

**STILLWATER COUNTY
COMMISSIONER MINUTES**

Notice: These minutes reflect the proceedings of the Board of County Commissioners. The official minutes are on file with the Clerk and Recorder (MCA 7-4-2611(2)(b)).

**REGULAR MEETING
MAY 16, 2017**

Present: Commissioners Dennis Shupak, Chair; Maureen Davey; Mark Crago, Members; and Lori Dobitz, Administrative Assistant.

Others present: Becky and Richard Sidwell; Carl Gates; Todd Robinette; Coralee Hicks; Nancy Rohde, County Attorney; April Limburg; Heidi Stadel, Clerk & Recorder; Forrest Mandeville; Monica Plecker, CTA Planner; Webb Mandeville, City-County Planning Board Member; Carol Arkell, DES; Jerry Friend, Treasurer; Rich Cowger, Columbus Fire; and Mikaela Koski, Stillwater County News.

Minutes: none presented

Special Issues: Stillwater River Road - Carol Arkell gave a brief update on the rockslide stating we are in the final stages of the process which is environmental review (raptor study) and said she is hopeful the grant is awarded soon.

Consent agenda:

1. Montana Department of Public Health - Task Order 18-07-6-11-050-0 Public Health Emergency Preparedness.
2. Weed Management District - Districts 1-4 approval of contracts for weed spraying.

File items:

1. Montana Historical Society - Historic Pelton House on West Rosebud Road designation on the National Register of Historic Places.
2. Treasurer Cash Reports - January 31, 2017; and February 28, 2017.
3. MT DEQ - Public Notice of intent to issue a wastewater discharge permit to City of Columbus.
4. MT Dept. of Administration - FY2016 Audit Report corrective action plan acceptance.

Commissioner Davey **MOVED** to approve the consent agenda and place the file items to file. Commissioner Crago **SECONDED**. Motion passed unanimously.

Regular Business:

1. Airport Improvements Columbus Airport - Woltermann Memorial, AIP 3-30-0017-013-2017. Commissioner Crago said new runways and taxiways will be constructed in the near future in the amount of approximately 2.2 million dollars. He said the FAA will grant the county 90% with the city and county providing the 10% match. The following following documents are submitted for approval:
 - a. Airfield Pavement and Electrical Rehabilitation Construction - Grant Application Amendment
 - b. Recommendation of Bid Award to Knife River, Billings, MT
 - c. FAA Environmental CATEX Update

Commissioner Crago **MOVED** to approve the above submitted project documents as recommended by Morrison and Maierle. Commissioner Davey **SECONDED**. Discussion: Commission Davey stated Commissioner Crago is the new liaison to the airport board. She said the project has been in the works for several years following discovery of a flawed asphalt formula, which was a FAA approved mixture, used on the runways in a previous project. Commissioner Shupak called for a vote. Motion passed unanimously.

2. Planning Department

- a. Mountain Range RV Park Expansion Development for Lease or Rent - Located in North of Interstate 90, in S21, T2S, R20E, MPM, COS 205003. Monica Plecker, CTA Planner, explained that when this park was initially reviewed years ago, there was a planned expansion. The applicant, Mount Marian Enterprises, is seeking approval for the existing 42 space RV Park to provide an additional 31 spaces. Ms. Plecker recapped each of the twelve conditions of approval as recommended by the Planning Board for the commissioners. Following discussion regarding fencing, easements, ditches, and culverts, Commissioner Davey **MOVED** to approve the Mountain Range RV Park Expansion Development for Lease or Rent as recommended by Planning Staff and the Planning Board. Commissioner Crago **SECONDED**. Motion passed unanimously.

- b. Resolution of Intent to adopt a new future land use map (FLUM) -

Background - Monica Plecker, CTA Planner, presented the future land use map (FLUM) to the Commission and presented the background and milestones on the planning tool. Highlights included: Funding approved by the City Council and Commissioners in March 2016; the CCPB discussions on FLUM development (April, May, June); a 30-day public comment period was advertised July 2016, maps placed in City Hall, County Courthouse, and Library; CCPB Recommendation to City Council in September 2016; CPPB meeting in November 2016 (addition of narrative to accompany the map; and recommendation for the CCPB to the County Commissioners February 2017.

Plecker said the City of Columbus did not feel it in their best interest to adopt a Resolution of Intent, so the CCPB went back to the drawing board and chose to make a recommendation to the County Commissioners. The map no longer includes any land within the city boundary. It is the recommendation to now be entered into the county's growth policy. She provided a memorandum for the commissioners and reviewed it with them which explains the FLUM is a community's visual guide to future planning, a tool. It is not zoning and it should not be mistaken for a zoning map, she said. It is part of the growth policy which is not a regulatory document, this is nothing more than a general guiding document. Plecker said it is very important to make note and emphasize that you (commissioners) are not able to approve or deny a subdivision based solely on what the growth policy says. This map, if adopted by the county, can not be used to make zoning decisions in the future.

Monica also discussed the FLUM Guide, intended to be a narrative that provides the public, as well as users of the FLUM, with a way to understand what the map is trying to convey. The categories explain to the users what kind of characteristics are in those areas. (The staff report/memorandum is filed with the Clerk & Recorder's Office under document # 368782)

Resolution - Commissioner Crago read draft Resolution 2017-25, A *Resolution of Intent to Adopt a New Future Land Use Map as an Update to the Stillwater County Growth Policy*.

Motion - Commissioner Davey **MOVED** to adopt **Resolution 2017-25** as read. Commissioner Crago **SECONDED**.

Discussion - Commissioner Davey said prior to her becoming a County Commissioner, she served for over seven years on the county planning board. She remembered there was a Master Plan which has now evolved into a Growth Policy. She was a member of that board because of her agriculture background citing irrigation ditches and regulating private property as being important to her. She said the growth policy is not a regulatory document, it is a tool for the future. This resolution would give another 30-days for comment period, she said, and comments are always welcomed.

Comments -

Richard Sidwell, is opposed to the FLUM as it could be used against them on their private property rights, this close to Columbus, he said. He discussed density housing, closed aquifers, DNRC, well-waters, jurisdictions, growth, and zoning. He is concerned about not being able to carry on with agriculture activities. He said it won't be open agriculture if he wants to sell to somebody for open agriculture, you are going to wind up with low density housing. He said he went to the CCPB and got

a guide for the FLUM and it is different than the one his spouse went and got. They both came out of the same office and one list low density housing/agriculture and one states low density housing. He wanted to know which one are we following.

Response - Monica Plecker, Planner, provided clarification to Mr. Sidwell's comments. A sale of the property would not change the zoning to low density residential. The way that you change zoning designation is the land owner would have to petition the City of Columbus to have zoning changed. Again, this is not regulatory, but zoning is regulatory. Secondly, there was a staff draft that went to the CCPB after everything failed at the City Council meeting. Some concerns heard at the council meeting and at the public hearing was taking agriculture land and placing a low density residential label on it. Monica said when she went back and amend the FLUM Guide to reflect the county as opposed to the city. The document was edited as the CPPB saw fit. The CCPB wanted to stay with the original and what is before the commissioners is for the area left of Kyser Creek to be shown as low density residential. He said he does not see the need for this planning on the map the way it is and he doesn't want to be a part of it.

Monica Plecker said the commissioners would have a 30-day public comment period which they would accept written comments. There will be a public hearing at a Commissioners regular agenda meeting, where people can come in and on record voice their opposition or support for the Future Land Use Map. At that time, you can make a formal motion to adopt the FLUM, or after receiving public comments, make amendments to the FLUM. Commissioner Crago asked Monica Plecker if the commissioners don't move forward with the map at the end of the 30-day period, because there is no zoning, other than the Stillwater Mining zone and the City of Columbus zone, nothing is stopping low density housing from going out there anyhow, is that correct? If this doesn't happen, someone could still come in and buy the ground next to him (Sidwell) and put low density housing in there, with or without this map? Monica Plecker said they could put low-density housing, high-density housing, commercial businesses, industrial businesses, or anything they want to do, so long as the City of Columbus zoning regulations allow for it. She said another thing to consider, that makes this a clear difference between zoning is that these general categories like low-density residential, residential, general commercial, these are not the same zoning designations as the City of Columbus. They have R1 and R2, those are how there ordinances are written.

2. Todd Robinette - He said it is upsetting that we have county land right in the City of Columbus, that is close to the city sewer and water to hook-up. He brought up safety issues with the open ditch, the subdivision, and liabilities.

3. Becky Sidwell - also voiced her concerns on complaints regarding agriculture activities taking place on her property, i.e. manure spreading.

Monica Plecker - addressed questions regarding zoning maps vs future land use maps. There are two different maps out there, one is a zoning map, which is administered by the City of Columbus and hanging at City Hall. Sidwell's property is currently zoned as "agriculture open" and their property will continue to be zoned agriculture open unless the property owner (wether it be them or whomever they sell it to) petitions to change it. It can not encumber their property because it is not regulatory. It is a general guiding document. What does give them the right to continue agriculture is their (Sidwell) zoning designation "agriculture open", and anyone else that has that designation. They have the only agriculturally protected land in Stillwater County, they have a local statute in place that says this is a permitted use on that property, no-one else has that, she said, because there is not zoning beyond those boundaries. This FLUM is not zoning, the map that does give them the right to do what they are doing is the zoning map.

Vote - Commissioner Shupak called for the question. All voted aye. Motion passed to adopt the resolution of intent. The 30-day comment period will expire June 14, 2017. Resolution 2017-25 is filed in the Clerk and Records office document #368782.

c. Sekora Subdivision Final Plat - April Limburg, Planning, said the conditions of approval have been met and the final plat, once signed, is ready for filing in the Clerk and Records Office. Commissioner Davey **MOVED** to approve to final plat as presented and recommended by the Planning Staff. Commissioner Crago **SECONDED**. Motion passed unanimously.

3. Solid Waste Board - Commissioner **MOVED** to appoint Lynn Stutzman to the Solid Waste Board for a 3-yr term. Commissioner Crago **SECONDED**. Motion passed unanimously.
4. Commissioner's Order - Creation of the Stillwater Ambulance District # 1. Commissioner Davey read Order No. 2017-01. Following the reading of the order, Commissioner Davey **MOVED** to adopt Order 2017-01. Commissioner Crago **SECONDED**.

Discussion - Nancy Rohde, County Attorney, requested to see the Order after Commissioner Davey read it out loud. Heidi Stadel said the date of the election in the order needs to be corrected. Rohde is recommending the commission not pass this order due to language changes and put it on the Commissioners agenda the following week. Commissioner Davey stated the ballot did not follow the Resolution of Intent for this. Davey said she thinks this order covers and has the intent of the whole coverage of the election and it passed. Rohde said the Commission can leave their changes in the order, but she would like a paragraph re-instated that she drafted.

Commissioner Davey said the County Attorney drafted the original resolution of intent and it did not list two questions for the ballot, however the ballot had two questions. Commissioner Davey said the Resolution of Intent, the Ballot, and the Order does not line up.

Vote - Commissioner Shupak called for the question. Commissioner Davey voted aye, Motion Failed.

Motion - Commissioner Crago **MOVED** to make the corrections to the Order, review it again as a Commission and with legal counsel and bring it back before the board at the next agenda meeting on May 23, 2017. Commissioner Shupak **SECONDED**. Discussion - Commissioner Davey said the commissioners were instructed to review the order that was drafted and she believes this one (with changes made by Commissioner Davey) follows the intent of the election and the original Resolution of Intent calling for an election.

Vote - Commissioner Shupak called for a vote. Commissioners Crago and Shupak voted aye. Commissioner Davey voted no. Motion passed.

Public Comments: none heard.

Meeting Adjourned: Hearing no further comments, Commissioner Shupak adjourned the meeting at 10:04 AM

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