

**Lea County Planning & Zoning Board
Public Hearing & Regular Meeting
Tuesday, August 8, 2017 9:30 A.M.**

Commission Chambers, Lea County Courthouse, 100 N. Main, Lovington, NM

ITEM 01: Call to Order/Roll Call

The meeting was call to Order by Chairman, Kallie Windsor at 9:40 am. Members present were Kallie Windsor, Chairman; Guy Kesner, Vice-Chairman, Gary Eidson, Johnnie Hopper, and Daniel Johncox. Members absent were Kay Hardin and Dickie Wall.

ITEM 02: Comments from the Public

There were no comments from the public.

ITEM 03: Consideration of Approval of the Minutes of June 13, 2017, Meeting

The minutes were approved by all present. Mr. Eidson made the motion and Mr. Hopper seconded the motion.

ITEM 04: Consideration of Approval of the Libba Land Subdivision, a Type 2 Subdivision, in the Southwest Quarter of Section 34, Township 17 South, Range 38 East, Lea County, New Mexico.

Mr. Reid introduced the Libba Land Subdivision to the Board and public who attended the meeting. Then Mr. Johncox was introduced to present the proposed subdivision to the board. He stated that the subdivision has been modified from the first time it was discussed before this board. He tried to get a favorable opinion for the 1st proposed Libba Land Subdivision which was to be 94 lots at 1 acre per lot. The OSE would not grant a favorable opinion for that option so he has changed the subdivision to be 51 lots and each lot being larger than 2.00 acres in size. This alleviates the pressure of having to get a favorable opinion from the OSE before the subdivision would be allowed to be approved from the LCBC. Mr. Johncox stated he had work with the OSE for a year with the help of Adkins Consulting Firm to try to get the OSE to write a favorable opinion.

Mr. Hopper asked if Cottonwood Lane was part of the subdivision and would it be improved as part of this development. Mr. Johncox stated that Cottonwood Lane is not part of Libba Land Subdivision but it would be improved during this development. Part of Cottonwood Lane had been developed but more right-of-way is being obtained to widen the street for ingress/egress purposes. When developed the right-of-way will be given in fee simple to Lea County.

The OSE has issued a negative opinion for Libba Land Subdivision of 51 lots with each lot being greater than 2.00 acres in size. There reason is their model states the Ogallala aquifer in LC is being depleted at a rate of between 1.6 ft/yr. and 3.0 ft/yr. At this rate the aquifer will have a life expectancy of between 33 yrs. to 86 yrs. Since the youngest life expectancy for the aquifer is less than 40 years. The OSE cannot give a favorable opinion for this subdivision. Mr. Johncox stated that in the OSE model the OSE uses all existing water rights that are encumbered in Lea County. The OSE

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model uses these right at the highest capacity possible. This model for repletion of the aquifer means all water right are running 24 hours per day and 7 days per week.

Mr. Reid interjected at this time that under state statutes that the OSE is required by law to use the maximum rate of all water encumbered at the highest rates possible in their model.

Mr. Chris Cortez, representative of the Adkins Engineering Associates, explained the water availability study at this time. He stated that Mr. Johncox drilled an exploratory well on the proposed subdivision site to get an accurate reading of the saturation level under the proposed site. Mr. Cortez stated that they also used the USGS well to the north and the south of the proposed subdivision as well as a third USGS well that is less than a mile to the east of the subdivision. As of June of 2017 the USGS well to the north of the proposed subdivision site show a decrease in the saturation level for the aquifer at a rate of 1.4 feet per year. The well to the south show a depletion rate of 1.6 ft/yr. and the well to the east shows a depletion rate of 0.92 ft/yr.

Mr. Hopper stated that if the OSE information is used from the negative opinion letter dated May 25, 2017 one of the option in that letter stated that if the aquifer was being depleted at a rate of 1.6 ft/yr. then the life expectancy of the aquifer would be 86 years. Using their own figures, OSE is stating that the aquifer will flow for more than 40 years. This proposed subdivision should be okay.

Mrs. Windsor, Mr. Kesner, Mr. Eidson, and Mr. Kesner all agreed with this affirmation from Mr. Hopper.

Mrs. Windsor asked Mr. Galvez of Galvez Plumbing to explain, to everyone present, how a new septic system differs from and old septic system. He explained because of the manufacturing of the new systems and the addition of new enzymes the effluent water is much cleaner and purer than the old effluent water that was leached from the system into the soil.

Mr. Eidson moved to approve the subdivision with Mr. Hopper seconding the motion.

Mr. Caldwell, the County Attorney, explained that the OSE is the leading water authority in the State of New Mexico by statute. If this Board chooses to override their opinion and approve this subdivision and move the process along to the LCBCC board then a motion needs to be made explaining in-depth why this board believes the OSE opinion should be overridden. Mr. Eidson moved that because of the Atkins Water Availability Study, the lower water decline rate stated in the disclosure statement, the USGS current well draw down information, and the OSE opinion letter dated May 25, 2017 all provided current information on why Libba Land Subdivision should be approved. Mr. Hopper seconded the amended motion. The board voted unanimously to approve the preliminary plat for Libba Land Subdivision.

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**ITEM 05: Consideration of Approval of Lot, Tract, or Parcel size to 7.50 acres
from a 1.00-acre size for all Lea County Subdivisions.**

Mr. Johncox stated that this was not appropriate because none of the information presented showed an increase in soil contamination that was above the minimum state levels for contamination. All the records present most elements were below the state mandated levels of contamination for nitrates and other contaminants. There were some elements that were above the state limits but not consistently.

Mrs. Windsor stated that a person needs to be extremely careful when obtained a water sample for testing. Not following the proper procedure can give inaccurate results.

Mr. Eades from Eades well servicing stated that the problem is not with the septic system in subdivision, but with the dairies elimination of waste water on other lands away from the dairy site. He also stated that the emphasis of the letter from LSWD is the conservation of the water supply for LC. If a person has 7.5 acres of land, then the owner will find ways of maintaining that land either through irrigation of fields or trees or other vegetation. A present parcel of land from 1-2 acres an owner will have a maximum of 800 sq. ft. of vegetation to care for, but larger parcel that vegetation could increase to 4000 sq. ft. of vegetation. The property owner with that much extra land will want to put it to use by adding structures, swimming pools, and livestock which will defeat the conservation proposal set forth in this plan.

Mrs. Galvez stated that with the new septic tank and leech fields that the chance for contamination is far less than in the past. The effluent water from a leech field is much purer effluent than older septic systems produced.

Mr. Johncox stated that the best purifier for effluent is mother nature. With the leech field being at 10 ft below the surface and 80 to 100 feet to the water table the amount of contamination to the water table is negligible.

The board decision is to ask the LCBCC for direction and request a more in-depth study of soil and ground water contamination before deciding to change the acreage size on a LC subdivision lots, tracts, or parcels.

ITEM 06: SET/CONFIRM NEXT MEETING(S)

Future meeting dates were set as: September 12th, October 10, and November 14th.

ITEM 07: Adjournment

The meeting was adjourned at 11:25 a.m.