

**REGULAR MEETING OF THE  
CARBON COUNTY PLANNING BOARD**

January 19, 2016, Tuesday 7:00 PM

Carbon County Courthouse  
102 North Broadway Avenue  
Red Lodge, MT

**A. CALL TO ORDER**

7:00 Julie called the meeting to order.

**B. ROLL CALL**

Present: David Alsager, Annette Anderson, Pits DeArmond, Clint Giesick, Gordy Hill, Julie Jones, Gene Koch, Martha Strobal.

Absent: Pete Cretelli (excused), (SP) and John Francis.

Staff: Brent Moore, Monica Plecker, and Angela Newell

Audience: Ilean Koch Bridger, Maggie Zaback Billings, Charlene Reed Edgar, Ron Reed Edgar, Loren and Debbie Larsen Edgar, Ginger Barber Edgar, Brenda Hutzenbiler Edgar, Mark Siegfried Edgar, Deborah Muth Red Lodge, Carol Nash Bridger, and Tom Tschida Bridger.

Julie entertained motion to hear public comment after approval of minutes. Annette moved; Pits seconded; motion carried.

**C. MINUTES**

Dave moved to approve the November 17<sup>th</sup> meeting minutes; Gene seconded; motion carried.

**D. PUBLIC COMMENT**

Ron Reed expressed concerns with development east of Edgar. There are structures being built without foundations and they are using porta potties for sanitation. Mark Siegfried asked what enforcement measures there are to ensure folks follow covenants and bylaws of the Subdivision. He presented Documents 316088 & 316089 and pictures of the sites to staff. Brent reviewed Edgar Acres Subdivision covenants that were approved in 2005. Brent noted that the County Sanitarian has received a number of complaints regarding this location and has been taking enforcement action on the sanitation issues. Brent stated he will review the documents for any Subdivision Regulation violations but noted that the County is not a party to covenant enforcement and action would most likely need to be taken through civil court proceedings; covenant enforcement is outside of the Planning Board's jurisdiction. Charlie Reed noted that used oil tanks were buried to provide water for fire suppression in the subdivision, but the Rural Fire Department will not use them because there is oil present. Brent requested that the Rural Fire Department file a complaint with the County. Annette asked if they had an active Home Owners Association (HOA). Brent noted the Covenants should have language regarding recourse for violations and recommended home owners organize and revitalized the HOA.

## **D. PUBLIC HEARINGS**

None

## **E. REGULAR BUSINESS – Development Permit Working Session**

Julie turned the meeting over to Brent. He noted that the goal of tonight's meeting is to facilitate a discussion regarding oil and gas development and any associated regulations. Brent reviewed public comments from the November meeting regarding concerns about oil and gas development including: water testing, setbacks, flaring, noise, waste disposal, property values, minimize impacts on public infrastructure, best practices for operations, and emergency plans.

Brent reviewed current regulations oil and gas developments are subject to. The Department of Natural Resources and Conservation (DNRC) Board of Oil and Gas has a permit process for new wells. An Environmental Assessment is required for the permit location and is reviewed by DNRC. Wells are inspected on a rotating basis once every 5 years after being permitted. They also have an inspector on site at the start of drilling and end of drilling. Applicants are also required to submit a remediation plan. Brent noted that permits were recently reissued for two locations in Carbon County; they have requested copies of the applications and approved permit and hope to have them by next meeting. Oil and Gas regulations are outlined in 36.22 ARM.

Brent also noted that the Department of Environmental Quality (DEQ) regulates emissions / air quality and look at the prevalence of dust at the well site (but not on roadways leading to the well site). They also review well locations for hydro carbons once every 7 years which are related to flaring practices. There is a registry permit for lower threshold wells which are automatically registered; the permit can cover multiple wells under threshold. Higher threshold operations require DNRC approval but typically apply to large industrial operations like a refinery. Pitts asked about DEQ's involvement in ground water monitoring; Staff is not aware of any ground water monitoring by DEQ.

Brent asked what concerns the Board had. Pitts noted concerns about local regulations being overruled by the State; as the State's regulations are localized to the specific drilling locations he believes it leaves the County open to fill in gaps especially with regard to impacts on county roads. Brent noted that Commissioners are also concerned about county roads. Julie asked which entity is responsible for addressing the issues raised by the public. Brent noted that most all issues address gaps in the State's regulatory structure and would need to be covered by the County. Julie also expressed concerns about the potential administrative burden placed on the County for enforcing regulations. Annette expressed concerns that punitive actions could put the county in a liability situation; she wants to make sure personal property rights are protected for all and urged the board to be reasonable as she concerned about regulatory over reach. Annette is under the impression that there are folks who would like to prevent all natural resource development through the regulations. Dave noted that development can have affects throughout the county, and the impacts to the county need to be considered not just landowners where the developments are located. Gordy expressed concerns about applying a higher standard for dust to Oil and Gas Development than other developments / industries that also cause dust on county roads. Brent noted that in the Bakken Counties have taken more aggressive action to mitigate impacts; he also noted

that the Development Regulations may not be the appropriate tool for mitigation and that road agreements like that entered into with the Wind Farm may be a better tool.

Monica asked how strongly public concerns resonate with the Board. Clint asked how well water testing would be administered; Monica noted the burden could be placed on applicant, but it would depend on how the regulations are written. Once the Board has determined what issues they would like to address, they can consider how those regulations would be administered. Pits believes the issues raised by the public are all legitimate, but does not want to be arbitrarily set rules that would be difficult to enforce.

Brent noted that staff could look into developing a framework similar to how road signs and gravel permits require local sign off before being approved by the State. DNRC has not been addressed about this possibility at this time. Another option would be to use a joint application similar to the application that is used for floodplain and 310 permits; the same application is used and additional supplemental information is required for the floodplain portion of the permit. Annette believes it is wise to use DNRC expertise; she noted the earlier public comment regarding water that can't be used in subdivision and believes that some regulations could help protect the developer, neighbors, and ultimately the public. Julie believes placing the burden on the developer to pay for 3<sup>rd</sup> party water testing etc. would relieve some of the administrative burden on the County. Brent concluded that the Board would like to consider simple regulations to address gaps in State regulations identified by board; they concurred.

#### **F. PETITION AND COMMUNICATION FROM THE AUDIENCE**

Carol Nash Bridger – Noted that there is one person on the Board of Oil and Gas qualified to review Environmental Assessments for Oil and Gas permits. In her experience that individual has not performed as site visit as part of the review. She also noted that there are six (6) inspectors in the whole state and is concerned that they do not have adequate staff to thoroughly perform all required inspections. She noted she is not anti-industry does not want to shut down drilling, as she owns her mineral rights; she wants to ensure property rights of surface owners are protected in the development process. Also emphasized well water testing. Would also like to note rights to use property that can be restricted by development. Offered assistance with gathering resources. Permits are not notified through state process, believes it would helpful for at least neighbors and county to be notified.

Deb Muth Red Lodge – Believes that standards being applied to other developments through the Conditional use permit should be equally applied to oil and gas developments. She would like to see all development "pay their own way" so costs are not passed to county residents. She noted that water testing could be required at the landowners' request. Public Health, safety, and water and air quality are her primary concerns.

Becky Grey – Thanked the Board for listening to the public's concerns.

Susan Beug Red Lode – Expressed concerns that understaffing at the DNRC Board of Oil and Gas limits their regulatory reach; in her conversations with the Board of Oil and Gas they have noted the desire to do more, but note they are hampered by budget limitations.

## **G. WRITTEN COMMUNICATIONS**

CC resource council comment attached.

## **H. REPORTS FROM PLANNING BOARD MEMBERS AND COMMITTEES**

Annette noted that at the Local Government Board Training by MSU, they presented a template for board procedures that she thinks would be helpful. Julie asked what changes she would like to see. Annette did not feel any changes were necessary, but thought it would be nice to have what is already being done written down so it can be referenced by the board.

## **I. STAFF REPORTS**

None

Gordy, who is in Real Estate, noted concerns regarding FEMA flood plain maps and issues with the map's elevations. Maps in the Rockvale area show a parcel in the 100 year flood zone that the owner would like to sell for commercial development. The parcel did not have any flooding during 2011 and will have to hire a surveyor at a high cost to perform an elevation study to take the property out of the floodplain. He is concerned that with the map being so inaccurate that the burden is being placed on landowners to prove they are not in the floodplain. He would like to see FEMA correct the map so individual landowners are not stuck with the cost of correcting it.

8:25 Dave moved to adjourn; Gene second; motion carried.



## Carbon County Resource Council

PO Box 1887, Red Lodge, MT 59068

January 19, 2015

Dear Carbon County Planning Board and Staff,

Thank you for all of your work on the Development Regulations. Citizens and members of Carbon County Resource Council have been following the process closely and have already provided input on a variety of issues related to the Oil and Gas Conditional Use Permits.

In order to reiterate our research recommendations we wanted to share it with you in writing.

### Water

Water is one of our most valuable resources in Carbon County. In order to ensure that the agriculture community and other industries dependent on water maintain access to water quality and quantity they currently depend on, we would like to see **optional (to the landowner) 3<sup>rd</sup> party baseline water quality and quantity testing in wells and surface water within 1 mile of the well head and within ¼ mile of the horizontal path of the well.**

### Setbacks

Currently Montana has no limits how close an oil or gas well sits to a buildings or parks. We ask that the planning board require at least a **¼ mile setback from a residence, school, or hospital, or other facility where people are likely to congregate, and 500 ft. from surface water or wells.**

### Flaring

Flaring natural gas at the well site is not only detrimental to air quality and human health, it is a waste of a mineral owners' resources, and the landowners' royalties plus the tax bases' income. Flaring is illegal in states like Alaska, and highly restricted in many others. Flaring is necessary for safety purposes during the drilling process, but can be captured and sold after that. We ask that in order to not waste our valuable resources in Carbon County, that **flaring is allowed up to 2 weeks after well completion, and that gas capture plans are included in the Conditional Use Permits. We also request regular air quality monitoring at the site to ensure that 24-hour MT ambient air quality standards are being met.**

#### Dust/noise

Quality of life can be drastically affected by heavily increased road traffic and the noise from a drilling operation. In order to minimize effects on neighbors, simple **dust management plans and sound suppression equipment should be required.**

#### Open Pits/Waste disposal

Waste dumps fit an entirely different category of Conditional use Permits, however they are often just included as part of an oil and gas operation. **Open pits are an outdated practice, and should be prohibited. Oil and gas waste can be managed with a closed loop system, until newer technologies can help find a safer solution for waste storage.**

#### Safety

Oil and gas companies have strict and thorough safety protocol for their employees, still accidents happen all of the time. Our local emergency response crews are also well-trained and cautious. These new, advanced chemical compounds as well as practices require an extra set of knowledge and awareness that can put the community at risk if not prepared for and communicated in advance. It is important that the **operating companies carry general liability insurance, follow industry best practices, and also submit safety response plans for counties and fire departments in case of an emergency.**

#### Preserving Property Value/ Aesthetics

Research now shows that properties neighboring oil and gas developments can lose value almost immediately. A University of Denver study shows that property values were reduced on an average of 25% near oil and gas sites. **At the very least, neighbors should be given written notice prior to the start of an oil and gas operation, but other solutions are unclear.**

Sincerely,

Deb Muth, Chair of Carbon County Resource Council