

# LINCOLN COUNTY PLANNING BOARD

## MINUTES

September 21, 2010 (Troy)

### 1. Meeting called to order by Board President

In Attendance: Kristin Smith (KS), Lisa Oedewaldt (LO), Joe Kelly (JK), Stew Briskin (SB), Ted Andersen (TA), Charlie Newton (CN), Ted Clark (TC), Paul Tisher (PT), Mark Romey (MR); Commissioner John Konzen (CK)

Non Attendance: Dave Johnson (DJ), Heather Carvey (HC)

Public Participation: *See Sign In Sheet*

### 2. Approval of August 17<sup>th</sup> & 18<sup>th</sup> 2010 Minutes

Stew made some corrections. Motion: PT, 2<sup>nd</sup>: CN; minutes approved

### 3. Public comment on Non-Agenda Planning Board Items

*Rhoda Cargill raised an objection to the term "banter" in the minutes and suggested the Board consider recording the meetings. Donna Ingenice said her husband recorded the meeting and that the county could buy a copy.*

### 4. Agenda

#### a. Subdivision Review – Little Country Road

*Lisa summarized the staff report and the applicant's request for a variance to the road length standards. KS noted the Department had received a letter by an adjacent landowner raising questions about water table, Little Creek Rd and whether the applicant could subdivide at all. KS said that Tim Rooney (TR) of Tungsten could chime in with any answers that may be needed. TC asked what the additional docs were [attached to letter]. KS said they were recorded documents that did not support the claims in the letter. TC asked if the comments were of concern? KS said no, that staff would not amend their recommendations.*

*TC had a couple of concerns based on engineering or design. The road on the north side of the subdivision is steep but within the regulations. His concern regards slope stability and the impacts that might result from the road construction. TC would like to see a letter from the engineer stating the slope would not be of concern.*

*Mr. Rooney commented that they could look at adjusting the location slightly to the south, but that it would likely result in more cut. He stated they had evaluated the area's soils and thought them to be stable. The portion near the loop may be able to be leveled.*

*KS said the Board could consider requiring a geotechnical engineers report as a condition of approval. CN & SB expressed concern about whether the 60' easement was sufficient to accommodate the amount of fill.*

*TC expressed his desire to have a Geotechnical Engineers Report delivered to the Board to justify their concerns, which are: 1) slope stability; 2) whether a guardrail was needed on the steep curve, and 3) the impacts to the adjacent property to the north. KS said that the*

board could recommend approval with that as a condition, but that it would not come back to the Planning Board. Mr. Rooney asked to clarify that it was only a concern for Phase 2. PT asked if the engineer might have any other way to mitigate the design? Mr. Rooney the alternative would be to switchback through the property which would just create more road and still require plenty of earthwork. KS suggested some language for the recommendation.

TC rescinded the 1<sup>st</sup> motion and made a new **motion** that a geotechnical engineer address the slope stability of the cut and fill areas and whether any modifications would be needed, such as a guardrail on curve. Any recommendations from the report should be incorporated into the road design prior to approval of Phase 2. CN 2<sup>nd</sup> - SB stated that the guardrail should not be up to an opinion and that it might be required if the road meets the parameters of the LCSR. Motion Passed.

SB made a motion to recommend approval of the project with the added condition.  
TA 2<sup>nd</sup> MOTION APPROVED

#### **b. Revisions to Lakeshore Protection Regulations**

JK advised the public of the general format and protocol expected for the comments. SB said at the last meeting the motion was tabled and that on the 21<sup>st</sup> the board was only going to review the 1976 regs. KS talked about the new comments received since then. SB said either way we need to make a change. TA said that it is only fair that Troy have the opportunity to comment on BOTH regs before the board discusses the approach they want to take. PT agrees. TA makes a motion to hear the Troy comments related to 1976 & revised regs. PT 2<sup>nd</sup> MOTION PASSED. JK opened the floor to comments and asked for people who already commented in Eureka & Libby to wait until Troy residents had an opportunity. An unidentified man in the public asked what the difference between the 2 sets regs. KS gave a summary of the differences.

Steve Curtiss (SC) commented that an item was overlooked in the minutes on pg 18 about TA motion to remove Glen Lake from the list of review; but it was rescinded and if it could be reviewed again. There was an error in the procedure and if it can be re-addressed.

Robert Potter, Troy (RP) - Where did the "recommended" regs come from? SB said the staff was instructed by the commissioners to review the regulations and make recommendations for revisions. The Board received them from the staff for their input. RP asked where the guidelines did you it and write them down. KS informed him of the other counties that planning dept referenced. RP felt there was a bureaucracy being built with these regs. RP said that the board, as volunteers, need to guide the residents of Lincoln County on the bureaucracy. He asked if the regs were needed. TC responded that he too is opposed to bureaucracy but MCA (1975) states what is to be done and they are mandated by law to do this. TC read the MCA statute. RP suggests going back to the 1976 regs and clean them up and not adopt the proposed regs.

Doug Watson, Troy (DW) – Has a number of concerns that the regs do not address the issue of aquatic protection. DW asked if anyone could give him answers to how much iron is in the waters, PH levels, etc... Mr. Watson also had concerns about the fees. He wants the board to scratch the proposed regs.

KS read the 5 items of state law that we have to address.

Sharron Johnson, Troy (SJ) – asked for clarification on the current lakes reviewed of 160 acres and the new regs for lakes over 20 acres with specific criteria. How many would be

*added. KS stated 4 lakes would be added to the 1976 regs with the staff's proposed changes. SJ asked why to bring lake size to 20 acres. KS said that was the direction the department was given. KS said it was based on the GP's goals. SJ stated she didn't think it was necessary.*

*Steve Garrett, Troy (SG) – does not own lake property but owns stream property and commended the board for their efforts. Has problems being told what to do and recommended the Board look at 1976 regs and update for current concerns.*

*Craig Johnson, Troy (CJ) – asked if something negative happen to cause this change. KS said overall the 1976 regs do not provide a predictable process or sufficient guidance for the applicant*

*Herb Cargill, Troy (HC) – Clarify the 1976 regs and the definition of lakeshore. HC would like to see very simple definition of lakeshore and the burden of proof needs to be defined for who is responsible. No need to change the regs, just amend the definitions to very simple definitions.*

*Dale Whitten, Troy (DWH) – DWH thinks the 1976 regs are fine. Cleaning the property needs to be addressed without having to get a permit.*

*Carl Weiss, Troy (CW) – Asked whether variances could be requested for docks based on where the depth of water is.*

*Rhoda Cargill, Troy (RC) – Stated she was confused about the process and whether the Board had voted on tabling the new regs, but now at this meeting they will be discussing the old regs. She suggested that Atty. Sean Frampton's letter be made a part of the minutes. SB & KS said that no comments have been made a part of any meeting minutes. KS said that procedure can be corrected. RC referred to a 1992 document that she has with her that provides some good background information on the lakeshore information. The board did not have this document. RC said that she would provide comments to the 1976 regs.*

*Richard Carter, Eureka (RC) – left the Eureka mtg with the understanding of dropping the proposed regs and go with updates to the 1976 regs. He came to the meeting expecting to see a revision to the 1976 and when can the public expect to see them. KS said the Board will make some recommendations to the BCC, which will its own meetings on the issue.*

*MR asked what the rush was to get the Lakeshore regs done. JK said maybe because they have been in the works for 5 months.*

*Steve Curtiss, Eureka (SC) – Wants an answer on the agenda (motion made and rescinded) about pulling Glen Lake off the lake list. SC also brought back up the request that GLID be brought into the process as a form of governing body. JK said that the board has asked GLID numerous times to provide comments.*

*JK closed the public comment portion of the meeting.*

**[The Board entered into discussions and made several changes to the 1976 Lakeshore Regulations, using Ted Anderson's suggestions as a starting point]**

5. **Planning Department Report:**  
*Kristin told the board about the next subdivision for October; Lavon Estates in the Chain of Lakes area*
6. **Planning Board Comments and Question**  
NONE
7. NEXT MEETING: **October 5<sup>th</sup> 5:30pm – Commissioners Room (Libby) to finish working on the regulations**
8. Meeting Adjourned: 9:45pm