

**FLATHEAD COUNTY PLANNING BOARD AND FLATHEAD COUNTY
COMMISSIONERS
MINUTES OF THE JOINT WORKSHOP
MARCH 13, 2013**

**CALL TO
ORDER**

A joint workshop of the Flathead County Planning Board and Flathead County Commissioners was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Greg Stevens, Noah Bodman, Gene Shellerud, Jim Heim, Bob Faulkner and Jeff Larsen. Ron Schlegel had an excused absence. County Commissioners present were Cal Scott and Gary Krueger. BJ Grieve and Erik Mack represented the Flathead County Planning & Zoning Office.

There were 8 people in the audience.

**WELCOME AND
INTRODUCTION**

Hickey-AuClaire called the meeting to order and clarified the order of the agenda with Grieve.

Grieve requested agenda item #3. Discussion of the Planning and Zoning Office's Fiscal Year 2014 work plan be moved to before the last public comment and gave the reasons why he requested the move.

The board and commissioners saw no reason not to move the agenda item.

**PUBLIC
COMMENT
(not related to
agenda items)**

Mayre Flowers, Citizens for a Better Flathead, commented there was no information posted on the planning website for meeting information for tonight's workshop but under calendar of events, the workshop was posted with an agenda.

Ronald Buentemeier, 2225 Dillon Rd, chair of the Flathead Conservation District, commented on floodplain applications linked with 310 permit applications. He gave a history and explanation of the permits handled by different groups. He also explained the streambed preservation act. He felt the change in direction concerning how the floodplain was handled was a train which had left the station and had been already derailed. He did not want the county to do anything to jeopardize the ability to purchase flood insurance, but he went on to explain the rules needed to be revised or revisited to make them more applicable to 2013. He went on to explain and give examples in detail of failings which could be addressed and improved.

Les Keller, 563 McMannamy Draw, commented on the possibility of the board and planning office to update the West Valley neighborhood plan, and recommended work be done on updating the neighborhood plan.

Dennis Thornton commented on neighborhood plans, specifically the updating of the neighborhood plans. He quoted different planning and zoning acts and said there was nowhere in state law which mentioned neighborhood plans. He went on to explain the reasons why he was against neighborhood plans and how they should proceed if the board and commissioners wished to continue to update the neighborhood plans.

**DISCUSSION OF
CHAPTER 10
OF THE
FLATHEAD
COUNTY
GROWTH
POLICY**

Part 1 called for a review of the Implementation Plan (Appendix C) after each Growth Policy update cycle, but this was at the discretion of the Board. Did the Planning Board wish to schedule this review for a future meeting?

Part 7 called for an “Initial Amendment” after adoption of the Growth Policy. This “Initial Amendment” was done after the original adoption of the Growth Policy in 2007. Did the Planning Board feel that after the most recent October, 2012 update another call for written submissions and public hearing was appropriate, or did the Planning Board feel that this was vestige language applicable only to the original adoption back in 2007?

Grieve explained his wording of the agenda. He read from the Growth Policy concerning categories for policy implementation and asked for clarity and guidance as to if the board and commissioners wanted to update the implementation plan. He went on to explain where the current plan came from and what had been done for implementation so far concerning the Growth Policy update.

Heim and Larsen stated their thoughts were the wording was for the initial implementation of the Growth Policy, not the subsequent updates.

Grieve and Scott discussed a concern on the wording of updating the maps, etc.

Grieve and Heim briefly discussed Grieve’s definition of ‘vestige’.

The general thoughts were there did not need to be a separate meeting for a review of the implementation plan.

**UPDATE ON
ADOPTION OF
REVISED FIRM
PANELS AND
FLOODPLAIN
REGULATIONS
REVISIONS
EFFECTIVE
JANUARY 01,
2013.**

Grieve reviewed in detail the process of the adoption of the revised FIRM panels to date which included what was in the old regulations and in the new, processes the office should be doing, interaction with the public concerning the new requirements, who created the flood insurance maps, what information was included in the maps, areas of detailed study, determination of approximate 'A' zones, the fee for a floodplain permit, the difference between a floodway fringe and a floodway, the challenge of rip rap and the fact all jurisdictions were under the same state regulations.

The board and Grieve discussed the process for emergency provisions and what that entailed, examples of emergency flood control, the mapped floodplain at Lost Creek, and approximate A floodplain areas. They also discussed if the fee could be abated by the commissioners in certain circumstances, an emergency permit possibility for private land owners, the option of solving certain problems with common sense as opposed to large surveys, alternatives to large studies, the reasons for improving the process and the balancing of fulfilling the requirements without being unreasonable. They also discussed a day of outreach by the DNRC which included a meeting with local officials to discuss floodplain, meeting with local technical representatives for a question and answer session, an open house for the public about flood insurance, how the new panels affected the Evergreen area and how that could be an opportunity to clarify what the DNRC required instead of a full blown study.

Grieve summarized conversations he had with DNRC concerning these issues, especially rip rap, and offered other potential solutions to a study he could present to DNRC.

The board, commissioners and Grieve continued to discuss lower cost options, what work needed permits in the floodplain, what constituted 'common sense' in solutions, where it was referenced and what the floodplain administrator was authorized to do.

The board, the commissioners and Grieve discussed the process for the adoption of the revised FIRM panels. The Planning Board hearing is scheduled for April 10, 2013. They also discussed in detail if there was a list of properties which were now in the floodplain in the Evergreen area, what was available currently concerning the affected area in Evergreen, if the floodplain maps

**BUDGET AND
PLANS FOR
UPDATING
COUNTY
DOCUMENTS**

were available in the property lookup option through the planning website and how a member of the public would obtain a FIRM designation.

Krueger stated that he has learned since taking on the job of commissioner, everything took money. He wanted to discuss with the board if there were a number of plans which weren't needed and if they thought they should find an alternate funding source. Everyone in the county paid into the system, yet not everyone was a part of a neighborhood plan, etc. He deferred to Grieve to explain the costs involved in the process of updating neighborhood plans.

Grieve said for the sake of transparency Krueger had given him the last three agenda items 48 hours ago which is why he put Krueger's name after the items on the agenda. He had not prepared to give a comprehensive analysis of the costs to update the neighborhood plans.

Krueger and Grieve discussed how the planning office was funded, the fact the office had been told to hold the line on the number of people employed, the number of neighborhood plans in effect, work which was discretionary and non-discretionary, work which was covered by fees and work which was not, the availability of one half of a full time employee to work on discretionary projects and past discretionary projects.

Grieve asked for guidance from the board and commissioners as to which projects they wished for the one half of a full time employee's time to be used for. He spoke about issues paid for by the budget which happened behind the scenes such as enforcement, feuds between neighbors and general information seeking phone calls.

Krueger suggested a review of the zoning regulations when updating a neighborhood plan.

Grieve said when an item in the zoning regulations was an issue which might need to be looked at closer and updated, they were flagged and brought before the planning board for approval or disapproval. He gave examples of what needed to be looked at. He again asked for guidance on what the board and commissioners wanted him to do concerning the issue.

Krueger felt a need existed for an update on the zoning

regulations.

Grieve and Krueger discussed the scope of updating which was needed, involvement of the public, how labor intensive an update was, specific examples of places in the zoning regulations which needed to be updated such as home based businesses in certain zones, recreational uses and non-conforming uses.

The board and Grieve discussed if the issues were local or not, the complications of updating the zoning regulations, what the zoning administrator was allowed and not allowed to approve, the gray area of interpretation in the regulations, the lifespan of uses such as retail, the use of conditional use permits to mitigate impacts and other jurisdictions which focused more on impacts expected than uses. They also discussed the different types of zoning such as use, performance and form, CALURS use of major and minor land use designations, the possibility of a text amendment which would give some leeway to not having a performance standard and the CVR zoning in Bigfork. They continued to discuss the complications of telling people what they could and could not do with their property, the challenges with a zoning plan, nuisance laws, areas of change such as Evergreen, the differences between the uses in the same zoning designations between the city of Kalispell and the county and the specifics of use of a conditional use on property.

Stevens, Krueger and Grieve discussed the ability of a property owner to have a house on a piece of property which already had a use and renting a house for a vacation rental.

Grieve, the commissioners and the board discussed a single family dwelling on a piece of property and other uses allowed at the same time, primary uses versus secondary uses and the ability of the board to look at and fix issues such as this.

Krueger and Grieve discussed how long the time frame was to fix issues and the reasons why the time should be shorter.

The board, commissioners and Grieve also discussed the difference between privately initiated and publicly initiated zoning text amendments, how projects would be prioritized, the time needed to approve either a conditional use permit or text amendment, the authority of the zoning administrator, administrative determinations and the possible loss of business if the zoning regulations were not revised. They also discussed

in depth the process which needed to be followed to put zoning issues as an agenda item for the next available board meeting. They discussed what regulations had been updated, which regulations needed updating, what would happen if Evergreen wasn't zoned, what would happen if Evergreen had the plan intact but was not zoned, the number of zone changes done in different districts since 2001, the processes which needed to be followed to change uses and zones in different areas, the benefits or problems with zoning or unzoning areas and the fluidity of zoning.

The board, commissioners and Grieve talked about possible increases in workload which included the Whitefish donut area and what that would entail.

Hickey Au-Claire and Grieve discussed what the process would be to authorize items for a work plan for the next fiscal year, especially an update on the zoning regulations.

Larsen wanted to state for the record he was totally opposed to starting any new neighborhood plans until the neighborhood plans which needed updating were updated. He thought updating the plans would be a lot of work. He felt Grieve should look at the zoning regulations a bit deeper than the amendments Grieve already had tagged and see if there was a way to look at them more closely yet not spend two years updating them. He thought the zoning regulations were outdated and did need work. He mentioned a document with previous work done to update the regulations in the 1990's which might be at the county attorney's office and could be a good place to start.

Stevens, Larsen and Grieve discussed briefly the information from the meetings in the '90's.

The board, commissioners and Grieve discussed options for how to update the zoning regulations, court cases, the B-2 zone, the benefits of changing the zoning in Evergreen, business and industrial zones and why they were where they were, B-2HG zoning and the fact it was currently in court and Large Tract Rural zoning.

Grieve reviewed the process for getting a work plan authorized for the planning office. He summarized what he had heard from the board would be the work plan which included working on the zoning regulations, not updating any neighborhood plans.

Shellerud suggested hiring more staff.

Grieve said that was up to the Commissioners.

Larsen felt the zoning regulations would be more pertinent. He didn't think the office had enough staff to do both updating the zoning regulations and neighborhood plan.

Grieve agreed there were many things which were frustrating but they would never get the regulations perfect. He didn't think the office could update both the neighborhood plans and zoning regulations. A modest review of the zoning was possible and he summarized what was involved in that process.

The board and Grieve discussed at length the pros of updating the regulations, options of how to update them and the process from this point on.

**PUBLIC
COMMENT**

Ole Netteberg, 5491 Highway 93 S, chair of the Whitefish City-County Planning Board, commended the board on common sense. He said the added workload of the revertment of the Whitefish donut zone shouldn't be planned on. He didn't think it would happen. He commented on his acreage, how it was split between Whitefish and county zoning and the difficulties of that issue. He gave the history of the property and how he was stymied on doing anything with the property. He asked that the second the board could do anything with the Whitefish donut area not to put them on the back burner, they needed representation.

Jim Kramer, 745 Dusty Acre Plain, felt it was time to eliminate the neighborhood plans because they add more to the general zoning. He gave an example of where that was the case. He thought nothing would get done on updating neighborhood plans because there were so many people involved with differing opinions.

Dennis Thornton, said he had watched the whole meeting and saw everyone talking about updating the neighborhood plans, and zoning. He asked where the money and time would come from to do it. He asked Grieve what good a neighborhood plan did.

Grieve deferred talking about the pros and cons of neighborhood

plans at this late of a time in the evening.

Thornton said neighborhood plans lacked legal authority.

Hickey-AuClaire reminded Thornton to direct his comments to the board.

Thornton said all that was created with a neighborhood plan was something that made someone feel good. Unless the next step was taken and the plan was made a zoning document, it was nothing and wasted time. He felt updating the plans were like a treadmill, once they started to be updated, it would never end. If type one zoning was done, it could be used and paid for in the district instead of taking money from the general fund and making someone who lived in Marion pay for something someone wanted in Lakeside and giving someone in Lakeside or Bigfork preferential treatment. He didn't think what was going on in Flathead County was legal. Anytime a boundary was created around something a district was created. State law said if a district was created it had to be funded from within the district. Money kept being taken out of the general fund and it was not going to go on for much longer because he was not going to allow it. So he felt it had better be looked at. If there were going to be neighborhood plans, fund them within the district. Go to type one zoning, go to the zoning enabling act and it would tell them how to do that. You get sixty percent of the ownership, advertise, have public meetings, you don't have meetings on a logging road in an out of the way place and don't have secret websites. He was telling the board if the updating of the neighborhood plans was going to happen, it was going to get funded from within the district, because he was going to make sure that it was.

Mayre Flowers, Citizens for a Better Flathead, 35 4th Street West, wanted to commend the board and commissioners on the discussion. A lot of important topics were discussed and it was important the public was able to come and listen. She appreciated the fact public comment was allowed at both the beginning and end because otherwise issues and questions would not be allowed to be raised. She was interested in the economics of zoning and the community could be worked with to remove barriers. She suggested looking at the bigger picture which included businesses wanting to locate here as well as tourism and support both. There was a broad range of issues. She thought it would be good to look at the economy and zoning

together.

Stevens wanted to complement and thank the commissioners for coming to the workshop. His opinion was the commissioners' decisions had more impact than the State's on people's lives in Flathead Valley. He went on to explain that statement. He reiterated how glad he was they had taken the time to attend.

Grieve clarified the decision of the board for Fiscal Year 2014 work plan was to workshop and work on updating the zoning regulations. He thanked the board and commissioners for coming to the workshop.

ADJOURNMENT The workshop was adjourned at approximately 9:00 pm.

Marie Hickey-AuClaire, Chairman

Donna Valade, Recording Secretary

*APPROVED AS **SUBMITTED**/CORRECTED: 5 / 8 / 13*