

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

February 16, 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: Gordy Hill, Clint Giesick, Pits DeArmond, Elizabeth (Betsy) Scanlin, Annette Anderson, Pete Cretelli, David Alsager, Julie Jones

Absent: Gene Koch and John Francis

Staff: Monica Plecker and Angela Newell

Audience: Deborah Muth, Red Lodge; Susan Beug, Red Lodge; Carol Nash, Bridger; Maggie Zaback, Billings; and Tom Tschida, Bridger.

C. MINUTES

Annette requested that "the appearance" be added before "punitive" in the fourth paragraph of Regular Business and that it be noted in the last paragraph of Regular Business that water that can't be used in a subdivision is naturally occurring. Clint noted that "revitalized" in the last paragraph of Public Comment should be "revitalize." Annette moved to approve January 19 meeting minutes with corrections; Dave seconded; Betsy abstained; motion carried

D. PUBLIC HEARINGS

none

E. REGULAR BUSINESS – Development Permit Working Session

Julie turned meeting over to Monica who reviewed the memo regarding Existing Oil and Gas Review in Montana. She has met with Jim Halvorson from the Board of Oil & Gas and one of their Petroleum Engineers. She has also met with the County Disaster and Emergency Services Coordinator Tom Kohley to get input from an emergency response perspective.

The Board of Oil and Gas requires a published notice that includes the depth and location of the well; however, a permit application does not have to be submitted prior to the notice being published. Any individual can request a public hearing based on the notice, but it is not automatic. The State is in the process of revising a rule that would require notice to property owners within ¼ mile of the well site. Annette asked if the County passed a noticing requirement if it would be duplicative; Monica clarified that the notice on the County level would be regarding the Development Permit and would also be sent to landowner that received the state notice regarding the well. Gordy noted a quarter mile may not cover very many people depending on parcel size; notifying adjacent landowners may cover a better base. The Board of Oil & Gas staff complete an

Environmental Assessment to review a number of topics. Monica noted the application she reviewed did not have a lot of detail beyond acknowledging issues present. She has reviewed a couple of permits in Richland County that had conditions of approval including well structure and holding ponds although none of the conditions appeared to apply to areas beyond the well site.

In conversation with Tom Kohley, he feels he has a good idea of what hazardous items are being transported through the County, but sees a potential gap in what hazardous materials businesses may have stored on site. He also does not feel that there is a lot of information regarding wells in the County. Pipeline and transmission line companies provide information to the County regarding location of lines and potential hazards. Monica noted that more information is desired, but she is not sure that the Development Regulations are the best mechanism to facilitate gathering that information. Separate permitting requirements or maintenance agreements may be better tools to gather the desired information.

The Board discussed water testing. Gordy noted coal bed methane has a greater potential to impact water than oil and gas development. The Board suggested property owners could conduct their own well water testing; Pits noted there was a history of people in Bearcreek taking water samples from home kits that were not accurate. Monica noted if baseline water testing was part of the Conditional Use Permit the burden would be placed on the developer to have testing conducted by a third party. Betsy agreed that having the testing standardized and conducted by someone who is experienced is a good idea. Pete noted the party paying for the test owns it; he is concerned they could prevent the information from being disclosed. Betsy believes there are ways around the ownership issue; as part of the application the test would become a public document. Betsy and Pits both noted they believe the testing requirement is warranted. Annette commented that there are a number of factors that can impact water quality including high water years and other environmental factors. Staff will work on draft language to incorporate baseline water testing into the Regulations. Annette noted that in the process a landowner may discover their water was not safe to begin with. Monica asked if the Board's intent was to determine if oil and gas activity is degrading water quality; the Board agreed that was their intent, they are not interested in addressing existing water quality issues.

The Board discussed noticing requirements. Dave believes even if the rule change is finalized ¼ mile notification may be inadequate and notifying adjacent property owners may be more appropriate, he would like to see noticing included in the Regulations. Betsy noted when lot sizes are small, adjacent property owners could be a very short distance. Clint suggested notifying adjacent landowners and those within a one-mile radius; Dave and Gordy agreed this would be a good way to cover all landowners potentially affected. Monica commented using that standard could require an entire town to be notified if the well site were a mile away from a municipality; this could be quite expensive. Annette asked if in those situations if notices could be placed on community bulletin boards, in the newspaper, or announced on the radio to keep costs lower. Betsy believes if a well was that close to a town the residents should be noticed; perhaps the cost could be addressed as part of the application. Monica noted oil and gas noticing requirements would surpass other types of developments in the Regulations;

Annette expressed concerns about not having the same noticing requirements for other industries like feedlots.

The board discussed well setbacks. Gordy and Pete noted in a split estate the surface owner cannot stipulate where the well will be drilled. Betsy commented 500 ft setbacks would be a good base line, but would like to see what other jurisdictions have established; she believes a variance could be considered if there were not options for alternate sites that meet the setback requirements. Pits agreed reviewing well placement could be beneficial. Annette expressed concerns that a "Board of Adjustments" would have to be created for the review; Monica noted the Conditional Use Permit framework prevents that.

Betsy asked about noise regulations; she noted there are regulations regarding wind farm noise decibel levels. Board not sure if noise is as persistent as wind farms and was not inclined to include noise regulations as part of the oil and gas section. Pits asked what kind of information is provided from a disaster/emergency perspective. At this time there is nothing required, but a Hazard Mitigation Plan could be requested in the application. The Board also discussed retention ponds and closed loop water systems. The Board would like more information on DEQ and industry standards with regard to waste water.

The Board reviewed the draft regulations as they stand without oil and gas. Clint would like to see a number of days animals are housed in a facility for it to be considered an Animal Feed Lot. Julie noted shooting facilities should specify they pertain to public facilities. Annette expressed concerns with the language under II-B Specific Purposes; she requested the board's permission to reword the section; the board approved her request.

F. PETITION AND COMMUNICATION FROM THE AUDIENCE

Susan Beug, Red Lodge – Noted the Carbon County Resource Council has been attending the Board of Oil & Gas meetings regarding the rule change and they are currently considering how to submit the notice to landowners. As the rule change could take more than a year she would like to see noticing on the County level. Also requested the Board consider road impacts and would like to see that developers compensate the County for impacts to public roads. Also noted under the setback requirements, a landowner could choose a shorter setback.

Carol Nash, Bridger – Clarified that water testing for the chemicals used in oil and gas development is in the range of \$125-\$500 and would be a burden for home owners; she would like the responsibility placed on the developer to conduct water testing and noted that well testing could be optional at the landowner's request. Asked that the Board consider air quality especially in regard to flaring. She expressed concerns about the waste water ponds currently in the County by Dry Creek; the pond has bad smell and gives the landowner a headache when she comes near to it.

Deb Muth, Red Lodge – Also expressed concerns about waste water ponds. Noted these are new to the industry with the expansion of hydraulic fracturing techniques. Often the ponds are lined with thin plastic and the waste water is left to evaporate and then the

remaining waste particles are bulldozed over; liners can be compromised and toxins can seep back into the soil. In a closed loop system, the water is reused and then put in a tanker truck to be removed preventing radioactive and toxic material from contaminating the area.

G. WRITTEN COMMUNICATIONS

None

H. REPORTS FROM PLANNING BOARD MEMBERS AND COMMITTEES

Noted officer election will be held at the next meeting.

I. STAFF REPORTS

Monica will have new handbooks for the board at the March meeting. It was also noted the Planning Board Member list needs to be updated on the website.

Clint asked if Oil and Gas issues could be considered separate from the other Development Regulations that are already drafted, so the issue does not delay the updating the Regulations. Monica stated this would be appropriate; a final draft of the other regulations would be ready for the next meeting so the Board can prepare for a Public Hearing to adopt them. Conditional Use Permit items specific to oil and gas could be adopted as an addendum after the Board has had more time to consider them.

8:45 Pits motion to adjourn; Dave seconded; motion carried.