



316 North Park Avenue, Helena, Montana 59623

ZONING ADVISORY PANEL

Approved Meeting Minutes

Meeting Date and Time: March 10, 2021 9:30 a.m. to 11:35 a.m.

Location: Meeting Held Electronically Via Zoom

Board Members Present:

Mark Runkle
Pat Keim
Jacob Kuntz
Tyler Emmert
David Brown
Lois Steinbeck
Joyce Evans
Archie Harper
Dustin Ramoie
John Rausch

Board Members Absent:

One Vacant Position
Kim Smith

County Staff Present:

Peter Italiano, Director
Greg McNally, Planner III

Moderators Present:

Dr. Eric Austin
Lucia Stewart

Members of the Public Present (as noted by the Zoom screen name or phone number listed):

HCTV, Maxwell Milton, Ryan Leland, Steve Utick, Sharon Haugen, gharris@helenaar.com, James Swierc, Peter Schade, Chris Stockwell, 406-438-1559

1. Call to Order

Chair Jacob Kuntz brought the session to order at 9:32 a.m.

2. Roll Call

A quorum was established with 10 members present.

3. Zoom Meeting Protocols

Greg McNally provided an opening statement regarding the ZOOM Meeting Protocols, the process of the meeting, COVID approved safety protocols and Zoom participation instructions.

4. Approval of February 10, 2021 Meeting Minutes

Secretary Lois Steinbeck stated that February 10th meeting minutes had a discrepancy that no motion and two 2nds were made by board members in the approval of the board officers.

Secretary Lois Steinbeck: Motion to approve the February 10 meeting minutes as is, and to address the discrepancy thereafter.

David Brown: 2nd the motion

Motion passed unanimously: 10-0.

The need for motion to approve the board members as they currently stand was discussed.

Archie Harper: Motion to approve the Zoning Advisory Panel (ZAP) Board officers as they currently stand.

Mark Runkle: 2nd the motion

Pat Keim: 2nd the motion

Motion passed unanimously: 10-0.

Secretary Lois Steinbeck discussed the goal of keeping the length of the meeting minutes reasonable. In the interest of the committee and citizens, the meeting minutes will be summarized instead of transcribed verbatim. There will be links to presentations in online minutes, and summaries will capture important points, and discussion questions posed by ZAP members. [HCTV provides](#) recordings of all meetings online for review. The [ZAP website](#) will contain all relevant links to presentations, documents, and meeting minutes.

Moderator Eric Austin requested that all ZAP members review the meeting minutes for their input, and to ensure that any particular items or questions that were posed or requests that were made have been captured. The previous meeting minutes will be posted on the [ZAP website](#) and notified in the communication alongside the upcoming agenda. If there are discrepancies, the approval of the meeting minutes will be postponed, discussion will take place on what to update, and an updated version will be provided at a subsequent meeting for final discussion and approval.

5. Business Items

Moderator Eric Austin discussed today's meeting to give ZAP members the ability to revisit any issues or questions that came out of that conversation two weeks ago, to walk through the work plan document he will present today, and to raise any potential questions, additional topics, and studies that may be necessary going forward.

Tyler Emmert requested a copy of the document of all Lewis & Clark County parcels that are non-conforming under current regulations. He asked this request for a document of all Lewis & Clark County parcels that are non-conforming under current regulations be recorded in the meeting minutes.

Archie Harper inquired about the City of Helena staff presentation about financing mechanisms and financial constraints that will impact the ZAP innovative thinking as the panel moves towards recommendations.

Moderator Eric Austin stated it's important to give some consideration to financial, economic, technological, and environmental constraints. But the ZAP will have to systematically figure out what those issues are, begin to capture those that will become some of the criteria that will shape the ZAP future recommendations. Part of the aim of the overall process is to identify those and catalog them so that they can be available as the ZAP begins to develop those recommendations. But ZAP will have to figure these issues out as it proceeds.

Secretary Lois Steinbeck agreed that financing is a big part of the zoning recommendations. She added that keeping an ongoing catalogued list is critical since a whiteboard is not available in the digital meeting setting.

Moderator Eric Austin agreed, and confirmed that he will keep a working list of issues and is currently assessing digital toolkits to create working documents.

Chair Jacob Kuntz requested an East Helena presentation, similar to the City of Helena's presentation.

Tyler Emmert reflected on the February 24 meeting by stating that the Lewis & Clark County and the City of Helena growth policies have identified incentives, but the tangible vehicles for utilizing those incentives do not exist. How to utilize these incentives needs to be put into writing, and these efforts need to be supported by City staff, County staff and the ZAP. He

noted that these incentives are stated in the growth policy for where development is mapped, but do not have the clear instructions and mechanisms for how to use these incentives.

David Brown stated two points: the need to assess the annexation requirement for receiving city services and a request to review 46 Degrees North subdivision development to get an understanding why that development went with County Services rather than City services. He stated it's a classic example of something that shouldn't happen with the density and the proximity of the city, particularly if a goal is to reduce utilizing wells and septic systems.

Peter Italiano stated that Montana has a disjointed and segregated approach to land use that limits local government ability to address many of these issues. He encouraged ZAP to stay focused on the concepts, as some of these issues are policy decisions that need to be made by elected officials, such as the City and County Commissions. For example, ZAP can recommend the use of Tax Increment Financing (TIFs), but, at the end of the day, it's really up to the City and County Commissioners. The City has more flexibility in using TIFs than the County and that's a statutory restriction.

Peter Italiano stated his frustrations as a planner in Montana are the limitations with regard to subdivision statutes. It is very difficult for local governments to deny subdivisions, and it's a problem that manifested in 46 Degrees North subdivision, which should never have been approved in the County. Zoning is the one effective tool in preventing this recurrence in the future, which is the focus of ZAP. The ZAP can scope the urban regulations to require those types of services in the urban section of the ZAP recommendation document, which will avoid repeating these past mistakes.

Peter Italiano stated his frustrations that statutorily in Montana, cities cannot charge an added fee for extraterritorial water and sewer service if a county development gets services from the city. The city and county residences pay the same fee. If extraterritorial service could come with an additional fee, that would be the incentive for annexation. Some of these policies the ZAP is dealing with are only going to get resolved by the legislature. They are not going to get resolved in subdivision regulation or zoning regulations. He reiterated his enthusiasm for the ZAP work projects ahead in the coming year.

Peter Italiano stated the potential for ZAP to develop and potentially recommend Montana legislative solutions as part of the whiteboard of ideas. As these rural issues come up, ZAP can recommend a regulatory proposal to address some of the issues that can be addressed in the next Montana legislative session.

Moderator Eric Austin stated that he will continue to remind ZAP of the charge that is given from the County Commission. As issues or recommendations arise outside the scope of that charge, ZAP needs to be clear about what is linked to it, and what is outside its scope. This action is mainly so ZAP stays focused, and to provide ultimate clarity on where the recommendations are being directed.

Vice Chair Dustin Ramoie stated his caution about holding 46 Degrees North development as the standard ZAP is trying to address. This case, how it developed, and the County and the City discussions, are not necessarily readily available due to a lot of those discussions happening outside of the public process. It is a good example of learning where the City, the County and developers can work together more effectively.

Pat Keim stated he understands the ZAP mission to identify and define some refinements to the overall concepts that are currently out there, but not necessarily about the process of how those would get implemented.

Tyler Emmert stated that the guiding document of the Lewis & Clark County Growth policy highlights the example of 46 Degrees North that is specific to how that project could have been approached differently. He suggested a meeting specific to 46 Degrees North.

Chair Jacob Kuntz reiterated the importance of the discussion of incentives.

Secretary Lois Steinbeck requested a case study analysis of the 46 Degrees North. If the ZAP is to write zoning regulations about the urban interface that work, ZAP cannot look at zoning regulations in a vacuum. If the ZAP finds statutory issues that prohibit the County from making good policy decisions, ZAP can make recommendations to the County Commission.

Moderator Eric Austin agreed on the collective wisdom and huge potential within and ahead of ZAP.

6. Board Discussion

Moderator Eric Austin shared the ZAP preliminary work plan and timeline so everybody understands where ZAP is at and where ZAP is headed. The timeline also allows ZAP member to be intentional about adding pieces. He also reviewed the timelines of:

1. Baseline Information and Level-setting (January - May)
2. Identification and Cataloging of Community Concerns and Values (June - July)
3. Identification and Assessment of Potential Zoning Proposals (August - October)

A current work plan and timeline will be posted on the [ZAP website](#). He asked ZAP to identify additional questions, so information can be requested from City and County staff or employ additional studies to obtain the information, but cautioned the group in understanding there is not a comprehensive set of documents. He also stated that not all requests or topics identified can be managed in a substantive way because it may be outside the scope of ZAP.

Tyler Emmert requested a map of all of the parcels within the County that are no longer conforming.

Secretary Lois Steinbeck stated that if ZAP identifies significant issues that fall outside of the scope, it is important to capture these issues somewhere.

Moderator Eric Austin stated that he envisions three areas the ZAP is to focus their topics and discussion on. There is no hard/fast rule of who makes the decision of which bin things fall within. This process involves an ongoing discussion within ZAP and the County staff.

1. Zoning recommendations that are advanced for consideration to the County for adoption
2. Those items closely related but are outside scope of the group but important enough that need to be advanced in some way
3. Items that come up that are far outside the scope or level of importance.

David Brown requested a chart to show ZAP progress of the work plan.

Moderator Eric Austin agreed that progress tracking is a great idea. This work plan is available to modify as the group requests. It will be posted on the [ZAP website](#).

Tyler Emmert requested to hear from the property owners that are and will be affected by zoning that are in support of the countywide zoning, as a balance to the opposition.

Lois Steinbeck requested to make that clear in the ZAP document when and where the public has opportunity to comment. She stressed the importance of public participation at each meeting. She also stated the importance of a formal public comment feedback process for ZAP prior to the zoning proposal being finalized.

Moderator Eric Austin agreed. He stated that there are multiple opportunities that will engage public comment. The first is public comment during regular meetings. The second is more proactively seeking feedback from the public at two moments. The first as the ZAP wraps-up the Social, Technological, Economic, Environmental, and Political (STEEP) analysis process and

to seek out topics or concerns that are missed and should be given consideration. The second is while the ZAP is developing recommendations and before endorsement.

David Brown requested ZAP to review the work plan by next meeting. He stated he's unclear what Lewis & Clark County looks like right now within the zoning districts, what are the non-conforming parcels, and what the ZAP is trying to accomplish.

Moderator Eric Austin asked that any notes, revisions, or corrections that are reflective in the work plan be sent to Greg, Lucia, and Eric and they will be catalogued and responded to.

John Rausch stated the timeline should not be concerned about the holidays and year-end workload. He can use more ZAP homework. If the County staff is overloaded, how can the County obtain more assistance to prioritize ZAP and the tasks at hand? He also requested to engage small working groups within ZAP so progress can continue, and information can be collated and redistributed.

Secretary Lois Steinbeck requested a cost estimate of mailing a postcard to inform County residents of this zoning process and opportunities for engagement since ZAP needs to foster public comment and input.

Peter Italiano stated the previous mailing cost is approximately \$7,000 for postcards. ZAP would need to take a vote and direct staff to query the Commissioners to authorize it.

Moderator Eric Austin suggested to structure some future time on ZAP creating a strategy in the content and mailing of the postcard.

Tyler Emmert added that if postcards are to be mailed, to also inform property owners if they are going to be conforming and inform them of the benefits of zoning.

Vice Chair Dustin Ramoie pointed out that the ZAP has no recommendation and the County has made no decisions on how pre-existing nonconformity will be addressed. He cautions ZAP about the need to discuss these issues before informing property owners who will be affected.

Peter Italiano stated that the ZAP bylaws allow for work sessions and subcommittees to be formed. If there are targeted issues, the ZAP can have a subcommittee, additional meetings and bring in speakers on various subjects.

7. Public Comment

Chair Jacob Kuntz called for public comment.

George Harris with Helena Area Realtors (HAR) asked a question regarding public testimony and expert testimony. If the public has information or documents to present to the committee, what is the format for informational research and analysis that we may wish to bring forward and for expert testimony which we may wish to present? Would that be during the public testimony phase, or would it be a part of your agenda, or how would you like us to proceed in that manner, Mr. Chair?

Moderator Eric Austin responded that there are multiple opportunities. For one, there are the public comment periods during the meeting. Above or beyond that, if there are particular pieces of information relevant to the upcoming topics, feel free to contact Peter Italiano and Eric Austin, and further consideration will be given to how they fit into the main body of the agenda. The primary mechanism is going to be the meeting-by-meeting public comment. And there will be at least two points in the process that the ZAP will be proactively seeking public comment.

Greg McNally stated there is a section of the Lewis & Clark County [ZAP website](#) on how the public can comment. He will assemble all received public comments on a biweekly basis, post it on the Friday prior the next meeting, and notify the ZAP panel. This process will set expectations of when to look for public comment, and when public comment needs to be submitted so that it can be addressed in the next meeting.

David Brown asked what is the difference between expert witness testimony versus public comment, and why the ZAP needs to hear expert witness testimony alongside of public comment?

Moderator Eric Austin stated that ZAP is not a legislative or quasi-legislative process, and expert witness testimony is not the mechanism or the process of ZAP. If there is comment from citizens and stakeholder groups, ZAP will take it as public comment. If there is data or study information that would be valuable, it needs to be dealt with in a systematic way.

Chris Stockwell asked if form-based zoning is being considered for use within ZAP?

Peter Italiano responded that nothing and everything is being considered at this point. As the ZAP starts to develop the urban standards, and maybe the suburban standards, it can be

explored. His professional experience has shown that it works better in denser environments than the rural valley has. The additional issue he raised was the time consuming and labor intensive implementation, and he's unsure the County Commissioners would budget for its implementation costs. But the option is still on the table for discussion.

Chris Stockwell asked if someone in ZAP is representing the agriculture focus?

Peter Italiano stated that the County Commissioners approved the member selection and the creation of the bylaws. He added that the ZAP panel is well-represented, and everyone is an expert in their genre on this panel, which is why the commissioners set it up this way. He added that agriculture was discussed in regard to the zoning for the valley and the approval of the ZAP committee. He stated that Mr. David Brown comes from a conservation-based, open lands, and agricultural background. The Commission felt that that was an adequate approach to cover the agricultural aspects. Some of the ranches were approached about the concept of conserving some of the land of the valley for agriculture, with a minimum lot size of 160 acres and, at the end of the day, that was not very well received. The ZAP can certainly revisit that and, hopefully, as the public gets more engaged in this process, the false information will drop away. The ZAP will be looking at impacts to both agriculture and from agriculture in the valley.

Chris Stockwell requested to have the list of ZAP member's qualifications listed on [ZAP website](#).

Peter Italiano stated he would bring this to County Commissioners.

Vice Chair Dustin Ramoie called for public comment items not on the agenda.

No public comment.

Public comment closed.

8. Announcements

Secretary Lois Steinbeck requested a review of what to expect at the next meeting.

Greg McNally stated that the Lewis & Clark Water Quality Protection District (WQPD) staff will be presenting at the next ZAP meeting and ZAP will review the work plan. He is working on a presentation with East Helena.

Mark Runkle: Motion to end the meeting

Chair Dustin Ramoie: 2nd the motion

Motion passed unanimously: 10-0.

8. Next Scheduled Meeting

March 24, 2021 at 9:30 a.m.

Adjourned at 11:37 a.m.