

STATE OF TEXAS §
COUNTY OF DENTON §
TOWN OF BARTONVILLE §

The regular meeting of the Planning and Zoning Commission of the Town of Bartonville was held on March 2, 2011, at 7:00 p.m., in the Bartonville Town Hall. This was an OPEN MEETING, open to the public, subject to the open meeting laws of the State of Texas and, as required by law, was duly posted at on Thursday, February 24, 2011, at 3:30 p.m., at Bartonville Town Hall giving notice of time, date, place, and agenda thereof.

Present:

Ralph Arment, Chairperson
Gloria McDonald, Vice Chairperson
Don Abernathy
Jim Strange
Kathy Bradham, Alternate (voting)
Steve Harris, Alternate (voting)

Absent:

Betty Medlock

Also present: Kristi Gilbert, Town Secretary
Bob Hager, Town Attorney
Gary Vickery, Town Engineer
Dave Howell, Police Chief

This constituting a quorum, the following business took place:

Chairperson Arment called the meeting to order at 7:00 p.m.

The Commissioners considered the January 5, 2011 regular meeting minutes. Vice Chairperson McDonald moved to approve the minutes as written. Commissioner Abernathy seconded the motion. For: Arment, Abernathy, McDonald, Strange and Bradham. Against: None. The motion carried 5 to 0.

No one signed in to speak on non-agenda items.

The Commission conducted a public hearing to hear public comment and to consider recommendations to the Town Council regarding **AN ORDINANCE OF THE TOWN OF BARTONVILLE, TEXAS, AMENDING TOWN OF BARTONVILLE CODE OF ORDINANCES, CHAPTER 14, ARTICLE 14.300, ORDINANCE 361-05, ZONING REGULATIONS FOR THE TOWN OF BARTONVILLE, BY GRANTING A CONDITIONAL USE PERMIT TO ALLOW AN ELEVATED WATER TANK AND RELATED FACILITIES ON A TRACT OF LAND OF APPROXIMATELY 4.735 ACRES KNOWN AS LOT 1, BLOCK A OF THE BARTONVILLE WATER SUPPLY ADDITION, AN ADDITION TO THE TOWN OF**

Call to Order

ACTION: Approve Minutes

Open Forum

**Public Hearing:
Conditional Use
Permit for
Elevated Water
Storage Tank**

BARTONVILLE, TEXAS AS RECORDED IN CABINET V, PAGE 806 OF THE PLAT RECORDS OF DENTON COUNTY, TEXAS BEING MORE SPECIFICALLY DESCRIBED HEREIN AND ATTACHED HERETO AS EXHIBIT “A”; PROVIDING FOR AN AMENDMENT TO THE OFFICIAL ZONING MAP; PROVIDING FOR CONDITIONS AS DESCRIBED HEREIN AND ATTACHED HERETO AS EXHIBIT “B”; PROVIDING FOR CONFORMANCE WITH APPROVED SITE PLAN, WHICH IS ATTACHED HERETO AS EXHIBIT “C”.

Chairperson Arment opened the public hearing at 7:03 p.m.

Open Hearing

Kerry Maroney with Biggs & Mathews spoke as a representative of Bartonville Water Supply Corporation (BWSC). Mr. Maroney stated that this was the second submittal to seek a conditional use permit. Mr. Maroney reviewed a presentation (attached to the minutes). Mr. Maroney stated that BWSC is a surface water supply corporation and, therefore, the surface pump capacity requires a minimum of 2.0 gallons per minute per connection in elevated storage. Mr. Maroney stated that the Texas Administrative Code requires public water suppliers to design to peak demand. BWSC’s peak day was in August 2006 at 2,012 gallons per connection. Mr. Maroney stated that elevated storage is required when the system reaches 2,500 connections and BWSC is currently at 2,489 existing and committed total units.

Applicant

No one signed in to speak in favor of the proposed conditional use permit application.

In Favor

Rex Tillerson, FM 407 & Dove Creek Rd – Mr. Tillerson stated that he owned property adjacent to the proposed tank. He continued to state that he attempted to find information about the application and there was nothing on BWSC’s website. Mr. Tillerson stated that he called BWSC and nobody returned his phone call. Mr. Tillerson inquired as to how far into the future BWSC is planning for; and, if ground storage is put in now, what additional capacity does that give you? Mr. Tillerson stated that there were representations to adjacent property owners that the property would be used for ground storage and access to the UTRWD main. Mr. Tillerson stated that he was concerned about the effect on the value of his property.

Opposed

Dick Arme, Dove Creek Road – Mr. Arme stated that he and his wife purchased property in March 2003 and were very excited about buying property. Mr. Arme stated that he had many conversations with BWSC and were told consistently that there would be no storage above tree line. Mr. Arme stated that they were encouraged to go look at surrounding ground storage tanks.

He continued to state that a previous application to the city indicated that there would be ground storage. Mr. Armev stated that they had studied where they would place their house in the winter, spring and summer to ensure that they would not see the electrical towers from their house, but they will see the elevated tank. Mr. Armev stated that BWSC's betrayal of good faith was done with malice.

Susan Armev, Dove Creek Road – Mrs. Armev showed the Commission pictures of previous submittal with no elevated storage tank from 2003 (attached to minutes). Mrs. Armev inquired as to what had changed since 2003? She stated that there had been a decrease in growth and BWSC had provided the Town with inaccurate numbers. Mrs. Armev stated that she would like time to research the issue and that she believed BWSC had been dishonest with them and the Town. Mrs. Armev stated that if the property had been condemned BWSC would be responsible to compensate landowners for devaluation, but since it was purchased outright, the only course of action is to sue for lost value. Mrs. Armev stated that BWSC had provided the Town with misinformation regarding the height of the electrical towers. She stated that she talked with David Morrison with Oncor and was told that the electrical towers on her property were 115-120' tall. The water tower will be approximately 50' taller. Mrs. Armev stated that the distances to nearby residences were inaccurate. She stated that she had reviewed BWSC's financials and they had over \$5 million in cash. Mrs. Armev inquired as to how a non-profit can have that much cash on hand; and, what engineering firm was going to build the tower? Mrs. Armev stated that if it was the same firm that is going to build the tower, it could be a conflict of interest. Mrs. Armev stated that there was a house on Pilot Knob in Argyle that had a water tower right behind it and the house has been vacant since 2007. Mrs. Armev stated that, if the tower does go in, she would like BWSC to consider using Landmark as they will build a more aesthetically pleasing tower.

Bruce Monroe, owner and manager of Yeti, LLC, owner of approximately 86 acres northeast adjacent to site. Mr. Monroe stated that he purchased his property in June of 2000. Mr. Monroe stated that he began negotiations with BWSC to put a tank on his property. When BWSC purchased their current property, three year long discussions were held regarding obtaining an easement from him. Mr. Monroe stated that he had always been told that it would be ground storage, and possibly one third of the structure would be buried. Mr. Monroe stated that he had been shown a binder that included examples of ground storage tanks. Mr. Monroe stated that ultimately he did grant an easement, however, he was not sure if he would have granted access if he knew there was going to be an

elevated tower. Mr. Monroe stated that he had been told that people were representing that he was in favor of the application when he is not in favor. Mr. Monroe stated that he was not against a water system; he was in favor of in ground as promised.

Norma Harrington, 319 Country Ct – Mrs. Harrington stated that she was a nine year resident and realtor in the area. Ms. Harrington stated that she was not in favor of the project. She does not want it in the community and does not want her clients to have to deal with it. Mrs. Harrington stated that she was trying to sell a home near the site and the buyers backed out when they discovered that a water tower was going to be installed.

Aurora Pucciarello, 1000 Roadrunner – Mrs. Pucciarello stated that she and her husband were real estate brokers and residents and that she trains agents nationwide on how to value property. She stated that the water tower would be visible from their house and would ruin the property values in the area. She stated that their entire life savings was in their home and she feels this was going against what Bartonville is all about.

Mike Pucciarello 1000 Roadrunner – Mr. Pucciarello stated that it seemed like demand for the water is outside of Bartonville. He stated that, at the last council meeting, density issues and assumptions indicated that Bartonville was a high density community. Mr. Pucciarello stated that every effort possible should be made to come up with a different solution. He stated that, on their street alone the value lost would probably pay for two water towers.

Jane Teel, 838 Dove Creek – Ms. Teel stated that, in the last 10 years they have put all their money in the outdoors because the view is so great. From her house she can see much more than \$2 million that will be rendered useless because of the view.

Carter Ghrist 1208 Saddlebrook – Mr. Ghrist stated that he lived adjacent to the Bartonville Town Center and that he agreed with the comments made thus far. Mr. Ghrist stated that the elevated tower should be placed where the development and population growth are.

Mr. Maroney stated that, as far as population projections, Bartonville had a 34% increase since the 2000 census. Double Oak had an increase of over 30% and Copper Canyon had 10%. Mr. Maroney stated that he had been in the business for 36 years and it was very difficult to find evidence that an elevated tower drives property values down. Mr. Maroney stated that he provided engineering services and would not be the one to build the tank.

Rebuttal

He stated his company designs, administers the contract and puts the project out for bid. Mr. Maroney stated that high density development occurred in Double Oak and Lantana in spite of elevated tank. Mr. Maroney stated that BWSC was not short of ground storage, they were short on elevated storage.

Chairperson Arment closed the public hearing to public comment at 8:20 p.m.

Town Attorney Bob Hager stated that the Commission's job was to determine what the most compatible land use for the property was. The Commissioners held discussions with regard to the maintenance of existing tanks and other sites that had been considered.

At 8:48 p.m. Chairperson Arment convened the Planning and Zoning Commission along with their Town Attorney into a closed session to consult with their Town Attorney: Discussion and consideration relative to recommendations to the Town Council regarding a proposed ordinance amending the zoning regulations for the Town by granting a conditional use permit to allow an elevated water tank and related facilities on a 4.735 acre tract of land known as Lot 1, Block A of the Bartonville Water Supply Addition pursuant to Section 551.071 of the Texas Government Code.

At 9:25 p.m. Chairperson Arment reconvened into Open Session and stated that no action had been taken by the Commission.

Town Attorney Bob Hager stated that Alternate Commissioner Bradham was abstaining due to personal reasons.

Commissioner Strange moved to approve the conditional use permit with any conditions as reflected in staff report. Commissioner Abernathy seconded. For: Abernathy, Arment, Harris and Strange. Abstained: Bradham. The motion carried 4-0-1.

Chairperson Arment called for a recess at 9:33 p.m. and reconvened into open session at 9:40 p.m.

The Commission conducted a public hearing to hear public comment and to consider recommendations to the Town Council regarding: **AN ORDINANCE OF THE TOWN OF BARTONVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 14, ZONING, EXHIBIT "A," ZONING ORDINANCE, BY AMENDING CHAPTER 2, SECTION 2.2., DEFINITIONS, TO PROVIDE FOR THE DEFINITION OF "CONTRACTORS' YARDS" (47A) AND LIGHT MANUFACTURING (107A); BY AMENDING CHAPTER 3, SECTION 3.2 GENERAL SITE**

Hearing Closed

**Discussion:
Conditional Use
Permit for
Elevated Water
Storage Tank**

**Convene into
Executive Session**

**Reconvene into
Open Session**

**ACTION:
Conditional Use
Permit for
Elevated Water
Storage Tank**

Recess

**Public Hearing:
Amend Zoning
Regulations**

PLAN, TO PROVIDE FOR A RLI – RURAL INDUSTRIAL ZONING DISTRICT; BY AMENDING CHAPTER 4, SECTION 4.1 TO ESTABLISH THE RLI – RURAL LIGHT INDUSTRIAL ZONING DISTRICT; BY AMENDING CHART 4.4 TO ADD AREA STANDARDS FOR THE RLI – RURAL LIGHT INDUSTRIAL ZONING DISTRICT; BY AMENDING CHAPTER 4.5 TO ADD DEVELOPMENT AND PERFORMANCE STANDARDS FOR THE RLI – RURAL LIGHT INDUSTRIAL ZONING DISTRICT; BY ADDING A NEW CHAPTER 10. RURAL LIGHT INDUSTRIAL; PROVIDING FOR A PURPOSE; PROVIDING FOR USES PERMITTED; PROVIDING FOR DEVELOPMENT AND PERFORMANCE STANDARDS; AND PROVIDING FOR SPECIAL REQUIREMENTS; BY AMENDING CHAPTER 8, SECTION 18.6 MINIMUM LANDSCAPING REQUIREMENTS FOR NONRESIDENTIAL DEVELOPMENTS; BY AMENDING CHAPTER 19, SECTION 19.4 ACCESSORY BUILDING; AND BY AMENDING CHAPTER 30, SECTION 30.3 OIL AND GAS WELL DRILLING REGULATIONS, SUBSECTION C. PROHIBITION AGAINST EXPLORATION AND PRODUCTION IN CERTAIN ZONING DISTRICTS AND PROVISIONS FOR CONDITIONAL USE PERMITS AND AMENDING SUBSECTION F. STANDARDS FOR OIL AND GAS WELL DRILLING AND PRODUCTION; PROVIDING A REPEALING CLAUSE; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE OF ALL OTHER ORDINANCES OF THE TOWN; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING FOR AN EFFECTIVE DATE.

Chairperson Arment opened the public hearing at 9:50 p.m.

Town Secretary Kristi Gilbert stated that the staff was bringing forth the proposed ordinance changes in order to accommodate existing properties within the Town’s extraterritorial jurisdiction that the Town is approaching to request annexation into the corporate limits of the Town. Ms. Gilbert also stated that there was a proposed amendment to the gas drilling regulations to require quarterly inspections that was included in the ordinance.

No one was signed in to speak in favor of or in opposition to the proposed ordinance change.

Open Hearing

Staff

In favor/Opposed

Chairperson Arment closed the public hearing at 9:51 p.m.

Commissioner Abernathy moved to recommend to the Town Council the approval of the proposed zoning ordinance amendment. Vice Chairperson McDonald seconded the motion. For: Abernathy, Arment, Bradham, McDonald and Strange. Against: None. The motion carried 5 to 0.

Discussion was held with the Town's Gas Well Inspector Brad Hodges regarding proposed amendments to the gas well drilling and production regulations. The Commission directed staff to propose amendments. No action taken.

None.

There being no further business, Chairperson Arment adjourned the meeting at 10:20 p.m.

APPROVED this the 6th day of April, 2011.

Approved:

Ralph Arment, Chairperson

(Seal)

Attest:

Kristi Gilbert, Town Secretary, TRMC, CMC

Hearing Closed

**ACTION:
Approve Zoning
Ordinance
Amendments**

**Discussion:
Amend Gas Well
Drilling
Regulations**

**Future Agenda
Items**

ADJOURNMENT