

**MINUTES OF THE BOARD OF
CARBON COUNTY COMMISSIONERS
JOINT WORK SESSION WITH CARBON COUNTY
PLANNING & ZONING COMMISSION
Monday, May 21, 2012
Carbon Building, Rawlins, Wyoming**

A joint work session with the Board of Carbon County Commissioners (BOCC) commenced Monday, May 21, 2012 at the Carbon Building in Rawlins, Wyoming. Attending the meeting were Chairman Terry Weickum; Vice Chairman Jerry Paxton; Commissioner Leo Chapman; Deputy County Attorney Mike Kelly; Planning Director Sid Fox; Planner/GIS Specialist Thomas Powell; Administration & Deputy Zoning Administrator Kristy Rowan and Deputy Clerk Kathy Turner. Also present were Carbon County Planning & Zoning Commission (P&Z) Chairman Troy Maddox; P&Z members Chad Pickett, Eamon O'Toole and Richard Wilson. Shorty Ballard was absent.

The work session began at 9:15 a.m.

DISCUSSION

Commissioner Paxton advised he just got back from a meeting in Santa Fe, New Mexico of the Western Interregional for the National Association of Counties and high on the list of topics is public lands. He stated the work we have done to strengthen our Comprehensive Land Use Plan (plan) in terms of public lands was a useful thing to do and there is work to be done to inject language in the plan that puts us in a good position to negotiate with the Forest Service and Bureau of Land Management (BLM) on any Federal lands. Commissioner Paxton distributed copies of the Desk Guide on Cooperating Agencies and Coordination of Intergovernmental Powers and discussed the importance of this document.

Kristy Rowan left the meeting at 9:20 a.m.

Sid Fox noted that regarding public land issues, we have started to permit private activities on public land and the Union Telephone tower on BLM land was the first permit issued. He advised we do not permit on BLM activity or Federal activity but if a private contractor comes on to Federal land other than oil and gas they are starting to request permits. Commissioner Paxton stated it is important to track and monitor these. Tom Powell advised wind development proposals are more on public land and less on private land and a discussion followed.

There was a discussion on oil and gas and Eamon O'Toole stated there should be places in this county that should not be put up for wind mills or for oil and gas that affect water use. Mr. Fox discussed local standards and land use scheming and his recommendation is the plan distinguish between the checkerboard that can be defined easily and areas like Little Snake and Upper Platte as they need different rules and the longer term issues need consistency. Chairman Weickum asked if this would be through the plan and Mr. Fox replied yes, the goals, actions and policies. Mr. O'Toole noted the county is big enough that we can use it for minerals, tourism and

agriculture industries also. Commissioner Paxton stated that tourism is a very important economic factor in our county and protecting wide open spaces in Wyoming is our obligation to the future generation to make sure that happens and to make sure we have cooperation and opportunity through public comments through the BLM.

Commissioner Paxton advised there is a movement afoot now to take a look at wilderness study areas and this will probably be a statewide initiative identifying those lands that truly need protection and those lands that should be released to be managed as the resource management plan dictates. He advised Congress are the only ones that can declare wilderness areas and areas will be specifically identified that will require special designation and other areas that have no significant value to be released in the multiple use process. Chairman Weickum stated it will be up to us to do the specific inventory. There was a discussion on lands with fences, roads and reservoirs that are manmade and Commissioner Paxton stated he wanted P&Z to know that this initiative has started. Mr. O'Toole asked if Planning could put together a map and Mr. Powell stated he has put together a GIS model with surface use factors, as well as location of buildings, wind turbines and productive oil and gas and where the land is used most in the county. Commissioner Paxton advised that Mr. Powell has already identified four wilderness study areas and there was a discussion about a map that will show the development intensity in Carbon County that Mr. Powell is working on.

Kristy Rowan rejoined the meeting at 10:00 a.m.

Mr. Maddox asked how do you protect private land and Mr. Fox discussed the process. Mr. Maddox asked how do you protect certain areas from development and Mr. Fox replied you do a study, do a plan and write your zoning. Mr. Fox advised one concept is the Voices of the Valley who are reenergizing a planning effort and one of their issues is energy and how energy development will affect the quality of life in the Upper Platte and that we can influence how this evolves and incorporate some of their work into the county plan. Commissioner Paxton advised the best tool we have is the Comprehensive Land Use Plan and if we follow that, it comes the closest we can possibly get to meeting that vision that we have but there are too many obstacles in the way of that, statutory obligations, private property rights issues and so on and will never strike an ideal balance and we do not have the financial resources to put a lot of money in this. Mr. Fox stated we can update two of our codes to make it better. Chairman Weickum advised Carbon County is one of the last counties to implement wind regulations and discussed this and that we do want economic development.

BATTLE LAKE TOWN SITE

Mr. Fox advised the old Battle Lake Town Site was platted in 1899 and there are number of cabins and they recently issued a building permit on a lot and a variance was involved and this raised a number of questions regarding the status of the town and Summit Title characterized the issues. Mr. Fox discussed three types of tax parcels; (1) those comprised of some portion of the bed of the "old road", (2) those comprised of town lots and portions of adjoining platted roadways, and (3) those comprised exclusively of portions of the platted roadways. He advised the streets are still public and have not been properly deeded. Mr. Kelly advised this is a mess not allowing anyone else to develop private streets and alleyways. Commissioner Paxton

recommended letting the town make their own plat. Mr. Kelly noted a Quiet Title should be done on this property as the property may still be the original owner's land. Mr. Wilson advised there are problems with the property lines. Mr. Kelly advised that after talking to County Assessor Sheryl Snider, they have made the decision to stop assessing people with ownership of the streets and alleyways. Mr. Kelly advised there would be legal fees involved to do one Quiet Title which the county would not be responsible for. Mr. Kelly noted this goes back to a tax sale in 1934 where they acquired title from Carbon County. He advised the county would participate as an interested party just to vacate all the streets and alleyways and let them decide which streets they want to put in. It was agreed to have a work shop with the Battle Lake Town Site landowners and have the County Attorney and Planning work together to schedule this after July 1. There was a discussion on the variance that was recently issued.

CONDITIONAL USE EXPIRATION POLICY

Mr. Fox advised the current code has a two year expiration but the old permits are open ended. He advised they have a policy to notify the permit holders who have not commenced their conditional use permitted project to give them two more years to either pull a building permit or in some way better their property. Mr. Fox asked if the Clipper Wind Turbine Conditional Use Permit expires should they send them notice that their permit is no longer valid. Commissioner Paxton asked if we could send them an inquiry as to whether or not they intend to put up another wind tower in that same area. Chairman Weickum advised he talked to an individual who indicated they may pull completely out as it is time to repower their towers and they are in a sage grouse core area. Mr. Fox advised that if they keep the current tower and don't add any new roads they can probably do that as a continuation and asked if the BOCC would like them to continue. Commissioner Chapman asked if there has been any harm to the sage grouse over the last 20 years and Commissioner Paxton stated we may have to get an Attorney General's opinion if it affects the sage grouse area. Commissioner Weickum stated he would like to know whether game and fish will allow them to power up and Mr. Fox stated he will check on this.

FEE SCHEDULE AMENDMENT

Mr. Fox advised this is an attempt to refresh the current fee schedule for conditional use permits, zone change applications, subdivisions, variance and building permits. He noted that last year they adopted a new fee schedule for wind facilities but this is the fee schedule they work with everyday and is an attempt to offset the cost to the county. Mr. Fox discussed the proposed changes and under GIS Data and Maps it was agreed to raise the road data fee to \$100.00. Mr. Fox noted that it is a consensus to go forward with the amendment.

SUBDIVISION EXEMPTIONS

Mr. Fox advised they worked on subdivision exemptions about a year ago and the codes are out of date based on revisions to state statute. He advised the way the current subdivision code is written, once something is exempt there is no county document other than a deed that is a public record. He advised his staff has prepared a series of affidavits for a family subdivision where you can legally convey land to your family and is recorded and the law limits what they can do with that exempted piece of land. Chairman Weickum stated the law gives them the right to

subdivide but the county needs notification to start the clock because of so many years for possession and the provision of who pays taxes as there does have to be a notification process. Mr. Fox advised they cannot convey that in a family exemption for five years. Mr. Fox advised he has looked at other counties and for the most part they are doing this documentation for the exemption. Mr. Kelly advised this is a good idea and the statute that exists clearly allows somebody to use one of these exemptions but he does not know if there is an enforcement capability on our part to penalize someone or require someone to do this but we can adopt rules and regulations but his concern is how do we ensure compliance with this as it has been in existence for a long time. Chairman Weickum replied he does not know that we can but for everyone that complies, it cleans up a mess and Commissioner Paxton stated it is information sharing. Mr. Fox stated the exemptions are subject to county rule meaning that if properly done the county can adopt a rule stating the steps to assure proper implementation of the exemptions. Chairman Weickum stated that if the statutes don't allow that we should get some proposed language and see if we can get it added to the statute.

ZONING RESOLUTION AMENDMENTS

Mr. Fox noted a large part of the proposed amendments to County Zoning Code Section 6.5 is reorganization and they are changing some of the language. He advised Section 6.5 is appeals, hardships and variances and they tried to break out the processes following Sublett County's variance process. He stated that what is really important in these processes is the standards as these are what we look at when considering a variance and there was a discussion about the proposed amendments. Mr. Wilson asked when referring to a Zoning Officer if this is an individual and if this individual was not available would this delay the process until they return. Mr. Fox advised that by definition the Zoning Officer is the Director who can delegate. There was a discussion and Mr. Powell suggested changing the Zoning Officer to Planning Department action if statute allows this and Mr. Fox replied yes.

Mr. Fox advised the purpose of the zoning code is to implement the plan and that is why we do what we do. He stated that some of the language is to bring the Carbon County code to reflect the reasons you do conditional uses and compatibility is a major concept and discussed the proposed changes to the conditional use section of the code. Mr. Fox stated that on Page 3, 3) "The proposed use shall serve a public need", some of the private development projects is hard to recognize the obvious public need and changing "shall" to "should". Chairman Weickum stated that on some conditional uses it would not have public need and asked why this is in there. Mr. Fox replied this is important to defend if someone challenges this. Mr. Powell suggested removing public and Commissioner Paxton stated public could be removed. Mr. Kelly advised that all of their actions are to benefit the public and a discussion followed. Mr. Wilson discussed c.3) "The proposed conditional use shall be adequately serviced by facilities" and would require water and waste water facilities and this was discussed. Mr. Powell suggested changing the wording to "shall be adequately served by appropriate facilities for the use". Commissioner Paxton noted his concern of the wording on Page 3, c.6) and that it may have too much detail and a discussion followed. Commissioner Paxton stated there is no provision for mitigation and Mr. Powell stated he would add "or mitigate" after minimize to read "The design shall minimize or mitigate environment impacts" and Commissioner Paxton stated the remaining verbiage could then remain as is.

ADJOURNMENT

The work session was adjourned at 11:58 a.m.

-s- Kathy Turner, Deputy Clerk

Approved this 5th day of June 2012

BOARD OF COUNTY COMMISSIONERS
CARBON COUNTY, WYOMING

-s- Terry Weickum, Chairman