

POWER COUNTY COMMISSIONER MINUTES

The Board of Power County Commissioners met in special session on September 4, 2001. Present were Commissioners Ken Estep, Chairman, Valerie Hoybjerg and Janet S. Chapman. Also present was Power County Clerk Christine Steinlicht.

CRATERS OF THE MOON NATIONAL MONUMENT – LAW ENFORCEMENT ASSISTANCE AGREEMENT: Power County Sheriff Howard Sprague and U.S. Department of the Interior Representative Jim Hardin appeared before the Commissioners to discuss law enforcement services within the Power County area of the Craters of the Moon National Monument. Sheriff Sprague would like Power County to enter into a law enforcement assistance agreement with the United States Department of Interior, Bureau of Land Management. Mr. Harkin will provide the Commissioners with a proposed written agreement. The matter was tabled until September 5, 2001.

ICRMP – CONTROL LOSS VISIT: Gary Gunderson of ICRMP appeared before the Commissioners to discuss Power County's insurance liability and loss control. Mr. Gunderson presented a written summary of the five-year loss history for Power County. Mr. Gunderson and Clerk Steinlicht then conducted a walk through of the buildings and facilities owned by Power County. Mr. Gunderson will prepare and submit a written report to the Power County Commissioners to address any concerns that arose as a result of the walk through.

PLANNING & ZONING – HANDI- PLUS, INC., SPECIAL USE PERMIT APPEAL: The Commissioners took up Handi-Plus, Inc.'s Motion to dismiss the appeal of Carl and Kathleen Barkdull and Marty R. Anderson, on the conditional use permit issued by the Power County Planning & Zoning allowing the construction of a natural gas-fired power facility. The Commissioners heard comments and arguments of Handi-Plus, Inc.'s attorney J. D. May and attorney/appellant Marty Anderson.

EXECUTIVE SESSION: Moved by Commissioner Estep, seconded by Commissioner Hoybjerg, to move into executive session pursuant to I.C. #67-2345, for the purpose of taking up potential legal issues. Carried.

PLANNING & ZONING – HANDI-PLUS, INC., SPECIAL USE PERMIT APPEAL: Moved by Commissioner Chapman, seconded by Commission Estep, to deny Handi-Plus Inc.'s Motion to Dismiss the appeal for the following reasons:

1. The Planning & Zoning permit was specifically conditional upon Power County Commissioner approval and this requirement distinguishes that condition from other usual conditions.

2. The ground in question was not available for permit until the re-zone was completed.
3. The situation is unique because the special use permit was heard before the land was zoned for that type of use.
4. If the Power County Commissioners should err, if at all, the desire is to err on the side of allowing full public participation and not block appeal rights based upon technicalities.

Carried. Following discussion, it was moved by Commissioner Hoybjerg, seconded by Commissioner Chapman, to remand the special use permit back to Power County Planning & Zoning for the purpose of clarifying technicalities and supplementing any items that may be missing. Carried. The Commissioners specifically request that the Power County Planning and Zoning Commission supplement or amend its original finding as follows:

First, P&Z is to supplement its record to ensure that a completed application with correct address and ownership information is provided, including a record of survey for the subject property;

Second, P&Z is to supplement the record with a sketch plan and site plan review as required by the Power County Land Use Plan;

Third, P&Z is to specify the types and heights of trees and berms to be employed in the proposed use;

Fourth, P&Z is to include a provision for a performance bond of \$250,000, which was apparently discussed and agreed upon, but which does not appear in the permit or the record;

Fifth, P&Z is to make additional inquiry in to whether noise levels can be reduced below the minimum standard of 75 decibels in the land use plan, and whether different noise levels may be imposed during different hours of operation;

Sixth, P&Z shall indicate that the project is a sixty-four megawatt facility, and shall not discuss or approve a one hundred megawatt facility at this time;


Seventh, the existing record shall be supplemented with the information as soon as possible, at a public hearing where interested persons and the public may participate in the supplements required hereby. The P&Z need not, however, rebuild the record it has already established. This information is to supplement the existing record;

Eighth, P&Z shall make sure that the project fits within the zone it's being applied for.

The Commissioners directed Mr. Wiles to refund any balance of appellants' appeal fee.

PLANNING & ZONING – KENDELL RANCHES RE-ZONE: Moved by Commissioner Estep, seconded by Commissioner Hoybjerg, to approve the Decision, Findings of Fact and Conclusions of Law as prepared by Power County Special Prosecuting Attorney Guy Price to re-zone a parcel of land along Highway 37 from agricultural to light industrial as requested by Kendell Ranches. Carried. Attorney Price will prepare an ordinance for publication.

Adjourned.



KEN ESTEP, Chairman



CHRISTINE STEINLICHT, Clerk