

**MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
JUNE 23, 2005
(APPROVED JULY 28, 2005)**

The meeting was held at the hour of 1:30 p.m. in the Conference Room of the Public Works Operations Building, 4825 Gleason Drive, Dublin, California.

FIELD TRIP: 9:00 p.m.

MEMBERS PRESENT: Member Donna Flavetta.

MEMBERS EXCUSED: Members Jon Harvey and Larry Gosselin.

OTHERS PRESENT: Brett Lucas, Planner II.

FIELD TRIP: The meeting adjourned to the field and the following property was visited:

1. **KENNETH BUSSE, CONDITIONAL USE PERMIT, C-8397** – Application to allow retention and continued operation of an outdoor recreational facility (model aircraft flight field), in an “A” (Agricultural) District, located on Laughlin road, east side, approximately 685 feet north of North Front Road, Livermore area of unincorporated Alameda County, bearing Assessor’s Parcel Numbers: 099B-5500-001-10 and 099B-5500-002-05.

2. **BOSCO and GERARDA STOCKING, WILLIAM SPEER, JR and CLAUDE HENSLEY, VARIANCE, V-11924** – Application to modify a nonconforming use (commercial use in an area designated by the General Plan as WM) so as to operate an event center with on-site alcohol sales, in a Water Management (ECAP) District, located at 11984 and 11986 Main Street, south side, end of Kilkare Road, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 0096-0140-002-01. **Continued.**

3. **LAMB SURVEYING, INC., VARIANCE, 11932** – Application to adjust two lot lines between two existing parcels and to approve as a building site a parcel with no frontage on an approved county road containing 10 acres where 100 acres are minimum, in an “A” (Agricultural) District, located at 9745 Santos Ranch Road, west side, approximately 0.80 miles west of Foothill Road, unincorporated Pleasanton area of Alameda County, bearing Assessor’s Parcel Number: 0941-2300-002-09. **Continued.**

REGULAR MEETING: 1:30 p.m.

MEMBERS PRESENT: Chair Larry Gosselin and Member Donna Flavetta.

MEMBERS EXCUSED: Member Jon Harvey.

OTHERS PRESENT: L. Darryl Gray, Assistant Planning Director, Yvonne Bea Grundy, Recording Secretary

There were five people in the audience.

A. CALL TO ORDER: The meeting was called to order by the Chair at 1:55 p.m.

B. OPEN FORUM:

Open forum is provided for any members of the public wishing to speak on an item not listed on the agenda. Each speaker is limited to three (3) minutes. No one requested to be heard under open forum.

C. ANNOUNCEMENTS BY THE CHAIR:

The Chair announced that due to the presence of applicants and members of the public the election of officers be moved to the end of the agenda.

D. CONSENT CALENDAR:

1. **WINDWORKS, INC., CONDITIONAL USE PERMIT, C-8216** – Application to allow continued operation of an existing wind generation facility, in an “A-B-E” (Agricultural, 160 acres Minimum Building Site Area) District, located at 12251 North Flynn Road, east side of South Flynn Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099A-1810-001-00. (Continued from November 13, December 11, 2003; January 29, February 19, March 25, April 29, July 29, August 12, September 23, October 28 and November 18, 2004, January 27, February 10 and 24, 2005, March 24 and April 28, 2005; to be continued without discussion to July 28, 2005).

The working group has formed smaller sub committees. Committees meet on a regular basis and are moving toward consensus. A further wind farm update will follow during the staff comment portion of the meeting.

2. **ALTAMONT INFRASTRUCTURE COMPANY/ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY, CONDITIONAL USE PERMIT, C-8243** – Application to allow continued operation of an existing wind generation facility consisting of 404 turbines, in an “A-B-E” (Agricultural, 160 acre Minimum Building Site Area) District, located at 11700 and 11701 North Flynn Road, east corner, southwest of South Flynn Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Numbers: 099A-1770-002-01, 099A-1770-002-02, 099A-1770-002-03, 099A-1780-001-04, 099A-1790-003-00 and 099A-1810-001-00. (Continued from August 12, September 23, October 28, November 18, 2004, January 27, February 10 and 24, March 24 and April 28, 2005; to be continued without discussion to July 28, 2005).

The working group has formed smaller sub committees. Committees meet on a regular basis and are moving toward consensus. A further wind farm update will follow during the staff comment portion of the meeting.

3. **PAUL MASON, VARIANCE, V-11911** – Application to approve as a building site a parcel reduced in size from 1.90 acres to 1.088 acres and construction of a new single family home providing a seven foot front yard where 20 feet is required, in a PD (Planned Development) District, located at 11825 Niles Canyon Road, south side, southeast corner of Western Pacific Railroad Tracks, unincorporated Sunol area of Alameda County, bearing Assessor’s Parcel Number: 0096-0140-021-00. (Continued from March 24, 2005; to be continued

without discussion to July 28, 2005).

The application requires additional time to resolve complex access issues and obtain signatures for the Boundary Adjustments.

4. **DELWYN LOUNSBURY, VARIANCE, V-11895** – Application to approve as a building site one parcel reduced in size from 100 acres to 40.82 acres without frontage on an approved county road, in an A-CA (Cultivated Agriculture) District, located on Mines Road, west side, approximately 686 feet west of Del Valle Road, unincorporated Livermore area of Alameda County, bearing Assessor's Parcel Number: 099A-2420-006-03. (Continued from February 10 and 24, and April 28, 2005).

The staff planner is on maternity leave. Another planner has been assigned. The matter will be scheduled for the July 28, 2005 Meeting.

5. **BOSCO and GERARDA STOCKING, WILLIAM SPEER, JR and CLAUDE HENSLEY, VARIANCE, V-11924** – Application to modify a nonconforming use (commercial use in an area designated by the General Plan as WM) so as to operate an event center with on-site alcohol sales, in a Water Management (ECAP) District, located at 11984 and 11986 Main Street, south side, end of Kilkare Road, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Number: 0096-0140-002-01.

Recommendation is to continue the application to the July 28, 2005 Meeting so it may be referred to the Sunol Advisory Committee.

6. **LAMB SURVEYING, INC., VARIANCE, 11932** – Application to adjust two lot lines between two existing parcels and to approve as a building site a parcel with no frontage on an approved county road containing 10 acres where 100 acres are minimum, in an "A" (Agricultural) District, located at 9745 Santos Ranch Road, west side, approximately 0.80 miles west of Foothill Road, unincorporated Pleasanton area of Alameda County, bearing Assessor's Parcel Number: 0941-2300-002-09.

The application requires additional time to resolve complex access issues and obtain signatures for the Boundary Adjustments. Recommendation, continue the application to the July 28, 2005 Meeting.

Member Flavetta motioned to accept the Consent Calendar as submitted. Chair Gosselin seconded the motion. Motion carried 2/0. Member Harvey was excused.

E. REGULAR CALENDAR:

1. **KENNETH BUSSE, CONDITIONAL USE PERMIT, C-8397** – Application to allow retention and continued operation of an outdoor recreational facility (model aircraft flight field), in an "A" (Agricultural) District, located on Laughlin road, east side, approximately 685 feet north of North Front Road, Livermore area of unincorporated Alameda County, bearing Assessor's Parcel Numbers: 099B-5500-001-10 and 099B-5500-002-05.

Mr. Gray gave the Board an overview of the project. The outdoor recreational facility (Model Airplane Flight Field) operates on property owned by B.A.R.T. and Alameda County Schutzhund & Police K-9. East Bay Radio Controllars has secured long term lease agreements. The facility is generally operated on week-ends from 8 a.m. to sundown. Hours may extend as weather permits and the days get longer. Hobby level, light weight aircraft are used. The club sponsors special events and races which the applicant will explain during public testimony. A port-a-potty is located on the property as required by Alameda County Flood Control and Water Conservation District. The facility is self contained and locked when not in use. There is a no fly zone approximately 100 yards west of the end of the runway. Club officers govern, monitor and enforce consequences for violators. Staff suggested that no third party monitoring from Fish & Game etc. was applicable since no environmentally sensitive areas exist on the properties. The applicant will comply with County Fire Code Standards and obtain Fire Clearance within 30 days of approval. The attached letter dated May 6, 2005 addresses specifics regarding access, water supply, fire breaks, vegetation management, fire apparatus maneuvering, parking areas, and fire protection equipment. The site has been in operation for years without any issues. Staff recommended a permit expiration of five years as opposed to three. Regarding Pre Hearing Recommendation #8, the applicant will have to sort out final fencing details with B.A.R.T. and Schutzhund as they may have requirements as to color etc. Staff recommendation is wire fencing.

A letter in opposition to the project was received from Richard Chee. His concerns are that model aircraft flying over the interstate might cause traffic issues. Flight over residential areas may cause property damage such as sparks that could cause a fire. He also felt there may be land use issues if a station is eventually built on B.A.R.T. property. Staff did not share the same concerns regarding land use. The range of the aircraft used at the field does not extend over the hills to the East. Thus far the Club has operated in a safe manor without incident. The Chair stated that he owned property to the South of the field. He asked the applicant and staff if there might be any conflict with him rendering a decision.

Public testimony was opened. The applicant, Mr. Kenneth Busse said he did not object to the Chair making a decision. Staff added the Chair had no involvement in the site, financial or otherwise, therefore no conflict existed with him in a decision making capacity. Air shows are held throughout the year. The Boy Scouts and Scott Haggerty's Office takes an active part in one of their largest shows. He told the Board the only Condition that may be a challenge is Condition #18. Rockets are considered firearms. They are used in most of the large shows. When they are used at the site, special permits are obtained from the FHA in addition to the standard requirements. In response to the neighbor's concerns about flight paths, air craft must be kept in sight for control, therefore limiting the distance they can fly. The neighbor's property is 1,000 feet from the field. Mr. Busse asked for details on what the fence should look like. The Chair said an open wire fence with steel and mortal posts would suffice. The Chair closed and said the flight field had been in existence for some time and there had never been any problems.

The Chair motioned to uphold staff's recommendation of approval with the modification of Condition #21. The permit shall expire in five years. Member Flavetta seconded the motion. Motion carried 2/0. Member Harvey was excused.

2. **BIOSOLIDS RECYCLING, CONDITIONAL USE PERMIT, C-8311** - Application to allow continued operation of a sanitary landfill (land spreading of biosolids/digested sewage sludge) in an "A" (Agriculture) District, located in Section 26, off of Jess Ranch Road, approximately 1.5 miles west of Grant Line Road, in Unincorporated Mountain House Area of Alameda County, Designated Assessor's Parcel Numbers: 99B-6400-2-6 and 99B-7800-9. (Continued from September 23, October 28, November 18, 2004, January 27, March 24 and April 28, 2005).

Staff reminded the Board that the application had been before them many times. The operation is ongoing and located in the Mountain House area. Environmental work is now complete. Staff recommendation is approval. The applicant has substantially complied with all aspects of the adopted Mitigation Monitoring and Reporting Program in a timely manner over the past 12 years. Clarification regarding the application is as follows:

- The term used in the project description “ continued land spreading of biosolids/digested sewage sludge operation“ is accurate
- The three adjacent properties which are adjacent to the site use spreading as well. Property owners have been notified that their Use Permit’s expire soon. The two property owners of the parcels have notified the County they plan to continue the use, and they are prepared renew their permits.
- Exhibit “B”, dated April 21, 2005, # 5 should state, no discing shall be performed on estimated slopes greater than 28%, not 15%. The applicant has until, September 15, 2005 to submit an updated map.
- Staff recommends modification of Pre Hearing Recommendation #9 to reflect a permit expiration date of June 23, 2010.

Mr. Gray then recommended adoption of the Mitigated Negative Declaration document dated, April 21, 2005, and Pre Hearing Recommendations 1-9 in the staff report as modified therein. The Chair asked if discing on slopes up to 28% was in conflict with Measure D. Staff confirmed that it was not. The 28% standard was established by the Regional Water Quality Board and has been in existence since 1998. Twenty eight percent maximum allows for run off and access for maintenance. Member Flavetta asked how staff determined the 75 cent per ton fee for solids imported onto the site was calculated. Staff said the fee was standard for County Land Fill Facilities like, Altamont and Vasco.

Public testimony was opened. The applicant, Mike Harding was present. The site has been in operation since 1992. He is the original owner of the business. The Board had no questions of Mr. Harding. Public testimony was closed.

The Chair said he was familiar with the application and felt comfortable approving Conditional Use Permit, C-8311. Member Flavetta asked staff to revise the numbering sequence of the Pre Hearing Recommendations. Periodic Permit Review shall be numbered as Recommendation #3 resulting in a total of 10 Conditions. Member Flavetta motioned to uphold the staff recommendation of approval of the application. The permit shall expire on June 23, 2010. Pre Hearing Recommendations shall be correctly numbered and total 10. Exhibit “B”, #5 shall be modified to reflect no discing on slopes greater than 28%. The Chair seconded the motion. Motion carried 2/0. Member Harvey was excused.

3. **DELWYN LOUNSBURY, VARIANCE, V-11895** – Application to approve as a building site one parcel reduced in size from 100 acres to 40.82 acres without frontage on an approved county road, in an A-CA (Cultivated Agriculture) District, located on Mines Road, west side, approximately 686 feet west of Del Valle Road, unincorporated Livermore area of Alameda County, bearing Assessor’s Parcel Number: 099A-2420-006-03. (Continued from February 10 and 24, and April 28, 2005).

This item was moved to the Consent Calendar.

4. **BOSCO and GERARDA STOCKING, WILLIAM SPEER, JR and CLAUDE HENSLEY, VARIANCE, V-11924** – Application to modify a nonconforming use (commercial use in an area designated by the General Plan as WM) so as to operate an event center with on-site alcohol sales, in a Water Management (ECAP) District, located at 11984 and 11986 Main Street, south side, end of Kilkare Road, unincorporated Sunol area of Alameda County, bearing Assessor's Parcel Number: 0096-0140-002-01.

This item was moved to the Consent Calendar.

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This item was moved to the Consent Calendar.

- F. **Approval of Minutes** - Chair Gosselin announced that the approval of April 28th Minutes would take place at the July 28, 2005 Meeting when Member Harvey would be present.

G. STAFF COMMENTS & CORRESPONDENCE:

Staff gave the Board a history and a status update of application, C-8080 – Lockaway Storage. The application was heard in December of 2000 by the West County Board of Zoning Adjustments and denied. The application was appealed to the Board of Supervisors and denied as well. The applicant filed a law suit. A compliance hearing took place this week. Staff has not been updated fully as to the finding however an update will be given at the next meeting. There may be a chance in the future that the application could be reviewed by East County Board of Zoning Adjustments. If so, an addition meeting may need to take place in the month of July to familiarize the Board with the application.

The California Utilities Commission will sponsor a workshop to familiarize people with wind farm issues on June 28, 2005. An E mail will be sent out to everyone. Wind farms will be on the Board of Supervisors Agenda for July 3, 2005. It is anticipated discussion will take place but dialog will continue. Wind farms will also be on the August Board of Supervisors Agenda. The Chair added that the East County Board of Zoning Adjustments would like to submit a letter to the BOS regarding wind farms. They contributed a considerable amount of work and research and would like to stay involved in discussions. Another application that may come before the Board in August is the Livermore Yacht Club. The Board should spend time familiarizing themselves with the possible issues. The final specific plan for the area will include some of the solutions that are formulated for the project.

- H. **CHAIR'S REPORT:** None.

- I. **ELECTION OF BOARD MEMBERS** for the year 2005-2006.

Larry Gosselin motioned to nominate Jon Harvey for Chairperson of the East County Board of Zoning Adjustments. Donna Flavetta seconded the motion. Motion to elect Jon Harvey as Chairperson of the East County Board of Zoning Adjustments carried 2/0. Member Harvey was excused.

Donna Flavetta motioned to nominate Larry Gosselin for Vice Chairperson of the East County Board of Zoning Adjustments. Larry Gosselin seconded the motion. Motion to elect Larry Gosselin for Vice Chairperson of the East County Board of Zoning Adjustments carried 2/0. Member Harvey was excused.

J. BOARD ANNOUNCEMENTS, COMMENTS AND REPORTS:

Member Flavetta announced that she may be moving out of the County in October. Staff said would contact the Board of Supervisors now to allow sufficient time to find a replacement.

K. ADJOURNMENT: There being no further business, the hearing was adjourned at 3:00 p.m.

CHRIS BAZAR - SECRETARY
EAST COUNTY BOARD OF ZONING ADJUSTMENTS