motion. Terhune makes the motion that the ALUC Chair forwards County Counsel's letter and any other pertinent information in the file to the Aeronautics Division for appropriate State action. Weaver seconds the motion and the motion is carried per the following roll call vote:

Felts – No
Terhune – Yes
Bishop – Yes
Pearson – No
Weaver – Yes
Mainland (proxy for Westra) – Yes
Holloway - Yes

2. & 3. Fees and Compensation – Discussion and Possible Action.

Planning Director Wilson states that the CAO has indicated to him that the Chair should go to the Board of Supervisors and discuss the ALUC budget issues. Felts comments that he did go to the Board of Supervisors and he was told each supervisor has contributes a certain amount to a community fund; however, Simpson states that there are limitations as to how those funds are used. Reichle adds that he will be at the upcoming Board of Supervisors meeting and he will inform the Board of their options. Pearson makes the motion that the Board of Supervisors compensates the ALUC members at the same rate of compensation per mile that the Board of Supervisors receives. No second is offered. Discussion takes place among the Commissioners regarding the need for a vote on this matter with the Chair stating he can bring the matter before the Board of Supervisors without the vote from the Commission.

B. New Business

1. Recommended Changes to the Zoning Code Regarding Lot Line Adjustments and Appeals to the Board of Supervisors. (Randy Wilson, Planning Director) – *Discussion and Possible Action.*

Wilson explains the changes as outlined in the packet presented to the Commissioners. Discussion takes place among the Commissioners, Wilson, and Reichle concerning this proposal as it relates to the ALUC. Felts calls for a motion to approve. Weaver makes the motion, Pearson seconds the motion, and a unanimous affirmative voice vote is recorded.

2. Terms for the ALUC Members / August 19, 2009, Election of Officers
- Discussion

Nancy Fluke, Clerk, presents a handout explaining the length of terms for the commissioners and the corresponding expiration dates as follows:

Felts – 3 year term (ends 2010)
Gerhune – 4 year term (ends 2012)
Bishop – 4 year term (ends 2012)
Weaver – 4 year term (ends 2012)
Pearson – 4 year term (ends 2012)
Holloway – 4 year term (ends 2012)
Westra – 4 year term (ends 2012)

* Note: Four year terms end May of the 4th year.

Discussion takes place among the Commissioners regarding the need to have election of officers every two years, and it is agreed to hold the upcoming election on August 19, 2009.

XI. FUTURE AGENDA ITEMS

A. Unfinished Business

XII. ADJOURN

There being no further business, Felts calls for a motion to adjourn. Weaver makes a motion to adjourn the meeting of July 15, 2009. Bishop seconds the motion and a unanimous affirmative voice vote is recorded. The meeting adjourns at 3:42 p.m.

The next ALUC regular meeting is scheduled for August 19, 2009, at 2:00 p.m. in the Planning & Building Services Conference Room.



Carl Felts, Chairman
Plumas County
Airport Land Use Commission



Nancy Fluke, Recording Secretary