

REGULAR MEETING OF THE CARBON COUNTY PLANNING BOARD

March 15, 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, Pits DeArmond, Annette Anderson, Pete Cretelli, John Francis, Elizabeth (Betsy) Scanlin, Julie Jones, and Clint Giesick

Absent: Gene Koch and David Alsager

Staff: Brent Moore, Monica Plecker and Angela Newell

Audience: Susan Beug, Red Lodge; Tom Tschida, Bridger; Carol Nash, Bridger; Maggie Zaback, Billings; Becky Gray, Red Lodge; Randy Black, Belfry; Lyle Deffinbaugh, Bridger; Dacia DeBock, Bridger; Deborah Muth, Red Lodge; Bill DeGrant, Red Lodge; and Ron Gary, Belfry.

C. MINUTES

Annette moved to approve February 16 meeting minutes; Gordy seconded; motion carried.

D. PUBLIC HEARINGS

none

E. REGULAR BUSINESS

Election of Officers

Pete nominated Julie to serve a 2nd term as Board Chair; John second; motion carried.

Pete nominated David Alsager as Board Vice Chair noting he was agreeable to serving in the position; Pits seconded; motion carried.

Julie moved to appoint Clint as Board Secretary should staff not be available to serve that function; Pete seconded; motion carried.

Development Permit Working Session

Julie turned the meeting over to staff. Brent gave an overview of Growth Policy update and subsequent request for changes to the Development Permit Regulations (aka Change in Use Permit Regulations) by the Board of Commissioners. Brent hopes that after incorporating items from tonight's meeting Public Hearings can be held in May and the final document can be submitted to the Commissioners for adoption in June.

Monica gave overview of meeting she and Brent had with the Commissioners regarding the progress of the update. Commissioners provided them with feedback regarding regulations they would like to see included in the Oil & Gas Conditional Use. The Commissioners would like to see provisions for setbacks, baseline water testing (but not

continued monitoring), and dust control on County Roads. With the feedback from the Commission, Monica noted it may not be necessary to hold off on the Oil and Gas section of the Regulations. Clint asked if water testing did not require continued monitoring how would it be determined that the water quality had been degraded; Monica noted the intent of the testing was to provide a baseline for property owners should there be issues in the future.

Annette asked to start with her revision of the Special Purposes Section; she would like the section to clearly include property owner rights. John would like to address the Oil and Gas Conditional use section first; Betsy agreed.

Monica outlined her research on the three items the Commissioners identified to be included in the Regulations. With regard to setbacks, Monica gave an overview of various regulations including Richland County Montana, Colorado, Wyoming, North Dakota, and those proposed with the Silvertip Zoning petition. Betsy asked what is the "zone of risk" for there to adverse effects on a piece of property. Julie noted Wyoming and North Dakota have been dealing with the industry for a long time and she believes the 500' – 1000' range is appropriate; she believes 1500' as proposed by the Silvertip Zoning is too far. Julie also expressed concerns about the varying setbacks in Colorado. Betsy noted that population density may be an item to consider and could be accommodated with varied setbacks. There was a discussion regarding setbacks in areas of different population density. Brent noted there is a range of risk that may not be able to be fully defined. He would prefer the board not use varied setback as one standard would make administering the setbacks easier. Julie requested a motion for a setback; Betsy moved to recommend a 750' minimum setback; John seconded. Roll Call Vote: Ayes: Clint, Pits, John, Pete, Betsy, Julie. Nays: Gordy, Annette. Motion carried.

With regard to baseline water testing, Monica gave an overview of various regulations including Colorado, Wyoming, and those proposed with the Silvertip Zoning petition. Monica noted that North Dakota does not have any regulations for baseline water testing that she could find. Pits noted he like the language proposed by the Silvertip Zone, but noted that a distance needed to be specified. Annette noted there could be 50+ wells in an area and testing all of them would be burdensome. Monica requested the board consider a specific number of tests within a specific distance. Betsy thought a ¼ mile distance would be appropriate; Pits concurred. Julie liked the language included in the Colorado regulations regarding exceptions when water sources are not available. Julie agreed the language in the proposed Silvertip Regulations regarding who is responsible for testing and what is required to be tested was good. Annette suggested combining those components of the two regulations and agreed having a list of chemicals to be tested for was necessary. Annette asked what water sources the Board wanted to require tests on as there was a discrepancy between the Colorado regulations and those proposed by the Silvertip zone. Betsy and Gordy concurred that ground water is what should be tested.

With regard to dust control, Monica noted that there are many different ways to address dust issues. She gave an overview of regulations related to dust control from Colorado California, Nevada, Boulder Colorado. The Board discussed dust created by other activities in the County such as beet harvest. Annette noted she likes some of the

language in the California regulations especially the provision for "dust free" site access close to residential areas; Julie concurred. The Board discussed how the standard for dust should be set and who would be responsible for setting it. Brent noted that as this would be part of the Conditional Use Permit process, it would require Planning Board review and recommendation to the Commissioners for approval. He recommended the standard be set on a case by case basis to give the Board an opportunity to determine what may be an appropriate standard for Carbon County. The Board concurred.

Julie opened up the meeting to public comments on the Oil and Gas section.

Julie Holzer, Red Lodge – She appreciates the hard work the Board has put into the Oil and Gas Regulations. She would like to see follow-up water testing and noted that testing surface water is important because you do not know the quality is bad until you get sick. She also noted the importance of dust abatement as the dust at the well site can contain chemicals used in the drilling process.

Susan Beug, Red Lodge – She noted that the base line water testing needs to be performed by a third party to maintain the chain of custody and so neither the landowner nor the oil company is involved. She agreed that surface water testing was important as aquifers and surface water can co-mingle. She would also like to see requirements for water testing in the event there is an accident at the well site.

Carol Nash, Bridger – She does not believe ¼ mile is enough for water testing for hydraulic fracturing wells as the wells can drill as far as two miles away from the well head.

Ron Gary, Belfry – Asked about water testing in areas where there were no drilled wells. Staff clarified the testing would be required for existing wells and exemptions may be provided in the event there are not existing wells.

Annette presented her rewrite of the Specific Purposes section. Annette's revised language shortened the section by referencing the Growth Policy and not reiterating the specific language contained therein and included provisions specifying "primary stakeholders in planning board decisions are property owner(s)." Betsy noted that she believes the primary stakeholders include the public. Monica noted that the enabling language in the Montana Code considers "public safety, health, and welfare." The Board discussed striking a balance between private and public rights. Brent noted that the General Purposes and Specific Purposes could be combined into one section; he advocated keeping the existing language and incorporating Annette's additions regarding personal property right. Pits concurred that he would like to keep the existing language. Betsy noted that she does not believe that property owners are the "primary" stakeholder, but agreed that personal property rights should be given strong consideration. Julie canvassed the Board with regard to the language changes. Gordy was ok with the original language; Clint did not have any comments; Pits likes the idea of a generalized statement regarding private property rights but did not like the term "primary stakeholders;" John did not have any comments; Pete liked the original language; Julie is in favor of adding language regarding private property rights, but was unsure about designating them as "primary." The Board consensus was to combine the General and Specific Purposes sections add personal property rights but not designate them as "primary"

Betsy presented a document with her comments on other sections of the current draft (attached) She also asked why the Group II Permits only apply for changes from current agricultural or residential uses to other uses and why commercial development was not included. Monica noted the intent was to address intensification of use including changes from commercial to industrial. Annette agreed with Betsy's comment requesting that the penalties for violations be more specific; Julie concurred. Staff will review Betsy's comments to address at the next meeting.

F. PETITION AND COMMUNICATION FROM THE AUDIENCE

Carol Nash, Bridger –Would like to see the conditional use permit for signage in the Highway 212 corridor applied to 310 corridor and other areas of the county.

Monica noted that board considered other corridors.

Brent noted the Board would like to use the Highway 212 corridor as a case study for sign regulation in Carbon County.

Carol also had some questions regarding Animal Feed lots. Brent asked that she synthesize her questions in an email to be addressed at the next meeting.

G. WRITTEN COMMUNICATIONS

No additional

H. REPORTS FROM PLANNING BOARD MEMBERS AND COMMITTEES

None

I. STAFF REPORTS

New binders.

8:55 Pits move to adjourn; seconded; motion carried.