

Lea County Planning & Zoning Board
Public Hearing & Regular Meeting
Tuesday, September 18, 2017 9:30 A.M.

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

- ITEM 01: Kallie Windsor, the Board Chair, called the meeting to order at 9:35 A.M.
Roll call found all members present except for Gary Eidson.
Members present are Kallie Windsor, Guy Kesner, Kay Hardin, Johnnie Hopper, Dickie Wall, and Daniel Johncox.
Quorum was met.
- ITEM 02: No Comments from the public at this time.
- ITEM 03: Approve Minutes from August 8th. Moved by K. H and 2nd by GK
Approval of the Agenda. Moved by Johnnie Hopper and second by Guy Kesner.
Agenda was approved unanimously.
- ITEM 04: **Consideration of Approval of the Libba Land Subdivision, a Type 2 Subdivision, in Southwest Quarter of Section 34, Township 17 South, Range 38 East, Lea County, New Mexico.**

Description of Subdivision given by Mr. Reid. He stated the development information for Cottonwood Lane which would improve the lane from caliche to chip-seal surface and give a through street from Dal Paso St. to Grimes St. between Kansas St. and Alabama St.

Timeline for the beginning of Libba Land Subdivision.

August 2015

Daniel Johncox talked to the City of Hobbs about extending water service line to the subdivision site as not to have to worry about office of state engineer's approval. The cost for extending from College Lane to the subdivision site would cost \$1,308,900.

January 2016

Sent State agency letters in.

Received a negative of Lea County Soil and Water. LCSW state they could not condone the subdivision. The lots were too small. LCSW proposed lots sizes of no less than 5 acres.

Daniel Johncox requested the postponement of the 94 lot subdivision.

March 2016

New Mexico Department of Transportation issued a positive opinion letter stating they had no problem with the proposed 94 lot subdivision.

April 2016

Daniel Johncox amended the Libba Land Subdivision to a 78 lot subdivision with lot size greater than one acre but less than 2.25 acres.

May 2016

Hydrology Bureau Memorandum for the Office of the State Engineer (OSE) (Petronis 2016 for future reference).

Daniel Johncox requests the opinion to be delayed and additional information was sent to OSE.

June 2016

Atkins engineering worked with the OSE on Daniel Johncox's behalf to get the OSE to render a positive opinion.

April 2017

Libba Land Subdivision became a 51 lot subdivision with lots of greater than 2.25 acres to less than 3.50 acres per lot.

Agency letters sent

June 2017

Lea County Planning & Zoning Board
Public Hearing & Regular Meeting
Tuesday, September 18, 2017 9:30 A.M.

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

Received (Petronis 2017) from the OSE a 2nd Hydrology Bureau Memorandum. Chief water specialist in his opinion per OSE model shows the aquifer, according present projected consumption of 3 acre feet per year, beneath Libba Land Subdivision would have 4 acre feet of water by 2040. (Note: The OSE Model uses the total consumption of all paper water rights at full capacity.)

July 2017

Office of State Engineer issued a negative opinion letter stating that the subdivider could not, in their opinion, supply sufficient quantity of water to the subdivision for 40 years as documented in the subdividers Disclosure Statement.

Sent Legal Notices for Public Hearing

Receive Opinion Letter from Office of Cultural Affairs positive opinion, but would like the surveyor to hire an archaeologist to do a complete survey of the land since no cultural survey has been completed in this area.

July 2017

Letters sent to adjacent land owners with public hearing information.

August 2017

Public Hearing held, & Subdivision was approved. Plat that was approved was only for Phase 1 (the first 19 lots) rather the full 51 lot subdivision.

The subdivider agreed to allow a second public hearing for the complete subdivision plat.

August 27, 2017

Legal Notices and letters to adjacent land owner were sent advertising the second public hearing.

September 18, 2017

Second Public Hearing

Johnnie Hopper asked for clarification of the reason for this second public hearing is because the board only approve phase 1 previously and this hearing would approve all three phases of the complete subdivision. Kallie Windsor gave an affirmative reply.

Johnnie Hopper asked Guy Kesner what the City of Hobbs Planning Board thought of the subdivision, He was informed that the City Planning and Zoning Board has given approval for the subdivision.

Reggie House stated his major concern was water.

What is the radius of water for the subdivision that would pull from the other surrounding wells?

Chris Cortez with Atkins Engineering was able to answer Mr. House's question. He stated that the radius was actually asking what the drawdown of the areas aquifer would be per year? The drawdown for all 51 lots at a half an acre foot per well would be <0.05 acre-foot per year in the model cell. <1/20th of an acre foot per year. As far as the actual radius drawdown from each individual well would only be 10-15 feet from the center of each well. These individual wells would have no effect on the surrounding wells as far as drawdown is concerned.

Mr. House 2nd question

Wanted to know why everyone in the area (from Bensing to Dal Paso north of Kansas) would not be informed that 51 new wells were being placed in the area?

Mr. House also stated he is unhappy with the mobile homes, trailers, which are manufactured homes coming in and decreasing his property value.

Lea County Planning & Zoning Board
Public Hearing & Regular Meeting
Tuesday, September 18, 2017 9:30 A.M.

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A new road is coming in and dead ending across the street from his house. There was just a four car accident in that area a few weeks ago.

Stated he is not against development unless it affects him negatively and he cannot see where the development of Libba Land Subdivision would affect him positively in any way shape or form or anyone else in the area.

Eloy Perajo

Concerns are water, property value, worrisome neighbors, and property theft. He stated if the developer was serious about the development then he could buy Mr. Perajo out. Mr. Perajo has 13 acres and was looking to put 10-15 head of cows on the property.

Daniel Johncox

Answered the previous speakers about their concerns. He stated that according to Atkins that the water consumption will be negligible. The owner of the homes has to qualify for mortgages on these home the same as any conventional built homeowner. The traffic, Daniel Johncox believes, will not increase the congestion on Dal Paso or Grimes.

Mr. House return with a housing concern that people could buy a lot from Daniel Johncox and place a tiny two room house on the property to live in. Mr. House asked if the property owners had to buy a house from Young's Manufactured Homes (YMH) when they buy the property. Daniel Johncox stated affirmatively that each new property owner had to buy from YMH home when purchasing the land.

Mr. House asked Daniel Johncox to brick the homes that abut Grimes then all would be well.

Mr. Parejo asked if a highway was coming through Kansas?

Guy Kesner reported that in the long term plans for the City of Hobbs that plans show for Kansas to be a North by-pass route around Hobbs.

Chris Cortez discussed with all the members but especially the ones that did not make the last meeting that the Lea basin is a closed basin and a mined basin and that the level does diminish with use. He stated that the USGS well, which is close to and just north of the northern boundary of Libba Land Subdivision, records show that the decline since 1940 has been 0.92 acre-feet per year; from 1999 the decline is 1.19 acre-feet per year (AFY); and since 2009 is 1.4 acre-feet per year. Chris Cortez, Atkins Engineering Project Manager, does not think the OSE Model is effective model because it is not representative of the actually ground water picture. The OSE Model uses all paper water rights and the OSE Model's consumption rate is 3 to 4 times higher than data from existing wells. OSE Models shows aquifer declining from 1.6 AFY to 3 AFY for a saturated thickness of 102 feet. At that rate the aquifer will deplete itself between 34 and 63.75 years. The USGS records show that the aquifer having a saturated thickness of 152 feet should deplete itself between 108.57 and 165.22 years. The USGS Model shows the aquifer to have 50% more water presently and have of life expectancy of 275% longer than the OSE Model. The second reason for the discrepancy of the OSE Model is most of the agricultural water rights for this section are non-existent because most of the land has been converted into single family residential parcels.

Guy Kesner asked how can each property owner be restricted to the 0.5 AFY that is stated in the Disclosure Statement.

Mr. Cortez stated that the OSE looks that the restrictive covenants and permits accordingly. Plus,

Lea County Planning & Zoning Board
Public Hearing & Regular Meeting
Tuesday, September 18, 2017 9:30 A.M.

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Daniel Johncox is going to pull all the permit for the water so he can make sure everything coincides with the Disclosure Statement.

Guy Kesner asked specifically how an individual could be regulated to only a 0.5 AFY? What keeps that individual of using more if they prefer to do it?

Mr. Cortez stated that the developer has inserted low flow shower heads and toilet to keep the usage limited. The only regulatory agency is the OSE. If a homeowner is using too much water it should be visible on the ground.

Johnnie Hopper reminded all, that if a homeowner wanted to increase the horsepower and flow on the well it would have to be permitted and it would not be allowed. The only away to circumvent the law would be for the homeowner to do it without a permit. The fines and penalty for those action are prohibitive.

Kallie Windsor asked if the developer enforces the restrictive covenants of the subdivision.

Daniel Johncox as long as he still has houses to sell in the subdivision he will send letters to people who are violating the intended purpose of the land.

With no more discussion, Kallie Windsor stated the chair would entertain a motion about the subdivision.

Guy Kesner made the motion to accept the Preliminary Plat of Libba Land Subdivision, a Type 2 Subdivision, of 51 Lots, in Section 34, Township 18 South, Range 38 East based on the information provided by Atkins Engineering. The motion was seconded by Kay Hardin.

Johnnie Hopper asked a clarification question. This is for the whole preliminary plat for Libba Land Subdivision without the developer having to come back to get each individual preliminary phase plats approved?

Kallie Windsor responded in the affirmative.

Guy Kesner stated to the audience that the vote is a recommendation vote to proceed to the Lea County Board of County Commissioners and the Board would be responsible for giving approval for the Subdivision to be developed.

Kallie Windsor call for the vote. All were in favor without any no votes. The motion passed unanimously.

Next Meeting dates: October 24th; November 14th; December 12th.
Meeting adjourned at 11:13 A.M.