

BZA Meeting Update – Lessons Learned

- Prepared statements can be emailed to the Planning Office for distribution to BZA board members. Sending directly to board members is not acceptable.
- Clarification – I misstated the subject in my statement – it was a request for a “**Special Exception**” not rezone.
- The scope regarding the BZA decision was very limited.
- From a special exception standpoint, the question was: “Is this an acceptable use of the land?” The BZA unanimously confirmed that it was. Citizens may think differently and will have the opportunity to express their opinions at a Parks and Rec public meeting on the topic.
 - This was a good meeting from the perspective that all sides expressed their opinions on the desirability of the project. Good lead-in to the future Parks and Rec meeting on the subject.
 - There was a brief concern regarding the effect on a nearby landowner that stated he would see this plant from his property. I also mentioned that if the Park Land was developed (addition of bike, hiking trails, camping sites, for instance), everyone that used the land would see it. This was considered irrelevant.

Board of Zoning Appeals (BZA) – Dec 18, 2019

Statement – Rezoning land deeded to Parks and Rec for a Sewer Plant

Tim J. Clark

My name is Tim Clark. I have been following this specific project for over three years and have maintained an extensive documented audit trail on the process. I have also written guest columns in the Democrat on this topic with the overall theme being to identify the specific problems to be solved before implementing expensive and precedent-setting solutions.

I offer the following **four comments – that include suggestions and questions** for your consideration regarding the vote to rezone. The detail supporting these comments is provided in my written statement.

1. I suggest a delay of a vote to rezone pending completion of the ongoing and proposed studies.

There are two ongoing studies to help identify the best options for the location and expansion of a sewer plant that can serve the Bean Blossom area. Options would include receiving service

from Helmsburg or Nashville. Both of these sites have the land to expand. And both Helmsburg and Nashville have identified their interest in providing service to Bean Blossom. In fact, the current BCRSD Board appealed to Nashville to provide service and an engineering estimate as to costs has been developed.

A current application for a grant for a county-wide water quality study may also help to identify the scope and extent of a wastewater treatment problem to include validation of a need for a new sewer plant in Bean Blossom.

The desire for sewer service in Bean Blossom has been a 20-year endeavor. There is no immediate need for a “rush to a decision” tonight. I request that any re-zoning decision at least be delayed until these current studies are completed. Citizens should also be allowed to provide input on the decision and the justification as to why this is the best option for the county.

2. **Does this request for rezoning reflect an acceptable process that supports a major policy decision?** In other words, is it appropriate for the BZA to make a decision at this point independent of a vote of support at a county meeting by county commissioners and council? The BCRSD Board and the Park and Recreation Board have also not held a public meeting on this topic. These meeting would have allowed input from citizens and for a community conversation on the justification and citizen support for a transfer of parkland for a sewer plant.

The county compressive plan *does not identify* that transferring parkland to support a sewer plant is an acceptable option.

In addition to not conducting a public meeting on this topic, elected officials have not requested a formal in-process review from the BCRSD Board regarding the status on this project and to account for the \$270,000 of taxpayer money that has been budgeted in support of this project.

3. **Does this rezoning reflect an ethical decision, e.g., does it reflect good government decision-making?**

This land was “donated and deeded” to Parks and Recreation – not the county or a third party for their discretionary use. Does a decision to rezone land donated to Parks and Recreation send a message to potential donors to never consider a donation of property to the government? Is a transfer and parkland for use by a new owner legal? Copy of the deed is attached to this statement.

4. **Consider the capability and performance of this petitioner – the BCRSD Board.** Has this Board demonstrated the capability of their process in managing this project? Have their actions provided citizens with the confidence that this request represents the best solution for the county?

As mentioned previously they have not held public meetings to allow for citizen input on this decision.

For instance, what other options did the BCRSD board consider? The Board did inform the Park and Recreation department of their power to invoke eminent domain that was perceived by some of the Parks Board as a threat. Why hasn't this option been used to obtain privately owned land? I suspect that if they did and it was challenged by the landowner, the Board could not provide direct evidence of a need that would justify the use of eminent domain. This fact as to lack of evidence of need was also reinforced by the past two BCRSD board presidents.

This current project started in June 2018. The Board has spent approximately \$200,000 of the \$270,000 provided to them as "seed" money by the county council and have yet to acquire land.

At the June "2018" meeting that launched this project, the room was packed and there were many questions. The Board stated they would develop a website to keep citizens informed and would address their questions. The answers to the questions were not provided until January of 2019 – six months later and they have no website. My personal website has maintained the most extensive collection of data on the project.

The following links include additional information on this project:

- Bean Blossom Sewer Project – **Key Points** – For the Record
<https://independentvotersofbrowncountyin.com/2019/11/21/bean-blossom-sewer-project-summary-of-key-points/>
- Regional Sewer Board – Bean Blossom Sewer Project – For the Record
<https://independentvotersofbrowncountyin.com/2018/10/10/regional-sewer-board-bean-blossom-sewer-project/>

Regarding the response by the BCRSD Board to citizen questions on this project, I made a simple and formal request for information and it took over 7 months and the repeated intervention of the State Public Access Counselor to obtain the information requested. I have also filed an inquiry with the State Board of Accounts that confirmed that the Board's authorization to spend money on this project without an appropriation by the county council was most likely inappropriate and better controls are now in place.

These facts (and I could go into more detail) and the overall management process for this project does not support adequate transparency and effective decision making. This should be of concern to all county residents. The process has also lacked the expected oversight from the commissioners and county council.

In summary and before making a decision, I request that you consider the following points:

1. Request that you delay a vote to rezone parkland pending completion of ongoing and proposed studies.
2. Determine if the appropriate actions have been taken by government officials – elected and appointed to warrant a decision by the BZA regarding rezoning at this time.
3. Is this transfer legal? An even if it is, does this rezoning of land donated and deeded to Parks and Recreation reflect the attributes of good policy? The current county comprehensive plan does not directly support the transfer of parkland to an independent third party for use other than for recreation by the citizenry.
4. Has the capability of the processes applied in managing this project by the BCRSD Board provided assurance that all due diligence has been performed to warrant a decision at this time?

Thank you for your consideration,

Tim Clark

Nashville