

By Macque L. Bohleen

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COMMISSIONERS' PROCEEDINGS

January 9, 2024

Commissioners Scott Blain and Bill Bullock and Administrative Officer Angela Newell were present.

8:30 Pledge of Allegiance.

Denise Rivette was present.

Commissioners discussed the Building Maintenance Coordinator's upcoming retirement and advertising for the position. Newell will place on agenda.

Discussed upcoming Fair training with MSU and scheduling of Renaissance Festival.

8:53 Geospatial Information Systems Coordinator / Fire Warden Tom Kohley met to discuss surplus equipment through the Fire Fighter Protection program; shipping costs of the mower is \$3,500; Commissioners discussed what would be needed to put the mower into service and agreed the cost would be worth it.

9:00 Disaster and Emergency Services (DES) Coordinator Cyrina Allen met with Commissioners. Elenore Gurrero was present. Bullock moved to approve the Federally Funded Subaward and Grant Agreement DR-4745; Blain seconded; motion carried.

Bullock moved to approve the Memorandum of Agreement between the Montana Department of Military Affairs, Disaster and Emergency Services Division and Carbon County for FEMA DR-4655 for reimbursement of debris removal project activities; Blain seconded; motion carried.

9:36 Bullock moved to approve January 2 Commissioners Proceedings; Blain seconded; motion carried.

9:40 Public Health Director Erin Cross met to the renewal of the RiverStone Health Agreement for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Cross noted Riverstone has been doing a great job and is collaborating well with her department. Cross also noted the Agreement fulfills one of the Maternal Child Health Grant deliverables. RiverStone is here monthly for WIC Clinics. Bullock moved to approve the Agreement with RiverStone Health for the Special Supplemental Nutrition Program for Women Infants and Children; Blain seconded; motion carried.

9:50 Commissioner Scott Miller joined the meeting.

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10:00 Public Health Director Erin Cross met to discuss the Opioid Abatement Trust. Rivette and Gurrero in attendance. Discussed some of the items that needed to still be finalized for the Region's agreement including the Judicial District for disputes and the appointment of the fiscal agent for the region. Commissioners and Cross discussed the appointment of a County designee and the time commitment for the designee; Cross believes there is a benefit for her being on the committee to keep track of possible grant opportunities. Discussed Mental Health Care Coordinator and if they can assist Cross with functions. Bullock moved to appoint Public Health Director Erin Cross as the County's designee and approve the draft Agreement; Blain seconded; Commissioners asked if other Counties had signed the agreement, Cross noted several other counties have approved of the draft and that a final Agreement would be circulated once the final items are settled on; motion carried.

10:30 Blain moved to approve the Maintenance Agreement with Peterson Quality Office for the Alternatives Copier; Bullock seconded; motion carried.

11:20 Contract Planner Forrest Mandeville met with Commissioners. Commissioners reviewed the City of Red Lodge Zoning Regulations on lighting and the County Planning Board's discussions related to lighting. Discussed the possibility of Red Lodge requesting to extend their Zoning one mile outside of the City limits with the implementation of a City/County Planning Board.

11:30 Clerk and Recorder Macque Bohleen and Kate Stout of Red Lodge surveying joined the meeting. Mandeville presented the Silverrun School Subdivision Staff report, noting the purpose of the subdivision is to separate the school into its own tract of record so it could be transferred. Discussed the creation of one new lot 1.5 Miles west of Roberts, which has DEQ Approval.

Bullock, having reviewed and considered the application materials, project memorandum, public comments, and all of the information presented, moved to approve the Silver Run School Subdivision, with the findings included in the project memorandum; Blain seconded; Bullock asked about the remainder tract of 160 acres or more; Mandeville noted Montana Code does not include a tract of 160 or more acres as a subdivision; motion carried.

12:00 Lunch

1:00 Development Regs Revision. Mandeville, Rivette, Theresa Whistler, Gurrero, Poly Richter, Marie Olson, Maggie Karas, Scott Hancock, and Julie Holzer were present.

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Miller opened the meeting and Mandeville reviewed the process thus far noting bulk of the changes were to incorporate Interim Zoning for Marijuana Business Regulations. Other notable changes were altering the Group 2 Permit from an Administratively reviewed shall issue permit to a permit reviewed and approved by the Planning Board at a public meeting, adjustments from a 30-day public comment period, and Admin review to review at Zoning/PB meeting. Would be 10-day notice to landowners within 100ft. Also incorporated lighting to approval criteria and definitions for commercial campgrounds.

Blain moved to adopt Resolution 2024-06 Intent to Adopt Revised Development Regulations; Bullock seconded; Bullock noted lighting comments have been primarily from residents of the City of Red Lodge and would like to see the added lighting provisions removed and noted after consulting with Sheriff McQuillan there is no appetite from his office to enforce lighting regulations; does not see an issue outside of maybe immediate Red Lodge.

Blain asked about the notice requirement on page 9 and how the distance was measured; Mandeville clarified that the notice would include anyone 100 ft off the property boundary, not 100 ft from the building site. Before the last update, the notice only included adjacent landowners and was amended to ensure those across the road would also get the notice. Blain is concerned that in composting issues residents from a mile away had comments; he was concerned that someone a mile away should not have a voice in approval of a development. Discussion of possible issues with noticing if project location was used vs. property lines. Discussion of notice burden in unincorporated towns if distance were extended to 500'. Discussion of the additional cost of noticing as well as administrative burden and whether fees would accommodate those increases. Blain noted public comment at a Planning Board meeting may offset the opportunity for public comment by providing a public forum for comment. It was noted the notice period was reduced from 30 days to 10 days to try and avoid an issue getting stuck between meetings and delaying a decision for an extra month. Discussion of the noticing process which included adds in the Carbon County News and a notice on the County website.

Mandeville clarified that Group 2 Permits would no longer be a "shall Issue" permit. Discussion of Marijuana Regs; Mandeville noted the only issue that has had much pushback is the distance between signs. Discussed Purple Cow Sign violations. Miller asked about lighting requirements and if there had been complaints through the County. Discussion of the 7D subdivision at Drapers where lighting was a hot topic during subdivision review. Mandeville noted he has also had comments about outdoor

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venues (ie wedding venues) and concerns about lighting and noise. Discussed school lights for fields; Mandeville noted School in Roberts would be subject to lighting if these were in place.

Blain asked about Solar Farm setbacks (currently 30 ft) and what standard was relied on for setbacks. Blain is concerned about the impacts of solar farms similar to cell towers or oil drilling. Discussion of setbacks for other conditional uses. Blain would like to see lighting language changed from shall to should, but does not see it as a big issue in the county, noting the voluminous chapter on lighting in Red Lodge City zoning and that he would like to keep County regulations minimally restrictive.

Miller opened the meeting to Public Comment:

Theresa Whistler – thanked the Planning Board for the inclusion of outdoor lighting restrictions and reiterated the five (5) Dark Skies lighting principles and would like additional lighting restrictions added, believes it is more mainstream for compliant lighting to be readily available. Shocked at the proposal to remove lighting noting the State is looking at ways to support Astro Tourism. Whistler noted the adoption of lighting restrictions by Teton County Wyoming and noted what she sees as similarities to Red Lodge.

Maggie Karas – Noted Planning Board review of the lighting issue had close to 2 dozen letters from residents outside of the City recommending adding lighting. Believes removing lighting is a step back, noting she lives out of town because of the dark. Karas requested Commissioners keep the Planning Board's recommendation. Noting she believes the eyesore of solar or windmills is comparable to the eyesore of lighting.

Scott Hancock – Thanked the Planning Board for considering lighting in the County's Regulations. Encouraged Commissioners to adopt the proposed amendments and would like to see additional language including all five (5) tenants of dark lighting. He believes the County should preserve the minimal light pollution that we currently have. Hancock believes neighborly respect includes restrictive lighting.

Julie Holzer of the Carbon County Resource Council is concerned about the notice period. She believes 10 days is too short and would like to see the distance of those noticed increased to 500' or more.

Karas echoed Holzer's comments on the comment timeline.

Johnson building on Fox Road, noted lots of land up for sale, on dark skies mailing once something is built there is no way to pull it back. Concerned that waiting for complaints may be too late. Noted with cloud cover lights at drapers is incredible.

Karas noted across from Baldwin's landscaping and over 30 years have seen an amazing increase in lights from newly constructed properties.

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Richter commented that the skies are a resource and believes they should be preserved.

Holzer asked about the difference between the Planning Director and the Zoning Commission. Mandeville noted current regulations have Group 2 as an Administrative review process. The Zoning Commission is the Planning Board as noted in the definition section.

Blain asked about the process for amending proposed regulations. Mandeville recommended making changes as part of this meeting for the Resolution of Intent to kick off the 30-day protest period.

Bullock thanked the public for their comment and would like to rely on good neighbor policy, especially with predator concerns does not want the County to police how individuals light their property.

Blain believes the "shall" statement on lighting is an overreach although he appreciates the night skies. Concerned that most of this is from Red Lodge and the Red Lodge District and is concerned the issue is not a Countywide issue but an issue with a Red Lodge-centric focus. Blain would be willing to keep the lighting section if it is changed to a "should" statement

Miller would like as little government regulation as possible; agreed that this seems to be a Red Lodge area-specific concern. Agrees with Bullock and would like to see the added lighting language completely removed. He believes this is a neighbor problem looking for a government solution.

Bullock moved to amend the original motion to adopt revised Development Regulations as proposed by the Planning Board with the removal of language concerning lighting and dark skies on pages 8 and 21; Miller seconded; Blain echoed Miller's comment that it is a neighbor problem looking for a government solution, but would be ok leaving and changing to "should" statement; Miller would like to see how the City of Red Lodge's Regulations pan out; Public comment Whistler noted Bullock serves Red Lodge City residents. Bullock and Miller voted in favor; Blain opposed. Motion carried.

Blain moved to amend the original motion to adopt revised Development Regulations as proposed by the Planning Board with an amendment to increase the 100 ft notice to a 500 ft notice in every instance where that appears; Miller seconded; Blain noted 10 days may not be enough, but there is a 60-day period in which the meeting should be held to approve. Does not believe the frequency of Group 2 in unincorporated municipalities will create too much of an administrative or financial burden. Discussion of changing the notice on variances and Conditional Uses to keep it consistent. Discussion of noticing 100 ft off the subject property boundary and 500 ft from the building site.

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Discussed complications with non-symmetrical building sites. Amended to make changes in every instance where occurred; motion carried. Review of amendments.

Blain moved to amend the Solar Farm setbacks on p. 27 ii to 100' and to change the additional screening provision to something that "shall be" required, and change major roads to public roads; Bullock seconded; motion carried.

Discussion about the Planning Board's removal of wastewater requirements for Marijuana Businesses; Mandeville noted that for businesses like those in Rockvale there are adjacent facilities that could be used.

Holzer is concerned the extended review period does not trigger public comment but only extends the time in which a decision should be made. Mandeville noted period is following the notice timeline for subdivisions. Commissioners are concerned that a longer period would remove the Planning Board's meeting flexibility or a larger review time would delay development. Holzer insistent on her point.

The final motion will all amendments was to accept the Development Regulations as revised by the Carbon County Planning Board with the following changes: remove the added lighting language on pages 8 and 21, to increase the notice requirements from 100 feet to 500 feet in all instances where that provision appears; to increase setback requirements for Solar Farms to 100 feet in section 7(c)(ii), to renumber 7(c)(v-vii) to be sequentially numbered as the numbering should start at iv, to amend the Fencing/screening requirements under 7(c) (currently 7(c)(v), but to be renumbered to 7(c)(iv)) so that additional fencing or screening "shall be required from public roads....". All Commissioners voted in favor. Motion carried.

Adjourned.

ATTEST:


Clerk & Recorder


Commission Presiding Officer

Respectfully submitted: Angela Newell, Administrative Officer