

Planning & Development Board

December 15, 2011

Park County, Montana

Attendance: Planning Board Members Bill Berg, Peter Fox, Dave Haug, Traci Isaly, Dale Reinhart, and Lewis Wilks. Also present were Mike Inman, planning staff; Shannan Piccolo, legal counsel; Philip Fletcher, community development; Jim Durgan, commissioner; Kevin Funk, citizen.

Call to Order: @1:30 p.m., Chairman Dale Reinhart called a meeting to order in the Community Room of the City/County Complex.

Public Comment on Agenda Items not Scheduled for a Public Hearing: Kevin Funk, citizen, said he applied for an open seat on the Planning and Development Board and said he believes every board needs diversity in its membership and feels the current board represents only one side of the community.

Approval of Minutes: The board considered approval of minutes for the November 17, 2011, meeting. Lewis Wilks requested a revision to Page 1; third to last paragraph, the last sentence should read, “Wilks said the board needs to advise the commissioners that it intends to start that process and will brief all parties on the direction and how it is to be managed.” *Bill Berg moved to approve the minutes as amended. Peter Fox seconded the motion. Motion passed.*

Conflict of Interest: None reported

New Business

Community Development Updates

Philip Fletcher, community development, said there are currently two active aspects of community development: economic development and Gardiner. In Gardiner, Fletcher said the National Park Service, Forest Service, community action, Yellowstone Association and Park County are involved in quite a few, intertwined projects. He said he thinks the group is now working on a community plan for Gardiner to develop funding sources, which is taking quite a bit of his time. Fletcher said he is working with Gary Weiner of the National Park Service on linear park and trail development in Gardiner through a two-year RTCA grant, which is going well. Fletcher said he and the Gardiner Community Council need to schedule a meeting, at Weiner’s request, for Weiner to inform the Council of resources, including financial, he can provide to Gardiner’s ongoing and proposed efforts.

Fletcher said most of his time is spent in economic development, one aspect being researching agricultural development within economic development, which is in his work program. Fletcher said meetings with the MSU Ag-Econ Department are ongoing to

involve students in internships, class projects and possible master's theses related to Park County agricultural development.

Fletcher said he will prepare two economic development handouts, *The Action Plan for Park County* and *Park County Comprehensive Economic Development Strategy*, which outline the analysis of the local economy in and goals of Park County in the past and how they have or have not been met.

Planning

Gunsmoke Ranch LLC Conservation Easement Review & Consideration: Mike Inman, planning, provided background information about the proposed conservation easement application. Inman said he feels the application was well-prepared, per his review.

Peter Fox moved to send the conservation easement forward after board review. Lewis Wilks seconded the motion. Motion passed.

Discussion of City/County Zoning Jurisdiction and Public Forum Options: Civil Deputy County Attorney Shannan Piccolo said the Commission will discuss litigation strategy with county legal counsel and decide whether to appeal the Heart K decision to the Supreme Court on December 19.

Fletcher said a blue-ribbon committee will be appointed by the Northern Rocky Mountain Economic Development District (EDD) and Montana Economic Development Association within the next two months to coordinate with Ed Meece, Livingston city manager, to conduct a comprehensive study of the city donut area with an elaborate group of stakeholders and public participation through several public meetings. Wilks said the donut zoning issue needs to remain on the planning board agenda each month. He said the board needs to be ready to move on the donut zoning issue once the Commission makes a decision at its December 19 meeting as to what course of action it intends to take. He said he thinks the board hoped it would be further along on the issue than it is currently.

Citizen Kerry Fee said landowners he has talked with suggest the county commissioners should use the emergency provision under their power to reinstate the donut zoning regulations while the board and planning staff takes a year to relook at the regulations for possible amendments. He said many citizens are fearful of development that may take place in the donut during a free-for-all state without any zoning regulations.

Traci Isaly said she is surprised the commissioners have not instituted emergency zoning for the donut area and asked if that is something the board can recommend the Commission do. Inman said the Commission asked him to submit his recommendation about whether to reinstate the donut zoning regulations on an interim basis. Inman said he will recommend the Commission implement emergency zoning in the donut if it does not appeal the Heart K decision, as significant development in the next warm season

could create an emergency situation. He said the one-year interim zoning would allow the planning board and Commission to gather public input and understand the public sentiment about the issue. He said such would be a proactive effort instead of waiting for a potential emergency situation to form a lot of conflict. He said Commissioners Durgan and Taylor have said they specifically do not want to have to address a developer in an emergency situation and tell him what he can or cannot do with his development, as that would appear the county is trying to regulate development. Piccolo said the emergency zoning would be a re-enactment of the zoning measures that were in place prior to the Heart K decision.

Wilks said he thinks the board needs public input, even if the county considers interim zoning. Reinhart said he does not fully agree with not recommending interim zoning in the near future, because he thinks the purpose of the emergency zoning is to accept public comment on a long-term solution. Dave Haug said he thinks the board needs to collect public comment before enacting the interim zoning. Isaly said the measure is not about stopping anyone from doing anything, but protecting landowners owning property in an existing area who bought property thinking there was a certain measure of protection from certain things.

Lewis Wilks moved the board recommend the Commission invoke emergency zoning. Peter Fox seconded the motion. Motion passed. Dave Haug voted in opposition to the motion.

Planning Department Updates: Inman said one subdivision application is in, but his sufficiency report is not yet completed. He said a planning board training may be scheduled for the next meeting depending on whether the subdivision applicant submits necessary information. Inman said the Orfalea Subsequent Minor Subdivision was approved by the Commission.

Committee & Staff Updates

Economic Development Subcommittee Updates: Wilks said the Economic Development Committee hosted a forum on November 29 put on by the Montana Petroleum Association (MPA), which was attended by about 40 individuals. He said the meeting was extremely civil with well-articulated comments by meeting attendees. He said two groups of people asked questions, landowners with possible natural gas reserves on their property interested in developing the resource and a faction focused on water quality and safety. Wilks said he asked why the MPA went forward with a draft fracking disclosure policy instead of a statutorily based policy. He said that issue created polarized meeting factions, but he thinks the county could facilitate another similar session in the future. Fox said he thinks the forum was a very good public forum. Isaly said she thought the forum was informative and did what it was supposed to do in educating attendees, but she thinks the topic can be presented with more thorough information if one is serious about having a conversation on the topic with people who are concerned about such resource extraction coming to the community. Berg said he thinks the board succeeded in bringing the industry's perspective to light.

Fox said a local Natural Gas Committee has a goal to generate funds to gather baseline water quality data for the Shields River Valley. Fox said an economic development subcommittee is not a cheerleading squad, but looks for opportunities, issues and whether another side of presenting an opportunity exists. He said in his mind it is a responsibility of the economic development subcommittee of the county planning board to vet ideas and look at ideas critically and evaluate them honestly and appropriately. He said he thinks in the popular mind the economic development subcommittee wants to cut down the trees and change the course of rivers, which is not the case. Fox said it is really important in a fracking conversation to understand that geologic formation differences have a tremendous impact on fracking and to critically evaluate information, because what happens in Pavilion, Wyoming, may not be the case in Shields Valley, Montana.

Isaly asked if the county economic development subcommittee keeps minutes of its meetings. Fletcher said that subcommittee has not met since the current conversation topic has been discussed. He said the planning board members that sit on the EDD and county economic subcommittee keep the conversation only on the EDD district work program when it they meet. Wilks said the three planning board members sitting on both groups are serving on the EDD as individual members and as not part of the planning board's economic development subcommittee. Piccolo said the planning board agenda needs to be clear as to economic development subcommittee updates, which Fletcher stated has never met. Wilks said the county economic development subcommittee exists with the defined responsibility of discussing economic development issues relevant to Park County as a subcomponent of the planning board, and the EDD works on regional issues and seeks federal funding for regional economic issues. Wilks said he, Fox, Berg and Fletcher represent individual interests of independent business, ag business, tourism and Park County's staff perspective. Reinhart asked if the economic development subcommittee is still necessary. Wilks said it does not need to exist if the entire board is willing to take on the issue of Park County economic development, but the purpose of the subcommittee is still valid. Fox said there is a rationale reason to maintain the subcommittee to take on ad hoc efforts without necessarily maintaining a regular schedule. Fletcher said the subcommittee will do a lot of individual projects and work with other economic development organizations in the county.

Piccolo said a subcommittee is subject to the same Sunshine Laws as a county board and thus required to publicly notice meetings, publicize agendas, keep meeting minutes and take public comment. Fletcher said the subcommittee makes a conscious effort at the beginning of each meeting to remind everyone to not discuss Park County or subcommittee work and only EDD issues. Fox said most subcommittee activity has been simple conversation and the subcommittee has taken no official action. Wilks said he agrees the subcommittee needs to establish structure in order to report back to the planning board. Reinhart said he is nervous about the informality of the subcommittee and thinks subcommittees should have a purpose, task and sunset.

Update on Planning & Development Board Member Applications: Inman said the planning department conducted interviews the prior week with four applicants that

applied for three open seats on the planning board, identifying strengths of each applicant. Inman said the Commission chose to reappoint the sitting members who reapplied for the board, which were Tracy Isaly and Frank Schroeder and Lew Wilks.

January Meeting Agenda: A board training was discussed as a possible agenda item. Reinhart said board elections will be held.

Berg asked whether the board needs to relook at its bylaws. Piccolo said the commissioners still need to provide input before that effort can be done. Berg asked when a WUI hazard calculator will be uploaded to the web. Inman said that effort will be completed shortly.

Public Comment: None

Adjournment: @ 1:46 p.m., the meeting adjourned.

Dale Reinhart
Chairman