



# PLANNING BOARD MINUTES

Monday, February 11th, 2019 ADLC County Courthouse Courtroom

**Meeting called by** Art Villasenor, Chair

**Type of meeting** Monthly Meeting

**Minutes taken by** Carlye Hansen

**Members Present:** Art Villasenor, Chairman; Rose Nyman, Vice-Chair; Frank Fitzpatrick; Mary Kae Massey; John Lombardi; Bob Wren; Annette Smith; Craig Sweet

**Staff:** Chas Ariss, P.E., Planning and Public Works Director; Gayla Hess, Planner I; Carlye Hansen, Planning Department Secretary

## AGENDA TOPICS

### Call to Order

Meeting was called to order at 6 pm by Art Villasenor, Chairman.

### Introduction of New Member

Mr. Craig Sweet was introduced as the newest member of the Planning Board. Introductions were made and he was welcomed to the group.

### Approval of Minutes

*Motion was made by Rose Nyman to approve the minutes from January 14<sup>th</sup>, 2019, with corrections as noted by Rose Nyman; seconded by Bob Wren. Motion passes 8-0.*

### Old Business

#### Growth Policy Follow-Up

At this time, the Board is still moving forward with the plan in which Mr. Horne will get us a final copy of the draft by the end of the month, on February 28<sup>th</sup>, 2019, after the 30-day comment period has ended. There will be a public hearing on March 4<sup>th</sup>, 2019. The Planning Board will then move this on for approval by the Commission at the Commission Work Session on March 12<sup>th</sup>, 2019, followed by the final Commission Meeting approval on March 19<sup>th</sup>, 2019. Mr. Villasenor did send an email to Mr. Horne and this stated that we are moving forward and he did get a response back and we are moving forward.

Rose Nyman expressed her appreciation to Art Villasenor, Chas Ariss, and Carlye Hansen for their patience through this process and for dealing with everything.

## New Business

### Planning Board Review of Bylaws and Ordinance

Art noticed quite a few changes and corrections, but in reading parts of this, he realized that in Article IX, "The Board shall create and update policies as needed to facilitate and implement the goals and purpose of the Board". To him, he feels that everyone needs to look at the bylaws and bring them up to current standards as to what the Board is doing. We will then send these changes to Carlye and she will implement them into the document, and at the next meeting will get them addressed and implemented. The ordinance supersedes the bylaws, so there will be changes that are needed in order for the two of these to match.

Rose has a list of changes that she would like to review.

- Page 9, Article III, #3 – In reference to the report that should go to the commissioners twice a year, she would suggest creating an electronic file and keep in mind that the commissioners will see everything that the Board sees, and that the report would just need to be several sentences.
- Page 9, Article III, #5 – Rose did check on the budget for the Planning Board, and there is a budget in place.
- Page 10, Article IV, #1. – We need to change the number of members to nine (9 members). Also Ordinance No. 139 will need to be replaced with 209-A.
- Page 11, Article V, #5 – Where anyone not able to attend the meeting, will need to notify the Planning Secretary. It was discussed and the notifications will be sent to Art, who will then forward this to Carlye.
- Page 11, Article VI, #6 – Change to state, "Board members with three (3) consecutive unexcused absences from scheduled meetings shall be removed from the board".
- Page 11, Article VII, #1 – Change the regular meetings from the second and fourth Monday to the second Monday only.
- Page 12, Article VII, #3 – Both Art and Rose will look into this in regard to Open Meeting Laws, etc., as there is some unclear definition in regards to what the true definition of quorum in the situation of the Planning Board.
- Page 12, Article VII, #5 – Need to change the first sentence to, "Meetings of the Board shall be conducted in accordance with Robert's Rules of Order and Open Meeting Laws, unless otherwise specified in these bylaws.

Chas noted that he would like the five categories implementing the Growth Policy, under Article III, #8, to be included on all future board agendas to be sure that anything within those categories be presented and if there is no matter, but he wants the Board to be briefed on all development as it pertains to the Growth Policy as it unfolds throughout the course of the year in relation to these things as it ties back to Article X, in which the requirement of committees being formed to address the same topics. At that time, it would be necessary for the Chairperson to appoint the committee at that time if there are items pending or coming up within the near future within these categories.

The topic of a sign ordinance came up and Rose stated that she did bring this up with the Commission and at this time Commissioner Kevin Hart, is looking into, and working on this.

At this point, Frank Fitzpatrick asked about who is designated as Parliamentarian to the Board. After some brief discussion, Art went ahead and appointed Gayla Hess, Planner I, to this position.

Art had a question regarding Page 10, Article IV, #2 – After some brief discussion regarding on whether or not this should be reworded, it was decided that we will leave this worded as is.

At this time, we will amend the bylaws at this meeting and will approve them at the next meeting on March 4<sup>th</sup>, 2019.

In regards to the Ordinance No. 209-A.

- Section 4 is still being researched. Rose has finally located the Conservation District. There were regional districts created and ADLC is in with the southern part of Powell County and is referred to as the Deer Lodge Valley Conservation District. Lori Sturm, Clerk of the Commission, contacted them today and there will be a board meeting tomorrow and they will look to see if there is any interest from their board would like to apply to serve on our Planning Board. We are required by State Law to have someone from this conservation district serve on this Board. She did speak with Commissioner Vermeire in which a time limit should be set if no one from the Conservation District wants to serve on the Planning Board, the current members are allowed to appoint someone and make the recommendation to the Commissioners. Right now, there is not a lot of information, so Rose is waiting to hear back from Lori on this. Right now, they have more or less settled on four months, but this could change after we get more information.

#### West Barker Creek First Minor Subdivision Staff Report:

Gayla Hess, Planner I, presented the staff report on behalf of the Planning Department. She stated that Mrs. Harshbarger was kind enough to be in attendance this evening to fulfill the requirements of the preapplication meeting. She and her husband are proposing a subdivision called the West Barker Creek First Minor Subdivision. She has met with Chas Ariss, Planning Director, as well as Gayla to review her preliminary plat and to discuss plans for the subdivision. There has been some information identified that is still needed from the applicant. Tonight is the opportunity for the Planning Board to discuss and bring forward any questions or concerns that they may have before the application is considered complete.

#### Questions from the Board:

Rose Nyman asked why there is a name of JH Associates on the Staff Report when she has not seen anything else on any of the other paperwork with this name on it. Mrs. Harshbarger, who is Raymond Harshbarger's wife, stated that Ray is the member of JH Associates. When Mr. Tom Moodry did the survey, he put this under Raymond, but in the final version, this will be under the name of JH Associates. JH Associates is a limited liability company, and Raymond Harshbarger is the only member.

Frank Fitzpatrick asked that once the application is complete, whether or not they will come back before the board. Chas noted that most of the information is within the packets, but that the additional information will be sent to the Board once the application is complete.

Rose Nyman had a question about the covenants. She is questioning the size of the lots once this area is subdivided. Mrs. Harshbarger stated that this is in only a draft form and once this is complete, there will be specific numbers defined. They want to keep these as larger parcels and not something that can be divided any more than they will be with this initial subdivision application. Mrs. Harshbarger assured the Board that everything will be in compliance with all regulations.

Bob Wren asked if all the lots were the 23.37 acreage. He is questioning a note of 25 acres on page 19. Gayla then confirmed that this was a typographical error on her part and that all parcels are very close in size.

Craig Sweet questioned the proposed easement and road access from Hwy 1 via Lot 2 for other lots. He confirmed that there will be a new final plat listing where all of this will be and this was confirmed.

John Lombardi confirmed that this is not involving the Spring Hill Water ????? This is not even close to this area and is actually on public land.

Mrs. Harshbarger did state that she has already talked to the sanitarian about septic and water and there doesn't seem to be any problems moving forward with this.

### West Barker Creek First Minor Subdivision Staff Report:

Gayla Hess presented the staff report on behalf of the Planning Department. This is a discussion about a split that is being proposed in Opportunity. This will also need to go before the Board of Adjustment and there are numerous small issues that the Planning Board should be aware of, mainly that the septic system is being shared between two homes. There have some proposed conditions of approval by the Planning Department: This would include them filing a permanent easement in order to deal with the septic issue, but Chas and the Planning Department would like to have the Planning Board get the opportunity to weigh in on this matter. Additionally, as the Board has heard before, there is a minimal lot size which many of the lots in the area do not adhere to and this is another of example of this nonconforming lot size.

### Questions from the Board:

Frank Fitzpatrick asked when the Board of Adjustment will meet on this. Chas responded by stating that this was brought up several Board meetings ago previously about substandard lot sizes. This is a pre-existing condition. The DPS came into effect after the community of Opportunity was developed. A lot of the existing properties/subdivisions were for homes that pre-existed the municipal code. The idea of the folks who wrote the codes in the 1990s, was to either make sure that no further fine division of the area occurred or there was a misunderstanding of what the current land use was prior to inception of the municipal code. No one knows the answer to what the questions were. However, here we have a situation where from the environmental element of the project, there is more of a significant problem, as there are two residents whose property have individual wells on them, one parcel is extremely small, 1/3-acre, and there is an individual house on it, however, both the lots share a septic system and the smaller of the two lots is too small and when you look at the cluster of development around this, there is no room to put another septic system in place, as you would not achieve the proper setbacks from the private drinking water wells. Our public water system does not extend out to

Opportunity and we do not have a public sewer in Opportunity. These folks want to splint this for family purposes at this point in time, but in moving into the future, with a change of ownership, the end result will be a substandard lot of substandard size, but also not suitable for its own standalone environmental infrastructure relative to what we have available in Opportunity. Chas stated that at this time the Board could recommend to the Board of Adjustment a variance for this, but Chas would think this would have to be conditioned upon a permanent easement to allow the smaller lot to use the septic tank and drain field of the larger lot next door. He is not sure that this would be enforceable and that under most circumstances, this is not recommended. He feels that this is just a headache waiting to happen down the road with any sort of ownership changes with a lot of litigation ahead. Chas is relatively against this at this time, but this needs to be discussed amongst the Board and about setting a precedent at this time and how this will influence future development out in Opportunity. This will also bring up the bigger picture of long term planning of the infrastructure involving the Growth Policy within the next decade. Significant conversation was had regarding this. Chas stated that we really need to look at the long-term picture regarding what we want to see within the next 20 years and hopefully not set a precedent that will contradict this development in the future.

Craig Sweet stated that he was on the Council in Missoula and similar things such as this took place there and led to a lot of problems. He personally feels that he does not want to move forward with this and feels that this should be denied at this time.

Rose Nyman also stated that what she is taking out of this conversation is moving her to deny this. She asked if these folks were family members. Gayla stated that no one is related. Dixie Dye left this all to the folks who are living there now and no one is related and were not related to Mrs. Dye.

Mr. Sweet wanted to know if there was action taken tonight, would this be on the denial of the division of the lot or making a recommendation to the Board of Adjustment. Art confirmed that we would be making a recommendation to the Board of Adjustment, however, with this not having been set up with the Board of Adjustment and with the agenda stating "informational discussion", he doesn't feel anything can be acted on this evening. Carlye stated that she can certainly go ahead and set the Board of Adjustment meeting up. Art stated that he felt that this Planning Board is in favor of denying this based on what he is hearing.

The thought process at this time was to bring this back to the March 4<sup>th</sup>, 2019 meeting for action, deny it at that time, and then move it along to the Board of Adjustment meeting in which Mr. Villasenor would then come to that meeting and give the recommendation of the Planning Board as a concerned entity.

Art stated at this time that that he feels that the opinion of the Board is to not approve this. He is leery of making a motion due to the "informational only", but he feels that they can relay an opinion to the Board of Adjustment that the consensus/poll of the Planning Board is to deny this to the Board of Adjustment.

At this time, Mr. Villasenor polled the Board members:

- Craig Sweet – "Recommend not to approve this"
- Annette Smith – "Recommend to not approve this"
- John Lombardi – "Recommend to not approve this"

- Mary Kae Massey – “Recommend to not approve this”
- Rose Nyman – “Recommend to not approve this”
- Frank Fitzpatrick – “Recommend to not approve this”
- Bob Wren – “Recommend to not approve this”
- Art Villasenor – “Recommend to not approve this”

Art stated that he will be in attendance at the Board of Adjustment meeting to answer any questions, but at this time, he asks that the recommendation be given to the Board of Adjustment that the Planning Board is not in favor of approving this boundary relocation.

The decision was also made that if there is any possibility of an action having to be taken place at any future meeting, to list the topic as, “discussion and/or action if necessary”.

## Miscellaneous

### Matters from the Staff

Chas took this opportunity to discuss the increase in density that will be occurring within ADLC. He wanted to review with the Board the influx in activity that ADLC is hopefully going to be seeing with significant growth. What he is finding from our end of things, is that once some of the subdivisions are completed with their process through the DEQ level, there is no real communication of efficient communication done between DEQ and the county in regard to actions they are taking for additional subdivision applications. In this case, this is a problem with sanitary restrictions when modifying a plat. He states that we need to be very careful and really need to look close at all the subdivisions, especially those that took place prior to the DPS and our regulations. There is more development west of town, including Kanduch subdivision, this new Barker Creek subdivision, and there will be a new major subdivision along the highway that is also in the beginning stages. So, again, with all of the infrastructure issues, do we want to continue to have disposal systems next to our surface water bodies, etc? There are flood plain issues overlying a lot of this also. At the Mill Creek Subdivision on the east end, we have had an update from Premiere Industries, and it appears that the air quality permit for that facility will be issued, which gives them authority to begin with construction of the infrastructure. However, there is an issue with the water/waste water supply evaluation and this is something that DEQ has denied the application for. The biggest constraint for all of these projects is the infrastructure that we have in these areas. . . Chas is proposing some result for this, but there are a lot of issues caused by all of this and Chas would like the Planning Board to be a force in the decisions and management of these projects and the future of ADLC. He feels that we need momentum from our boards to speak before the Commission and make recommendations that we actively invest in the infrastructure to get it in place to attract more business if that is the intent of the Growth Policy. He feels that all of these things must be discussed with the Planning Board when they come up so the Planning Board can be a voice within the Anaconda city government. He reviewed the East Yards Subdivision and the infrastructure and the folks taking interest in this area. Some extensive discussion took place regarding these issues.

Chas also wanted to discuss the revision to the Development Permit System (DPS). This revision is something that the Board needs to have a copy of and the opportunity to comment back. This will make changes to our municipal code in regards to how Superfund issues are dealt with. Chas has not had a chance to completely review, but he thought that we may ask Carl Nyman to have him come to the next meeting with the proposed changes to the DPS. Carlye will ask Carl to come to review the revisions at one of the next Planning Board meetings.

### Matters from the Board

Rose asked that when the bylaws are completed (draft form), that Carlye send them out to the members of the Board, as she herself, will need to review this with Commissioner Vermeire.

### Public Comment

None.

### Next Meeting Date

March 4<sup>th</sup>, 2019

### Adjournment

Meeting was adjourned at 7:40 p.m.

Respectfully submitted,

*Carlye Hansen*

Carlye Hansen, Planning Department Secretary

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