

**FLATHEAD COUNTY PLANNING BOARD
WORKSHOP MINUTES
OCTOBER 1, 2014**

**CALL TO
ORDER**

A workshop of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Noah Bodman, Jim Heim, Tim Calaway, Greg Stevens, Ron Schlegel, Gene Shellerud and Jeff Larsen. BJ Grieve and Erik Mack represented the Flathead County Planning & Zoning Office.

There were approximately 13 people in the audience.

**PUBLIC
COMMENT**

Hickey-AuClaire reviewed the agenda and said she did not think a time limit on public comment was warranted with the number of people evident in the audience. If more people joined the meeting, they would address the time limit for public comment at the second opportunity for public comment after board discussion.

Russ Crowder, 2868 Lower Lost Prairie Road, represented American Dream Montana. They thought there were three options in the Whitefish area to deal with concerning zoning. The first option was the interim zoning currently in place, which could be extended for up to two years then expire. The second option was type two zoning which had traditionally been done by the county. The third option was type one citizen initiated zoning which was what they favored. They would like to see a meeting conducted by the county somewhere in the former donut area for property owners to tell the county what they wanted. He suggested the meeting not be conducted by the board but by planning staff so staff could offer options then have staff report back to them the results before they made a decision.

Phil Mitchell, republican candidate for county commissioner, read to the board a letter which gave his history, stated the people who were in the former donut needed to be listened to as to if they wanted zoning or not and if so, what type of zoning. He wished the dispute had not gone to the supreme court.

Scott Wagner, 751 Leksand Trail, said he preferred staying with the same regulations for Lake and Lakeshore that the rest of the county was currently under.

Charles Davis, 205 Barns Lane, asked the board to take into

consideration the area had changed since the donut had been enacted, particularly south of highway 40. He asked how notification of these workshops had and would occur. In the past property owners in the area had been sent a letter asking for input.

Hickey-AuClaire explained the differences between an application being heard by the board and a workshop.

Grieve explained the process required by direct notification and when it was used.

Hickey-AuClaire, Davis, Stevens and Grieve discussed options for notification, how workshops are noticed and how Davis could be aware of future workshops.

Davis urged the board to consider options which would get the board the broadest area of input concerning the zoning.

Dave Taylor, Whitefish Planning Director, gave handouts to the board and thanked the board for their efforts. They would like the board to take a good look at Whitefish's 2007 City-County Growth Policy, especially the future land use map and the previous '96 plan. They had reviewed the interim zoning and had some issues with some zoning. The issues concerned R-4 zoning close to the city limits, B-2 zoning on highway 93 south of Whitefish and Industrial zoning. He asked the board to look at adopting some character based standards.

Rebecca Norton, 530 Scott Ave, asked the board if any of them lived in Whitefish.

The board said before the lawsuit was resolved, a member of the board could not reside in the donut area. Several of the members disclosed ties with Whitefish either by former residency or having friends and family in the city and former donut.

Norton described what a Unified Development Code was and relayed the history of the changing size of the donut around Whitefish. She said the development of a Unified Development Code would solve a lot of the problems the board now faced. She agreed with Taylor concerning the implementation of several ordinances in effect previously in the donut especially the ones concerning visual effects.

**DISCUSSION OF
PLANNING AND
ZONING IN THE
FORMER
INTERLOCAL
AGREEMENT
AREA AROUND
THE CITY OF
WHITEFISH
AND HOW TO
PROCEED
DURING THE
TERM OF THE
INTERIM
ZONING**

Grieve reviewed at length the documents he had given the board which included the '96 Whitefish City-County Master Plan. He also reviewed the requirements for doing permanent part two zoning. He described what interim zoning was in place and how the zoning was decided. What the commissioners needed from the board was what to do during and after interim zoning. He reviewed the history of zoning in the area. The commissioners had asked for something simple, which should replace the interim zoning with some sort of permanent zoning and should be linked to the ability of the property to provide for adequate services and infrastructure for development. He had not prepared an options document.

Calaway and Grieve discussed the interim zoning in the former donut and how it was comparable to the Whitefish zoning.

The board and Grieve discussed in depth options for and benefits of public participation in the process, if the Growth Policy would need to be updated, if the old plan could not be included in the Growth Policy, what plans were used in different areas and if there was a definition of the boundary for cities plans in the county. They also discussed if unified zoning was a possibility in the county, compatible was not identical, what cities could do with ordinances that the county could not and the possibility and difficulties of part one zoning. They continued to discuss public participation, board participation at public meetings and if the board could do hybrid zoning or create new zones. They debated at length what happened if the county did not adopt zoning in the area or the interim zoning expired and what had happened in the past concerning zoning outside the cities.

Stevens and Ole Netteberg, previous board member for many years, discussed what had happened in the past concerning zoning outside the cities,

Dave DeGrandpre, Land Solutions, described the agreement in Lake county between the county and Polson.

DeGrandpre and Grieve discussed if the agreement with Polson and Lake county was an inter-local agreement.

Taylor briefly summarized his understanding of which entity had heard applications outside of the city limits of Whitefish in the past.

Calaway discussed non-conforming uses in zoned areas. He suggested taking a look at how areas worked before the current zoning. He would like to see the individuals in the separate areas come in at scheduled times to look at the permanent zoning.

The board talked about how long the process took to zone the Bigfork area and what the process was.

The board and Grieve discussed at length if it was possible to do a mixture of part one zoning and part two if the citizens did not want to be zoned comparable to the former Whitefish zoning. They also debated if an inventory could be done on the parcels, possible processes, what options were feasible, the existence of non-conforming parcels and the benefits of having the option of part one zoning.

The board and Grieve talked about the options of having the interim zoning expire, commissioner initiated zoning under part two zoning and citizen initiated zoning under part one. They agreed they needed to have the residents have input. They continued to discuss if it was possible to have the pros and cons of the options, if there was another option of updating the plan and then do zoning and if part one and part two zoning could be done together. They talked about the options at length. They debated if adopting Whitefish zoning was an option and if interim zoning could be adopted as permanent zoning.

Taylor and the board discussed taking a look at the 2007 Growth Policy and comparing it to the 1996 plan.

The board and Grieve debated updating the 1996 plan or adopting the 2007 Growth Policy, ramifications of either option, the criteria for a plan and if the criteria Whitefish operated under was similar to the county criteria.

Taylor proposed a plan for moving forward assuming the board chose to go with part two zoning. The first step was to talk with the public. Once they received public feedback, then they could move forward with a decision about options. If they wanted to move forward with part two zoning, then they could update the goals of the plan right and in doing so, they could look at the Whitefish Plan, the existing plan they had which was the Growth Policy and meld them into an update of the goals. At that point, they would check back with the public. Assuming they would go ahead, then they would update their neighborhood plan. At this

point in time, they would want to do an abbreviated version of this plan. Then they would take that back to the public. Then once they felt it was right, they would initiate zoning. Talking about options for zoning was putting the cart before the horse. The first step was to reach out to the public then take it from there.

Calaway felt the public still needed to know what the options were. That way they would not get so far off on a tangent, they could not get back to the purpose at hand.

The board, Grieve, Taylor and DeGrandpre discussed the time needed for the part two options with an update of the plan and what happened when the interim zoning expires.

Grieve suggested an options document be written up similar to the options document for the Whitefish Lake and Lakeshore Regulations document and the board schedule another workshop for two weeks from this workshop. Staff would bring the options document, the board would review it and staff would answer questions of what happens when interim zoning went away. The board either liked or tweaked the options document. If the board wanted to hear what the public had to say about the options document, then staff would take that document as well as a schedule of meetings, mail it to everyone who lives in this area, and ask them to come and attend if they were interested in the future of the area. This would have to happen in short order which meant winter which was a time when several residents were not in the valley. If they held the workshop two weeks from this workshop and review the document, found out what happens when interim zoning expires, then they could decide which way they wanted to go at that time. Either way they chose under the Growth Policy, they had to get guidance from the Board of Commissioners and hold public workshops. The board was taking care of the first two requirements under the Growth Policy right off the bat. He continued to offer options which would take care of the requirements.

The board agreed with an options document with timelines.

Grieve reviewed the planned meetings for the board.

The board and Grieve discussed what the result from some of the options would be with the pros and cons and what some public comment might be.

The board discussed options of how to continue with the options document.

Schlegel and Calaway discussed how they were going to look at the areas and comments from the areas.

The board and Grieve discussed how interim zoning was decided on and how to deal with information of discrepancies which would be similar to different zones.

Hickey-AuClaire and Grieve debated if the options document could be ready in two weeks. They also discussed the need to use a plan for future zoning.

Larsen said they needed to know the pros and cons of the options.

The board and Grieve discussed how soon the options document would be sent to the board for their review and when they wanted to set the next workshop.

Stevens did not see how this process could go without some legal problems because there were fundamental differences. The Growth Policy addressed private property rights frequently and significantly all the way through the document. The property rights were individual, not communal. That was going to create a dilemma. The people in the former donut area wanted to have their individual private property rights recognized. The people in Whitefish wanted to have their compatibility recognized. Those two interests were going to clash. They were probably going to clash in court. The board would do the best they could. He had always tried to keep these documents as simple as possible. There needed to be places to live, work, recreate and worship. He never understood why those places should be so divisive. He gave examples. He was going to review the Growth Policy and the Whitefish Plan. The people were now part of Flathead County which had strong individual property rights. The other option was to rescind the Flathead County Growth Policy and all the zoning, and let it revert to private property interest where the private individual determined what was right for his private property. The other process would be long, lengthy, contentious, divisive, emotional and needed. The board would do their best to jive all the interest together.

**PUBLIC
COMMENT**

Ole Netteberg, 5491 Highway 93 South, thanked the board for the meeting and for sitting on the board. He thought the final idea was good. The meeting of a lot of the former donut people was a great step towards letting the people know they were being heard. They needed to go toward that with a guideline. He was not a favor of neighborhood meetings. They were 85 to 90% emotion driven and people were only thinking of themselves. The people of the former donut needed to be recognized, weigh what everyone had to say but it was still the general welfare which needed to be look at. He gave his history of being on boards which were contentious. Hot buttons were a good thing sometimes which brought issues to the forefront.

Russ Crowder, 2868 Lower Lost Prairie Rd, American Dream Montana, said Flathead County probably had the only Growth Policy which defined private property rights being central to the general welfare which was something which needed to be taken into consideration. He liked the course the board had taken and had heard really good discussion. He would disagree with Stevens because Stevens disagreed with him when he said maybe they should get rid of zoning. That would be great but with the existing state law, if they did get rid of zoning than the city of Whitefish could take everything in a two mile radius, you would be abandoning the people right where they had been again. They may have to do it countywide and leave little two mile radiuses around the cities. If Citizens for a Better Flathead won their lawsuit, neighborhood plans and growth policies would be regulatory and the maps in growth policies were zoning maps. The compatibility issue raised was a concern. Taylor started by bringing up the conflicts between the county regulations and city regulations, he was putting the board on notice. As long as Citizens for a Better Flathead had a pro bono lawyer, the county was going to get sued no matter what they did. That shouldn't be an issue the board would be concerned with, just be concerned with doing the right thing. It started with letting the people in that area know what their options are. They felt the best option was to let the interim zoning expire because if they had zoning or subdivision regulations, then a big hammer had been taken away from the city. If the county put zoning in place, the city would be after them every time they turned around on compatibility issues. They thought the board was on the right track and they appreciated what the board was doing.

Charles Davis, 205 Barnes Lane, asked if the type one zoning only applied to unzoned areas or could it supersede existing zoning. He was all for property rights, but his property rights ended at his neighbor's property line. He thought the zoning process was a way to handle that inevitable conflict. He did not want his neighbor's yard light to be lighting his bedroom. He asked if the Highway Department would be involved in this process.

Grieve and Davis discussed which road department and the involvement of public infrastructure.

Davis suggested ways to inform the people in the affected areas.

Gerald Askevold, 89 Dancing Bear Lane, had been trained as a geological engineer. He felt maps and diagrams were valuable, but they were an extraction. It wasn't the ground truth. He suggested those on the board who did not know the area well, got out and saw what it was like physically. He also asked the habitat be taken into account. He wanted them to visit the areas first before they debated what to do. He gave an example of discrepancies between what maps said and what was physically on property for old floodplain maps.

Rebecca Norton, 530 Scott Ave, said it had been a great discussion and she had learned a lot. She liked the idea of meeting with the people being impacted and looking at the maps closely. The growth corridors around Whitefish would be difficult to develop. She said they were one community, the people in the former donut considered Whitefish their home. The city would more than likely be growing out into the former donut area. That was the purpose of inter-local agreements which was to allow for long term planning. She asked the board to keep in mind they were one community and they still needed ways to grow. She said during the donut discussions, the Whitefish mayor Mike Jensen, developed a model called the township model which could possibly be worked into the zoning. This year they could change the structure of how they did things in the city. One of the ideas was to develop a township model so the people in the former donut would have representation so there would be a lot of dialog. She said to keep their minds open to new ideas.

Ray Halloran, 475 North Main Street, had no idea of what the best way to proceed would be. Type two had some good ideas.

The board should receive input and evaluate what was on the ground in the former donut area. They might want to clarify the limits of zoning, what zoning categories were out there and it would be good to break up issues when meeting with people.

ADJOURNMENT The workshop was adjourned at approximately 8:50 pm.

Marie Hickey-AuClaire, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 11 / 12 / 14*