



316 North Park Avenue, Helena, Montana 59623

ZONING ADVISORY PANEL

FINAL Meeting Minutes

Meeting Date and Time: September 8, 2021 9:30 a.m. to 11:30 a.m.

Location: Meeting Held at Carroll College, Campus Center Building, Lower Level (All Saints Hall) and Electronically Via Zoom

Board Members Present:

Pat Keim

Jacob Kuntz

Tyler Emmert

David Brown

Lois Steinbeck

Joyce Evans

Archie Harper

Dustin Ramoie

John Rausch

Kim Smith

Mark Runkle - *via Zoom*

Shane Shaw

Board Members Absent:

County Staff Present:

Greg McNally, Planner III

Moderators Present:

Dr. Eric Austin

Lucia Stewart

Members of the Public Present:

(in-person): Andrew R. Thomas, John W. Herrin, George Harris, Chris Stockwell, Maxwell Milton
(as noted by the Zoom screen name or phone number listed): HCTV, CDP Staff

1. Call to Order

Chair Jacob Kuntz brought the session to order at 9:55 a.m.

2. Roll Call

A quorum was established with 11 members present.

3. Zoom Meeting Protocols

Greg McNally provided an opening statement regarding the hybrid setting of both Zoom and in-person meeting protocols, the process of the meeting, Covid approved safety protocols, and Zoom and in-person participation instructions. He stated for those in-person to please enunciate and speak clearly and loudly due to having only one microphone on the center table.

4. Approval of the August 11, 2021 Meeting Minutes

John Rausch: Motion to approve the August 11th meeting minutes

Secretary Lois Steinbeck: 2nd the motion

Motion passed unanimously: 12-0.

5. Business Item

Moderator Eric Austin stated today will review the consolidation of the Zoning Advisory Panel (ZAP) list of the priorities, set the stage on how to operationalize the priorities within the ZAP charge, and plant the seeds for Phase III, which will begin in two weeks. There will also be a shared continuation to a running topics list of additional items that have been raised. These topics may potentially become a Jamboard that will be available for collaboration so as to not be lost as part of the recommendations. He then opened the discussion by reviewing the revised economic Pollunit, which can be found on the [ZAP website](#).

John Rausch stated that although his votes were not recorded, he was relieved that the votes were similar to his preferences.

Tyler Emmert stated that the dot plots are a poor methodology, especially when the Lewis & Clark County Growth Policy has the priorities clearly stated.

Moderator Eric Austin agrees that it doesn't show the nuances but what is reflected is important in the recommendations that the ZAP is to create.

Secretary Lois Steinbeck wanted to focus a discussion on the category that states “to the avoid unanticipated and shifted costs.” It’s one of the main reasons why the ZAP is engaged so that future developments don't cause future problems because nothing can happen after a development occurs. She wanted to remind that the ZAP knows the potential cost shifts of many things, such as infrastructure, and there are not that many unanticipated cost shifts.

David Brown stated that the first version in the economic Pollunit, the top category was removed from Version 2 [Identify and use alternate or multiple funding sources for infrastructure costs]. From his perspective, this topic is a solid recommendation that the ZAP should make. He added that he doesn't want it to get lost or permanently removed, and it remains something that staff is talking about getting accomplished.

John Rausch agreed that it needs to be readded.

Moderator Eric Austin agreed it would be readded, and inquired where it goes if it doesn't go directly in the zoning regulations? Or what does the ZAP want to do with it to make sure it stays on the County's radar?

Moderator Eric Austin asked is there anything missing or needs to be reprioritized from the political Pollunit?

Kim Smith stated the people who live in the rural area with a 10-acre minimum, and become non-conforming, are the people that are going to subsidize, support, and promote the urban and suburban area. Rural areas are going to become less valuable. It's going to be more profitable and easier to develop closer to town. But those rural landowners are paying for what is going to happen, which is a loss of land value, refinancing house sizes, and losing the ability to use their property as they would like to. He added there are basic inequalities and the ZAP needs to look at this. There are easy things that can be done, such as taking every parcel that is under 10 acres in size and making them all conforming. He added that regulations should allow those landowners to do family transfers, do minor subdivisions, and get what they bought and paid for. It would have minimal effect in the rural area.

Tyler Emmert stated that the topics are so broad that it seems they are all the same.

John Rausch stated he disagrees. When he looks at these categories, he thinks about who's job is what, and how to encourage cooperation. The County operates in a vacuum, the City responds accordingly, and it becomes counterproductive. He thinks that the poll weight is good, but does not suggest that it's OK to ignore the other two categories.

Moderator Eric Austin stated the ZAP has a collective understanding of what is important to the stakeholders in the community.

Pat Keim stated all three of these categories are distinctly different. The ZAP is not going to change the politics. There is a political dysfunction and that is why this panel exists. The ZAP is

here to define how political entities can work together. The ZAP needs to provide direction to the County to communicate to the public what the process is and why.

Secretary Lois Steinbeck agrees with Pat Keim. She wants to make sure in building a political climate that everyone feels welcome to testify, can be heard, and it is a respectful process. This is done by providing clear and useful information on what the ZAP has done. She added that it's critical to get good information out there so that people are talking about good information.

John Rausch referred to the results of the survey the Helena Association of Realtors (HAR) paid for, and stated that one of the telling answers is the questions: Are you aware that the County adopted new zoning regulations? Yes or No. And 56% said no. So it's a big deal for the ZAP to appropriately advocate for our County and education. He reminded the public that there is a ton of information on the County website.

Moderator Eric Austin stated that the HAR survey results are posted on the [ZAP website](#).

Joyce Evans stated that the biggest concern she hears is about taxes going to go up and property values going down. She added that she doesn't see value going down on the 20-acre parcels that she lives on. People need to take responsibility for their own actions for education and political engagement.

Shane Shaw stated that he doesn't see the City or Jefferson County at the table nor the authority to bring them to the table. The ZAP only has a say in the adoption of Lewis & Clark County zoning.

Tyler Emmert responded that Jefferson County and Lewis & Clark County Commissioners do not get along.

Shane Shaw stated that until they are at the table, how can there be a development of effective coordination between entities and across regions? There needs to be other organizations and groups involved.

Moderator Eric Austin stated that he's unaware how much leverage the ZAP has, and there is some coordination that does and can take place. In Phase III, the ZAP can continue to look at these things as they start to look at the maps, and assess what levers need to be pulled to accomplish those things. But narrowing down to those districts is important.

Secretary Lois Steinbeck stated that she sees the ZAP recommendations as two-fold. One is the actual zoning regulations. The other is the white paper to suggest other things that are critical

for the zoning regulations to work. She added that one has to do with working across political boundaries, and the other has to do with financing.

Vice Chair Dustin Ramoie stated that the Helena Valley Planning Area boundary is only in Lewis & Clark County.

Tyler Emmert stated there are issues with donuts for growth control, since growth doesn't stay within a donut and does cross political boundaries.

Pat Keim stated the need to go back to the ZAP's charge from the County Commissioners and assess what is already in action, and the best ways to implement those recommendations.

Marc Runkle stated that the ZAP doesn't need to worry about not having cooperation between jurisdictions. If the ZAP can help Lewis & Clark County to have good zoning, then other counties will take note and coordination will happen later. The ZAP has a good set of guidelines that needs to be supported by ZAP, and do the job the group is asked to do.

Moderator Eric Austin asked is there anything missing or needs to be reprioritized from the political Pollunit?

Tyler Emmert stated that the legislative aspect is missing. Every two years, the political game can dramatically change what occurs within communities.

Pat Keim stated that in the same line, every 10 years there is the redrawing of the districts and how things are voted on in this County and in the State Legislature.

Mark Runkle stated that with all of the forces that are at play with the housing development, it's critical to help shift financial incentives to urban areas and its supportive infrastructure. He added that may mean tax increment financing (TIF) or special improvement districts in order to make it feasible and attractive to develop in the urban area.

Moderator Eric Austin asked is there anything missing or needs to be reprioritized from the social Pollunit?

Secretary Lois Steinbeck stated there are the same issues as with the economic Pollunit. The top category needs to be addressed and the ZAP doesn't have authority over it, so although recommendations can be made, ZAP can't make it happen [Advocate and develop effective coordination between entities and across regions].

Moderator Eric Austin replied that during his interactions with the Commissioners, they are aware of the need for financing and potential revenue generation. He added that if the ZAP makes this recommendation and there's a consensus, then it would be taken quite seriously.

David Brown stated in addition to Lois' comment, the ZAP can construct the climate for revenue generation with transparent communication. He added that then the public can be sensitive to bonds, mill levies, and special districts. For example, the prison bond passed in the second round after good communication. He thinks it's an appropriate category in the Pollunit.

Pat Keim also agrees that it's an appropriate category, alongside the value of an industrial district and what that can do for revenue generation.

Vice Chair Dustin Ramoie stated in relation to industrial districts, they need municipal support with sewer and water services, which is why they are typically always found in the city. He added that considering industrial districts within the urban zoning district is an important thing to consider where city-type standards exist.

Secretary Lois Steinbeck says that this Pollunit reveals that the other categories don't matter, and that potential revenue generation is at the cost of the other categories within the community.

John Rausch stated one observation that the ZAP hasn't talked about prioritizing amongst the overall S-T-E-E or P (social, technical, economic, environmental or political) categories.

Moderator Eric Austin stated that these categories are not mutually discreet, and there's not an easy way to do that. There are two categories that play out in the general conversation about zoning. One is the economic side, and the tax and revenue generation. Then there is the character of the community, such as the look, feel, and amenities that are wanted to be retained. By prioritizing the STEEP within itself, it could miss the value of certain priorities.

Secretary Lois Steinbeck stated that it's important to know if water was a priority within three of the STEEP elements.

Moderator Eric Austin stated he will regenerate an aggregate list of all of the STEEP categories that is not whittled down, and retains the duplications. He stated in moving forward, what is the initial response from the ZAP on the aggregated list that is provided, and is available on the [ZAP website](#).

Secretary Lois Steinbeck stated that new documents that are being reviewed during the meeting are needed in advance for her thoughtful response.

Vice Chair Dustin Ramoie stated his surprise that the emergency services, such as floodplains mitigation and the Wildland Urban Interface (WUI), fell to the 2nd tier. Those are tangible benefits to the community that can impact property loss and safety. He added that further discussion should be warranted since there's benefits for higher standards of regulation in the floodplain and WUI.

Pat Keim stated his agreement with Dustin that there needs to be discussion about creating emergency services facilities, because if not, it will elongate response times.

Greg McNally stated in reflecting on the aggregated list is that a lot of things are combined, and that the second-tier priorities will ultimately get incorporated into the first tier. Everything of priority here is still captured but just at a different level of importance.

Moderator Eric Austin stated that conversations have begun for the Planning Department to provide assistance with drafting the zoning recommendations for the urban and suburban, alternatives to the rural district, and pinning how elements of the STEEP priorities are reflected. Therefore, the ZAP can transparently see the logic that is built into the regulations through the STEEP analysis, through the informational Phase I, and how they have been embodied and operationalized. Then, the ZAP can focus on the skills that each of the members' perspectives represent and for the future of the community.

Tyler Emmert inquired if there were any drafts for them to review at this time?

Greg McNally responded that there is currently no zoning draft. The Planning Department has had numerous conversations, and has begun to produce the draft. He added that if the ZAP were to write the text, the panel would be here all day. The goal is to bring text to the ZAP so that they can discuss where it does not embody the priorities, where it needs to be strengthened, and where are the weaknesses in the text itself.

Pat Keim stated its a chicken and egg concept, and would it be beneficial to have the recommendation prior to drafting?

Greg McNally responded the regulations will need to meet certain guidelines such as what the Growth Policy set forth and the state mandates, and then the ZAP can take a look and discuss those recommendations.

Moderator Eric Austin stated that there are two elements: What are those priorities and how do you get those priorities embedded? And those are treated distinctly. There is a balance between the ideas that are considered as part of the possibilities of what the regulations look like. The ZAP needs to be clear that there are constraints, and just because a regulation is proposed, it won't necessarily show up in a draft from Lewis & Clark Planning Department staff. What we will be discussing more in the coming weeks is a refined version of this, and the priorities in the three districts. This will then be handed to Greg to inform the first draft alongside specific content for proposals that fall outside of the scope.

Greg McNaly stated the overall charge of this group is to identify the priorities that will lead to the crafting of urban and suburban regulations. In turn, those regulations that include the Lewis & Clark growth policy recommendations and state and federal requirements are incorporated before coming back to the ZAP for review and discussions begin to make sure the priorities originally stated are included.

Shane Shaw stated when looking at the word "consider," which is stated in this list is vague, not directive, or poignant enough. He added that these are principles and there needs to be a commitment from the County to find the money to do the things.

Moderator Eric Austin stated there seems to be the ongoing questions: what is the commitment from the County to make these a reality? What authority exists? What levers exist? These questions will need to be talked through and reflected in the zoning recommendations, what becomes part of parallel recommendations, and what is the overall ZAP level of value and consideration to all of these items.

Shane Shaw stated that this is very clear there are a few areas that there is unanimous agreement to the value of after the polling.

Pat Keim: Consent to postpone the agenda item of non-confirming lot and vested rights.

Consent passed unanimously.

6. Public Comment on Items on the Agenda

Andrew Thomas (*in-person, transcribed from audio recording*) stated he has also submitted a written outline but also wanted to provide in-person comments on how the committee could consider dividing the Helena Valley Planning Area. First is about revenue generation. Regardless of attraction of density needs to be looked at optimally in terms of what generates revenue. It is hard to have high density in the entire Valley, therefore you want to optimize revenue

generating in urban, suburban and rural areas, and need to generate taxes in all areas. Can't just focus on density both in tax revenue and economic value. Next comment is regarding the drawbacks of density and what is considered smart growth, and why it doesn't work out the way it intends. If you force people to live in density, it doesn't work out the way it's planned. My wife is from Ukraine in one of those attractive European cities and it's not the way that smart growth advocates describe. Another comment on intercity corridation: Washington and Oregon have statewide planning laws. They have been a source of innumerable political comments and rural communities into development patterns. Final point on public commenting and keeping it respectful and what I've observed. It's useful to keep in mind that the County had often implemented poorly throughout and poorly developed policies that created a lot of acrimony in rural areas and fueled a lot of frustration. These may be past trends and hope the people can move forward.

John Herrin (*in-person, transcribed from audio recording*) science-based facts is the basis of everything L&C does. Where is growth happening in the Helena Valley? The County has not provided any growth trend analysis since 2014 when DNRC completed this. Trend was happening based on public water and sewer. It's not happening in rural areas. We are targeting a thing that is not happening. Subdivision regulations are not addressing fire, water, roads. They need to be changed to be fair. Where is the science and fact-based science? Growth policy - what are the conditions now and how do you plan for the future - you are chasing your tail and reinventing the wheel. What is happening in other counties? Look at what they are doing. We are not working with any information of value to move forward. No one has a clue on where you are going because you don't know where you came from. First and foremost, I believe in science and science-based facts should be the basis of everything we do. And to date, this has not been in the MO of Lewis & Clark County for the past 17 years. That being said, where is growth happening in the Helena Valley? I've been asking that question since the first go around almost a year and a half ago now, and the County has not provided any growth trend analysis of what has happened. I contend that since 2014 when the Montana Department of Natural Resources and Conservation (DNRC) did that 13 lots, 10-acre feet restrictions, that the dynamics forced almost everything into the City and almost all the growth that we've seen in the last five to six years has been tying into public water and sewer. And so the incentivized saying the rural property has to be 10 acres and forcing people to go into the city has happened. That in itself messed up a lot of people's real estate sales, but the trend was going to happen anyway just because of public water and sewer. And high-density developments tend to make more money and they tend to work, and you're seeing that happen. How many subdivisions I've mentioned since the last time I stood up here, have you seen come in through the County in the rural areas. Almost zero. It isn't happening. So we're targeting the thing that is basically changed because of DNRC water rights issues. And the premise is that the subdivision regulations are not adequately addressing cumulative impacts on water, sewer, water supply, fire, and roads. Which

is a fallacy because every subdivision has very onerous, in my opinion, overly restrictive regulations, like two entrances into a subdivision to meet County standard which basically stops Birdseye Road from ever being a subdivision. So we need to change the subdivision regulations to be fair because they're not fair. And the zoning regulations do not need to be targeting rural. But where is the science? Where is the fact-based information that your base off of? I go back to the Growth Policy which people keep talking about. There were 10,000 surveys sent out and 3,000 respondents, and 1,200 people actually wrote comments and of those comments, 722 said roads. 60% of the people responded that roads were the big issue. Where did the zoning rank? It was down at 3% with a list of 100, so people aren't screaming rezoning. We need to go back to the Growth Policy and a new survey needs to be sent out by the County to update that or else go back and look at this. This should have been the first thing you guys did, is to all sit around with the two-volume set of the zoning regulations and see what had been done in the past so you're very familiar with what they found back then. And what are the conditions now? Nobody knows. And how do you plan for the future if you don't know what past people did? You're reinventing the wheel and you're chasing your tail here. What is happening in other counties? Look at Bozeman, look at Missoula, and what those folks have done as far as zoning. Has anybody done the research and come together? Has anyone of you been tasked to go look at different cities to see what they're doing or communities out there? How's Bozeman handling it? What did they do for zoning? We're trying to reinvent the wheel, and we're sitting there with any information that you guys can build on. And I don't see how you can go forward. I mean here we are nine months into this process and we're admitting that we have no basis to write any regulations yet, because nobody has a clue on where you're going. Because we don't know where we came from. We don't know what the situation is now and how we look into the future. It's very basic. So that's my comments.

7. Public Comment on Items not on the Agenda

George Harris (*in-person, transcribed from audio recording*) provided an update that the HAR does have analysis that is underway on affordable housing through the University of Montana Bureau of Business and Economic Resources. We have submitted a public comment with the results of the poll, and I invite any comments and questions, and I encourage you to please take a look at that.

8. Announcements

Moderator Eric Austin stated he will get updated documents posted on the [ZAP website](#) and provide a more refined work plan for Phase III at subsequent meetings.

Shane Shaw: Motion to end the meeting

Joyce Evans: 2nd the motion

Motion passed unanimously: 12-0.

9. Next Scheduled Meeting

September 22, 2021 at 9:30 a.m.

Adjourned at 11:36 a.m.