

# LINCOLN COUNTY PLANNING BOARD

## Meeting Minutes

December 11, 2012

### 1. 5:00 – Meeting Called to Order by Board Chair, Paul Tisher

Present: *John Damon, Paul Tisher, Kirsten Holland, Mark Romey, Matt Bowser, Dave Johnson, Bonny Peterson*

Absent: John Rios

Staff: *Kristin Smith*

### 2. Agenda

#### a. Turtle Lake proposed zoning district

Paul opened the meeting with a request that everyone be a little more courteous with each other when we talking; asking that members raise their hands and not speak over each other so that everyone has a chance to be heard. This would enable a more organized meeting.

All agreed.

Mark stated he was unaware the Board was looking at the proposal since Kristin was going to present it tomorrow to the commissioners.

Kristin stated the public hearing was next week.

Mark wanted to know why the Board was looking at this since at the last meeting there were folks with different opinions which did not match what the neighborhood wanted. Why should the Board make recommendations that would be different from what the neighbors wanted to present?

Kristin asked the Chair if he would like her to answer. Paul stated yes

Kristin stated that dealing with zoning requests is the role of the board; it's spelled out in state law and it just is what the Planning Board should be doing. The way this is presented conforms to the state law. There are two different ways to adopt zoning, and they both were created about 40-50 years ago. One is by petitioning, driven from the citizens and one is what we call county initiated. The folks at Turtle Lake have petitioned their request, meeting the threshold for petitions, which is a minimum of 60% of the people in the district and that's why you see that number appearing. They actually have 73% of the people in the district. The growth policy very clearly identifies this approach as being the method that the county will review zoning. In fact, it's mentioned a couple of times. In other words, when the county developed a growth policy in 2005-2006, it did not contemplate initiating big zoning proposals on its own, but it said if the citizens want to do that, that is something what the county will support, facilitate, etcetera. That

is a very big distinction – the county is not going to initiate it, the citizens have to initiate it. So the citizens have initiated it and the planning board is reviewing it and commissioners will review the final planning board recommendation.

Paul asked if there is anything in this proposal that's not legal.

Kristin stated nothing that she could identify.

Paul asked if there is nothing illegal, than is there any basis for the commissioners to deny the request?

Kristin suggested no, other than politics.

Kirsten relayed her experience in Flathead, stating that the county had been sued a lot for denying things based on emotions or politics rather than criteria or impacts.

Kristin reminded the Board about the statutory review criteria for the zoning proposal for which she provided an evaluation in her staff report. In order for the commissioners to legally deny the request, there has to be a valid protest meeting the requirements spelled out in state law, from a certain percentage of people within the district. That protest can be presented up to 6 months after the district is adopted. But, at this point, it did not appear that such a protest would be forthcoming since there were only 3 property owners opposed to it.

Matt suggested the landowners would not have a case if they sued because the whole purpose of this is to protect the fisheries and the aesthetics are subjective. [Greg] from the Corps couldn't even quantify the impacts to fisheries and if you don't have quantifying information then you are not going to do well accordingly.

Mark asked if the commissioners could approve it based on what the property owners presented, which goes far beyond their purpose of restricting RVs. They talk about dog, cats, birds and bees, and vehicles, and setbacks.

Kristin suggested that might be a good place for the Board to start its discussion actually.

Paul affirmed and reminded the Board that when it has reviewed regulations in the past (i.e., lakeshore, subdivisions) or permits, the Board has massaged them in various places; changing things and adding conditions. That's what we do. This is the first zoning we've seen so, we really have to try and make everyone happy with it.

Paul brought up the Thompson Chain of Lakes and Kristin stated that that had area had a plan rather than a zoning ordinance. The difference being that a plan is not regulatory. She state that area encompassed approximately 6,000 acres and a major highway with an identified commercial node and a mix of housing types throughout the area and lakes.

Mark asked why they should be trying to make everybody happy?

Paul: That's a good question.

Kirsten suggested it was just the luck of the draw that the first zoning district that we are looking at is one wherein the purpose was specific to restricting RVs, which we know is a problem in the area. And the property owners supported it in addition to adding all regulations that didn't have to do anything with RV parks.

Mark clarified his statement by suggesting they look at the purpose – to prevent RV parks in the area.

Paul stated the purpose statement also spoke to the integrity of the area.

*[There was more discussion on the legality of the proposal and process]*

Kristin stated she would notify all 11 property owners in the district tomorrow of the Planning Board's recommendations, so they'll have a week, to either confer amongst themselves and say, "Yes, we can live with this." Or "No, we don't want the commissioners to consider it." That, if the commissioners hear from the district members, "We don't want what the planning boards done" she thought the likelihood of the commissioners adopting the original district to be greatly reduced. She stated that she had counseled the district members that if their ultimate goal is to get approval, modifications along the way need to be expected, and there would be a greater chance of getting it adopted by the governing body if there is an approval coming from the advisory board.

Paul asked how long they would have to respond before the December 19?

Kristin said she would encourage them to respond before then, but that most likely the commissioners are not going to make a decision on the 19<sup>th</sup>, that they will put it off until the next meeting, or 30 days.

Paul suggested the Board begin looking at the specifics of the district from where they left off last time.

Matt asked to go back to the purpose statement and made a recommendation to strike some language that did not directly address RV parks.

*[The discussion turned to the specifics of the zoning document and the Board made numerous changes to the draft presented by the neighborhood. The audio recording of the deliberations is on file with the Planning Board. Also see the draft recommendations as presented to the Board of County Commissioners on December 19<sup>th</sup>.]*

Bonny made a motion to recommend approval of the Turtle Lake zoning district with the changes made. John D. seconded the motion.

Motion passed 4 to 2.

Paul congratulated everyone on the good discussion.

### **3. PLANNING DEPARTMENT REPORT**

Kristin announced that the commissioners appointed a new Eureka area representative to the board – Josh Letcher. She also spoke about the Milnor lake project for which the board had received e-mails several weeks back. The project has since died, but it was being pursued by

Commissioner Downey – an easement across a landowner's property for public access to the lake. There is currently a narrow easement in a different location but unsuitable for full access because of its location in a riparian/wetland area.

Matt asked about the funds used for the effort. Kristin stated that each of the commissioners manages their park funds for their district.

#### **4. PLANNING BOARD COMMENTS AND QUESTIONS**

Matt talked about an interesting documentary he saw about the interaction between a planning board in upstate New York and their commissioners. He said it could be downloaded or streamed online for free. He stated it was fascinating about a neighborhood and industrial wind power and the dynamics between the planning board, department and [governing body]. It highlighted a lot of points that he was not aware of.

Kristin stated that if the Board had questions about planning concepts or wanted some resources that she has a complete library and point people in different directions for resources. There is a state professional organization, the Montana Association of Planners; a state-sponsored technical assistance program; and national planning commissioner organizations.

Paul offered some thoughts on the Thompson Chain of Lakes neighborhood plan. He stated that one of the subdivisions that Plum Creek did cut people off from accessing lands beyond it, now that it operates like a gated community. He said he used to go there up Roger's Mountain, but cannot anymore because the access was blocked off, but that folks living there could use it. He wanted to make sure that in looking at future subdivisions access to public lands is considered for everyone.

Kristin mentioned that particular plan identified a number of access connections for roads, ATVs and otherwise – those were really critical for FWP support.

#### **5. Next Meeting – TBA**

Kristin stated she had a couple of subdivisions in the review process that might be ready for a January meeting – both of them being reviewed for RV usage.

#### **6. 8:10 Meeting Adjourned**