

**MINUTES OF THE BOARD OF  
CARBON COUNTY COMMISSIONERS  
SPECIAL MEETING  
Friday, February 23, 2007  
County Courthouse, Rawlins, Wyoming**

A special meeting of the Board of Carbon County Commissioners was held Friday, February 23, 2007 with the Carbon County Planning & Zoning Commission to discuss the Carbon County Land Use Plan. Attending the meeting were Commissioners Terry Weickum and Jerry Paxton; County Clerk, Gwynn Rothenberger, County Attorney Cindy DeLancey, and Deputy County Attorney, Cathy MacPherson. Chairman Zeiger was absent. Members present from the Carbon County Planning & Zoning Commission were Will Speer, Shorty Ballard, Bobbie Wagner, Dan Mika, and Richard Wilson. Present from the Planning & Zoning Office were Louis Kline and Kristy Rowan.

Acting Chairman Terry Weickum called the meeting to order at 9:03 a.m.

Commissioner Weickum stated there will be no public comments taken at this meeting. He offered each member a few minutes to state their goals for this meeting.

**MEETING GOALS**

Will Speer stated his goal is to reach an understanding between the Planning & Zoning Commission and the County Commissioners to review and revise the Carbon County Land Use Plan (CCLUP).

Shorty Ballard stated he would like to reach a point of agreement on the CCLUP.

Bobbie Wagner's goal is to streamline the CCLUP and has hopes that each member could give their input on how to do that. She also hopes to obtain public input in the near future.

Richard Wilson stated he is mainly here to learn and gain more information as he is fairly new to the Planning & Zoning Commission. He added that he would like to stay ahead of oil and gas development.

Dan Mika stated he mainly wants to update the CCLUP and let members of the community have ample opportunity for input.

Louis Kline stated he would like to see cooperation and better communication between the two commissions, review the CCLUP and update it with the final goal of updating the Zoning Resolution while making certain that the health, welfare, and safety of residents are protected.

Commissioner Paxton stated the CCLUP is a road map with the vehicle being the Zoning Resolution and he would like to remove inconsistencies between the two documents. He feels that portions of the CCLUP and Zoning Resolution conflict with each other and with State Statutes. He would like the two documents to respect individual property rights but still allow growth in a responsible way.

Attorney DeLancey stated her goal is to provide legal advice to the County Commissioners on the issues. She would like to see everyone involved look ahead and identify issues, discuss solutions, assign specific tasks, and set timeframes to move forward.

Commissioner Weickum stated his goal is to build a consensus. He stated he would like to leave today working toward the common goal of working for the people he was elected to represent. He would like to make plans for a Zoning Resolution that is in compliance with state statutes and is enforceable.

**REVIEW OF THE CCLUP**

Mr. Speer spoke regarding the firm hired to review the Land Use Plan, WLC Engineering, Surveying, and Planning, Inc. along with Consultant Ken Markert. He stated that once the review begins this firm will return within six weeks with recommendations of amendments to the CCLUP. Commissioner Weickum asked what the product of the review would be. Mr. Speer stated it would be a document containing recommended amendments. Commissioner Paxton asked for this document to be produced by April 6<sup>th</sup> meeting. Mr. Mika asked that we advise

WLC to identify conflicts with State Statutes in their review.

After WLC reviews the CCLUP and returns with recommendations, the Planning & Zoning Commission members may then choose to hire someone to actually revise the CCLUP.

Commissioner Weickum presented Fremont County's Land Use Plan and stated he would like to use portions of this as a model.

Attorney DeLancey spoke regarding why the CCLUP must be revised in order to revise the Zoning Resolution. Commissioner Weickum stated the Zoning Resolution must not be contrary to the CCLUP and he believes these documents currently are contrary to each other.

Attorney DeLancey asked for a show of hands of who is in agreement that the CCLUP needs changed. Will Speer, Shorty Ballard, Bobbie Wagner, Richard Wilson, Dan Mika, Louis Kline, Commissioners Weickum and Paxton, and Attorney DeLancey all raised their hands and stated they are in agreement. No member was in disagreement.

A question was posed if there is agreement that there needs to be changes in the Zoning Resolution. Will Speer stated the revision process of the CCLUP would answer that question. A new question was asked who agreed that a revised CCLUP would precipitate changes in the Zoning Resolution. This was never answered.

Mr. Ballard asked if the current resolution would be revised or if a new resolution would need to be adopted. Attorney DeLancey stated if there was an amendment to the Zoning Resolution of 2003, it must be in conformity of the CCLUP of 1998.

Attorney DeLancey presented an article written by a former Laramie County Attorney, Peter Froelicher, titled "Comprehensive Use Plans in Wyoming".

Commissioner Weickum stated some of the changes he has asked to be made are in agreement with the CCLUP and questioned why these changes have not been made. He stated that because the CCLUP is in the condition that it is, it has inhibited the ability to further the cause of economic development. He added that at the same time, the Zoning Resolution has problems that have caused litigation over zoning.

Commissioner Weickum stated he feels that the Zoning Resolution could be changed without first changing the CCLUP.

### **BUILDING CODE RESOLUTION**

There was discussion of building codes and a proposed building code resolution. Louis Kline questioned who should write the resolution. Mr. Kline stated the building codes would be kept completely separate from the Zoning Resolution as the codes may need to be updated frequently. Attorney DeLancey advised to complete this resolution as soon as possible.

Attorney DeLancey asked for a time frame to be set for completion of the building code and the resolution. Kristy Rowan stated notification must be advertised at least 45 days prior to a hearing. Commissioner Weickum suggested that within 75 days of today, this resolution would be presented to the County Commissioners for consideration. Attorney DeLancey asked if this could be extended to 90 days giving adequate time for advertising adding that if all items were in place before the 90 days, everyone would agree to move forward. Commissioner Weickum stated that by June 1, 2007 the Planning & Zoning Commission would bring the resolution to the County Commissioners who would then schedule their public hearings. Attorney DeLancey asked for a show of hands of everyone who agrees that 90 days would be sufficient time to establish a resolution. Will Speer, Shorty Ballard, Bobbie Wagner, Richard Wilson, Dan Mika, Louis Kline, Commissioners Weickum and Paxton, and Attorney DeLancey all indicated their acceptance of the 90-day time frame.

Points of contact for the resolution were established. Louis Kline, Kristy Rowan, and Will Speer agreed to be the responsible individuals to bring the resolution before the County Commissioners on or before June 1, 2007.

### **640 MINIMUM LOT SIZE**

Commissioner Weickum stated he thought the 640 minimum lot size issue could be changed in

the Zoning Resolution without changing the CCLUP. Mr. Kline stated that the CCLUP does not directly support the 640 issue.

Attorney DeLancey stated the question was posed whether or not the RAM portion of the Zoning Resolution can be amended, specifically to remove the minimum parcel size of 640 acres. She answered this question that although the Zoning Resolution does provide for a mechanism of amendment, amendment of this issue may not be a legal option because of the language stating that Section 4.2 of the 2003 Zoning Resolution is in compliance with the CCLUP of 1998. This particular language states that everything contained in that document (2003 Zoning Resolution) is in conformance with the CCLUP. This prevents future amendment to the Zoning Resolution without first amending the CCLUP if amendments are not in conflict with the CCLUP of 1998.

Commissioner Weickum again questioned why the 640 acre lot size issue could not be changed without first changing the CCLUP. He asked if this number could be lowered to a smaller lot size. Attorney DeLancey stated that by changing the size to a smaller figure, it would be like saying that this lot size is not in conformance.

Commissioner Weickum stated that by using a different lot size, the argument could be made that both lot sizes are in conformance but that Carbon County prefers one of the sizes.

Attorney DeLancey stated this amendment may be possible but it must originate from the Planning & Zoning Commission, not from the County Commissioners. She stated a legal review should be done to verify that there are no inconsistencies that any proposed amendment may cause with the 2003 Zoning Resolution of the CCLUP.

Commissioner Weickum asked how he can encourage and motivate the Planning & Zoning Commission to make these changes. Mr. Kline stated that he is concerned that by reviewing and possibly revising the CCLUP the issues in the Zoning Resolution may not be supported by the revised CCLUP.

Commissioner Weickum stated his motivation for encouraging the Planning & Zoning Commission to amend the Zoning Resolution is that he feels the public wants this document changed, particularly the 640 minimum lot size. He feels that both the CCLUP and Zoning Resolution could be changed concurrently.

Mr. Mika stated that one document drives the other and that he feels its important for the public to provide its input. He questioned Attorney DeLancey what legal ramifications there would be by changing the RAM lot size. Mr. Speer replied that if this were to be done, this would create conflict between Zoning Resolution and CCLUP.

Commissioner Weickum stated that he feels as long as the changes made to the Zoning Resolution are not contrary to the CCLUP, he thinks the minimum lot size could be changed. He asked what in the CCLUP would prevent a change in the Zoning Resolution.

Mr. Mika stated that this is not directly stated in the CCLUP but that a majority of participants used in the study to create the CCLUP value open spaces.

Ms. Wagner stated that if the CCLUP was first revised and public comments were taken, this would assure that any changes in the Zoning Resolution would reflect the public's desires.

Commissioner Paxton asked for a possible timeframe of revising the CCLUP, then questioned if phase 2 would be revising the Zoning Resolution and asked how long this may take. He stated that if the process was done in a timely manner, he would support doing things in this order.

Mr. Ballard stated that the CCLUP is mandatory and that the Zoning Resolution and the Planning & Zoning Commission are not mandatory and questioned if the Zoning Resolution and the Planning & Zoning Commission should be dissolved.

Commissioner Paxton again asked what would be the next phase after revising the CCLUP and how long would this take.

Mr. Speer answered that the draft CCLUP is phase 2 and that this draft would be presented to the Commissioners for their consideration. Attorney DeLancey added that the recommendations made from phase 1 would dictate the time frame for phase 2. There was additional discussion from Commissioner Weickum why the Zoning Resolution should and could be changed without

first revising the CCLUP.

Ms. Wagner again stated that the public input should be collected on the CCLUP first and that this would provide a vehicle for revisions to the Zoning Resolution and these revisions would be reflective of what the majority of the public wants.

Commissioner Weickum again asked the Planning & Zoning Commission what the County Commissioners could do to encourage a proposed amendment to the Zoning Resolution immediately. Mr. Mika replied that revision of the CCLUP would be his encouragement.

Mr. Wilson asked if the Planning & Zoning Commission did not allow regulations to permit revision of the Zoning Resolution without first revising the CCLUP. Attorney DeLancey stated that the issue is that any amendment proposed by the Planning & Zoning Commission must be in conformity with the CCLUP. Attorney DeLancey stated that yes, revisions can be made to the Zoning Resolution, so long as the amendments originate from the Planning & Zoning Commission and the County Commissioners accept these amendments and that these amendments are in conformity with the CCLUP.

Commissioner Weickum stated that revisions have been made to the Zoning Resolution and that the July 5, 2005 and August 15, 2006 minutes of the Board of Carbon County Commissioners speak to the issue. Attorney DeLancey again stated that amendment is possible under her previously stated conditions.

Commissioner Weickum again posed the question what could the County Commissioners do to encourage the Planning & Zoning Commission to bring a proposed revision to the Zoning Resolution that would be in conformance with the CCLUP.

Commissioner Weickum asked for a poll of the Planning & Zoning Commission members if they would be willing to revise the Zoning Resolution without first revising the CCLUP. Will Speer replied no, Shorty Ballard replied yes, Bobbie Wagner replied no, Richard Wilson replied no, Dan Mika replied yes. There was additional discussion of Commissioner Weickum's question that this was not a yes or no answer question.

Commissioner Paxton asked if there is a mechanism that could be established to receive public comment on the 640 issue without first revising the CCLUP. This would give everyone involved a view of what the public wants. Mr. Mika replied that yes, this could possibly be done.

Commissioner Paxton stated his support for wide open spaces but he disagrees with regulatory action to preserve this. He wants to address this in the CCLUP revision. Ms. Wagner stated the Zoning Resolution allows for subdivision but provides a mechanism for it to be done responsibly.

Commissioner Weickum asked if other counties are charged with the same issues and how they handle these issues without a 640 minimum lot size. Mr. Speer stated he thinks other counties look favorably upon Carbon County because of the 640 minimum lot size.

Commissioner Weickum stated that if residents could not understand the language in the CCLUP and the Zoning Resolution, then how can these people comply with these documents. He added that he thinks removing the language referring to the 640 minimum lot size would clear up some of the confusion.

Commissioner Paxton asked the Planning & Zoning Commission to discuss with each other, the original purpose of the 640 issue and the goals they wanted to accomplish by adding this to the Zoning Resolution. He stated that because they have almost all new members, this may be beneficial to them to have that discussion. He also asked them to consider if there is a way to accomplish the original goals without having a 640 minimum size or by changing the size. The Planning & Zoning Commission agreed to discuss this at their next meeting.

## **LEGAL REPRESENTATION**

Attorney DeLancey stated that if an amendment to the Zoning Resolution were proposed before the finalization of the CCLUP revision, the Planning & Zoning Commission would need to obtain alternative legal council to represent them. She also asked for alternate council to represent the Planning & Zoning Commission during the revision process of the CCLUP.

## **RECAP**

Commissioner Weickum recapped that everyone has agreed to proceed with the revision of the CCLUP. The County Commissioners have asked the Planning & Zoning Commission to consider bringing forth proper changes to the Zoning Resolution in the meantime.

It was also agreed that WLC, the Planning & Zoning Commission, and the County Commissioners would meet as soon as possible to discuss the initial phase of reviewing the CCLUP, and that once the review begins, WLC will return with recommendations within six weeks.

It was agreed that by June 1, 2007, Kristy Rowan, Will Speer, and Louis Kline would bring forth a Building Code Resolution to the County Commissioners.

## **PLANNING & ZONING COMMISSION MEETING DATE**

Commissioner Weickum requested that the Planning & Zoning Commission change their meeting day. Currently they meet the first Tuesday monthly as do the County Commissioners. He stated if the Planning & Zoning Commission could change their date, the County Commissioners could attend the meetings.

Attorney DeLancey stated that according to the Rules of Practice and Procedure of the Carbon County Planning Commission, regular meetings are to be held monthly on the first Wednesday after the first Tuesday of the month and other times as scheduled.

Mr. Speer stated that they will consider the issue of revising their meeting date at their next meeting and review the by-laws to verify there is not a more current version with a different meeting date.

## **FURTHER RECAP**

Mr. Speer questioned the issue of separate legal council. Commissioner Weickum stated that the only time this will be necessary is during the CCLUP revision process and any questions pertaining to this issue.

Attorney DeLancey stated the County Commissioners would need to approve a request from the Planning & Zoning Commission to provide alternate legal council and that the decision of the person chosen for representation is solely up to the Planning & Zoning Commission. Attorney DeLancey will still represent the Planning & Development Department in helping draft the zoning regulations.

Kristy Rowan asked everyone to consider what they envision for the future of the county down the road.

## **CARBON COUNTY COUNCIL OF GOVERNMENTS**

Commissioner Weickum stated that Council of Governments meeting on March 21, 2007, in Medicine Bow and invited everyone present to attend. State Industrial Siting will give a presentation on the proposed plant in the Medicine Bow Area. He asked Ms. Rothenberger to mail agendas to all the Planning & Zoning Commission members.

## **FUTURE MEETINGS**

Clerk Rothenberger asked for some proposed dates for the meeting with WLC so herself and Kristy Rowan could organize this meeting. Everyone agreed that March 2 or the week of March 5 would be acceptable.

Commissioner Weickum and Paxton expressed their appreciation of the Planning & Zoning Commission and their hard work.

## **ADJOURNMENT**

There being no further business, Commissioner Weickum adjourned the meeting at 11:42 a.m.

-s- Gwynn G. Rothenberger, Carbon County Clerk

Approved this 20th day of March, 2007.

BOARD OF COUNTY COMMISSIONERS  
CARBON COUNTY, WYOMING

-s- Terry Weickum, Commissioner & Acting Chairman