

WESTON COUNTY PLANNING & ZONING COMMISSION MEETING

MINUTES

THURSDAY, JULY 15, 2010

7:00PM

WESTON COUNTY COURTHOUSE

This is a regularly scheduled meeting of the Weston County Planning & Zoning Commission, held the 3rd Thursday of every month at 7:00 pm.

Commission Members: Rick Dunford, Chairman, Joe Sandrini, Vice Chairman, Jim Varner, John Ackerman & Jerry Varner

Staff: Ray Pacheco, Planning Coordinator

Call to order: 7:07pm

Roll call: All commission members were present

Approval of minutes:

(May 20, 2010) Motion: Sandrini (approval as amended) Second: Ackerman Vote: 5-0 app.

(June 17, 2010) Motion: Jim Varner (approval as amended) Second: Ackerman Vote: 5-0 app.

Public Comment: *This refers to comments, questions and/or concerns not on the agenda*

Sandy Fillinger was the only resident present but had no comment.

Discussion Items:

- ❖ Don Hansen's letter,

The Planning Coordinator stated that he gave the Commission a copy of Mr. Hansen's letter in their packets this week, dated June 22, 2010, which is commentary on his review of the Wyoming Club's Subdivision Improvement Agreement (S.I.A.) and their covenants. Mr. Pacheco commented on the Club's proposed S.I.A. which states the following;

"If the improvements are not completed and approved on or before the end of the agreed contract period, then upon five days prior written notice delivered from the County to the Subdivider of intention to take action, the County shall take action necessary to obtain funds from the ___ (type of guarantee) ___ to complete the described improvements and to recover the cost thereof including administrative costs incurred as a result of the failure of timely completion. The subdivider shall not be liable for any costs of materials or improvements that are not listed in the attached cost estimate nor for any insufficiency for the same beyond the guarantee. The liability of the institution issuing the ___ (type of guarantee) ___ shall not exceed the face amount thereof."

He stated that this part of the Agreement is different than what the county's current S.I.A. states and that it would commit the county to repairing and/or completing work in this subdivision at possibly a greater cost than the bond or letter of credit covers.

He went on to state that the county's current S.I.A. places the liability of costs of repairing or completing infrastructure projects of a subdivision on the developer and not the county. The current S.I.A. reads as follows;

“If the improvements are not completed and approved on or before the end of the contract period, then the County shall take action necessary to obtain funds from the ___ (type of guarantee) ___ to complete the described improvements and to recover the cost thereof including administrative costs incurred as a result of the failure of timely completion. In the event the amount of the (type of guarantee) ___ is not sufficient to complete the improvements as designated in Exhibit B to the approval of the Weston County Contract Engineer then the Subdivider shall be liable for any such insufficiency. In the event, the County does bring legal action to enforce such liability, then the County shall be entitled to all its cost of suit and reasonable attorney fees. The liability of the institution issuing the _____ (type of guarantee) ___ shall not exceed the face amount thereof.”

Mr. Pacheco stated he has been discussing the wording of the Club's S.I.A. with their engineer over the past few months but that the wording of the document has not been satisfactory to either party. Therefore with the last submittal of the S.I.A. by the Club, Mr. Pacheco submitted the S.I.A. and their covenants to the County Attorney for review and comment. As a result, Mr. Hansen submitted the June 22, 2010 letter that states that the S.I.A. from the Wyoming Club is word for word with the county's current S.I.A. (see attached letter for details). Mr. Pacheco stated that he disagrees with Mr. Hansen's letter and further stated that based on Mr. Hansen's suggestion that the county consider amending its current subdivision regulations, Mr. Pacheco has submitted some ideas for the Commission to consider.

He explained that he has discussed the S.I.A. with Tom Bruce and the great liability it could bring upon the county if the county were to agree to it as proposed by the Club. He asked the commission to consider drafting a letter to the Board asking the County Attorney to give a legal opinion on the covenants and the S.I.A. that the Club has submitted. He stated that he thinks the County Attorney is trying to leave the review and interpretation of the covenants and the S.I.A. up to the Planning Coordinator. He said his comments to Tom Bruce were that he is not the county attorney and is not paid to give the Board legal advice, opinions, suggestions or recommendations.

Mr. Sandrini asked if the proposed S.I.A. is word for word with the current S.I.A. Mr. Pacheco stated that it is not and that is why he has submitted the current, the proposed and a suggested S.I.A. to the Commission. Mr. Pacheco said that if in two years after signing this Agreement that the Club can't finish the projects under the Agreement and the county decides to complete the projects approved under the proposed S.I.A., then any unforeseen costs such as rising material costs and other unforeseen costs at the time of signing the Agreement, the county would be liable for those extra costs. The Commission asked if it is required that we/the subdivider use the current S.I.A. Other comments were that we are not in the development business or in the business of doing a developers work and that the county should not agree to the Club's proposed Agreement.

Others stated that it is impossible to foresee what other costs could occur if the county had to finish any of the projects within a S.I.A.

Mr. Sandrini then asked if there are any provisions in the County's current subdivision regulations to allow the Commission to waive or deviate from the current regulations. Mr. Pacheco said that the Board may waive any of the regulations, but it is up to the Board to make that decision through the Variance process (Chapter VII, Section 4).

The Commission agreed that they are reluctant to alter or deviate from the current S.I.A. without letting the Board make that decision. The Commission agreed with the idea of sending a letter to the Board and County Attorney (to be drafted by Mr. Pacheco, signed by the Chairman), stating their disagreement with any Agreement that would place upon the county unwanted liability, and their disagreement with Mr. Hansen's letter and his opinion that the Club's S.I.A. is the same as the county's current S.I.A., and that the Commission will not deviate from the current wording of the S.I.A. for any subdivision. Jerry Varner made a motion to this affect, John Ackerman seconded the motion and the Commission voted 5-0 in favor of the motion to have the Planning Coordinator draft a letter.

❖ Update from DEQ on Wyoming Club,

Mr. Pacheco stated that he spoke to Karen Farley of DEQ recently about the status of the Club's submittal of their Chapter 23 Report on their water and sewer projects. Ms. Farley said that she has not received any new information from the Club for a few months and has not heard from them as to where they are on reaching water. Therefore, with this update, Mr. Pacheco stated that even if the Club hit water today, they would be about 4 to 6 weeks away from submitting their Chapter 23 Report to DEQ and then DEQ's review would take 30 – 60 days, so it would be that long until DEQ would release a recommendation to the Club and County. This would put the submittal of the final plat into November or December before the Commission. According to a conversation and e-mail from the Club's engineer, they have not reach water as of last week and are at 2,000 ft. but expect to hit water at 2,400 ft.

❖ Next Subdivision review meeting with Board of Commissioners – August 17, 2010 @ 4pm in the Board Room

Mr. Pacheco stated that we will pick back up with the proposed Preliminary and Final Plat procedure sections.

❖ Discussion on Community Assessment – what is the next step?

Mr. Pacheco gave a brief overview of the report from the Wyoming Rural Development Council. Mr. Pacheco touched on some of the positive aspects of the report, such as the detailed comments that were gathered from the community, the suggestions/solutions to some of the problems brought up and they gave good resources in regards funding and other issues discussed in the report. What he didn't like about the report was the lack of suggested Goals, Objectives and Implementation Tools to accomplish specific projects. He said that it is definitely not Comprehensive Plan quality. He asked the Commission to read it and read it again, and come up

with suggestions and recommendations as to how we are going to use the plan, when will we make it public and how will we set ourselves up to get closer to a comprehensive plan. He said that he has spoken with Tom Bruce as to the approach he and the Commission will take at this point, which is to review it, make recommendations to the Board, allow the Board time to review it, make it public and then invite the WRDC back for their follow up. He also suggested getting the public back on board by placing them into committees that the Commission would manage based on the committee and topic they are given. The intent is to set up a process for getting to a comprehensive plan that the Commission and Board agree on, and that anyone who may want to deviate from that process could, but their efforts would not be considered if they are contrary to what the Board approves as the steps toward a new comprehensive plan.

As for the cost of the comprehensive plan, there are funds through the Wyoming Business Council that would help pay for certain portions of the Plan.

It was suggested that the Commission and staff work toward breaking down the report to identify the pros & cons of the report and come up with recommendations for their August meeting as well as categorize the comments of the community into categories that are based on the State of Wyoming's original Land Use Plan.

Commissioner Comments:

The Chairman said that he is going to visit with the Newcastle City Council to discuss the status of the MOU regarding the joint review of subdivisions within the one mile area of the city's limits. The Chairman said that he will continue to visit with both the City of Newcastle and the Town of Upton Planning Commissions to continue communication with the two entities. Mr. Pacheco suggested that this Commission continue to work with both cities to improve communications, since it appears that communication has been very minimal. Mr. Ackerman suggested that the Commission host a meeting in the Town of Upton to show them how the Commission's meetings are run and to show them what the topics are that they have to deal with.

The Chairman asked for a motion to close the meeting.

Adjournment:

Motion: Ackerman Second: Jerry Varner Vote: 5-0 Time: 7:45pm