



316 North Park Avenue, Helena, Montana 59623

ZONING ADVISORY PANEL

FINAL Meeting Minutes

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

Location: Meeting Held Electronically Via Zoom

Board Members Present:

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

Board Members Absent:

One Vacant Position
Kim Smith
David Brown
Tyler Emmert

County Staff Present:

Peter Italiano, Director
Greg McNally, Planner III

Moderators Present:

Dr. Eric Austin
Lucia Stewart

Lewis and Clark County Representative Present:

- Beth Norbert, Environmental Health Specialist

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

HCTV, Maxwell Milton, Steve Utick, Chris Stockwell, Andrew Thomas, McConnell, gharris@helenahar.com, Sharon Haugen, Bill Gowen

1. Call to Order

Chair Jacob Kuntz brought the session to order at 9:30 a.m.

2. Roll Call

A quorum was established with eight 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. Business Items

Future Meeting Format

Moderator Eric Austin made a brief presentation on the future meeting format, particularly relating to Phase II with the STEEP (Sociological, Technological, Economical, Environmental and Political) analysis where the ZAP will outline and consider criteria, factors, and issues from different perspectives in the development of the zoning recommendations. EngagementHQ digital tool will not be utilized but the ZAP needs to determine if shifting to in-person meetings is a priority, which will need to retain social distancing. He suggested remaining virtual through Phase II (through August) for logistical and technology continuity, and moving to in-person meetings in Phase III, or in September.

Secretary Lois Steinbeck stated that Phase I has been informative and the time has been well spent but would like to move to in-person meetings sooner. She finds working in person sparks creative dynamics with ZAP fellow board members. She added that shifting to in-person meetings can provide additional channels for public comment.

Pat Keim stated that he agreed with Lois Steinbeck to move to face-to-face as quickly as possible.

Moderator Eric Austin recommended retaining the mid-morning meetings on 2nd and 4th Wednesday of the month. The driving factors are the need to identify a space, the availability, and to take a survey to check the ZAP member's availability. He also suggested additional evening meetings focused on public participation.

Secretary Lois Steinbeck stated the importance of conducting the ZAP members survey on meeting time availability as quickly as possible, and to do so with public transparency and open discussion.

Secretary Lois Steinbeck: Motion to transition to in-person meetings no later than August 1st.

Pat Keim: 2nd the motion

Board Discussion of Future Meeting Format

Archie Harper stated his support for in-person meetings. Although he understands the logistical issues, in-person meetings would be better for the group and the public.

Chair Jacob Kuntz inquired if August 1 is attainable?

Peter Italiano responded that it is based on the availability of a hotel space and the Helena Civic Center's ability to accommodate the health department criteria.

Mark Runkle stated his support for the professional moderator's recommendations. He added that the ZAP could be more efficient within-person meetings as the process moves forward.

Pat Keim stated that the virtual format is difficult and supported moving to an in-person format as quickly as possible. He added that the ZAP needs to take a careful look at the public comments being raised relative to the time of the meetings.

Moderator Eric Austin stated his recommendation of moving to in-person in Phase III, not Phase II, is based on logistics, stability, and consistency of keeping Phase II processes and format.

Vice Chair Dustin Ramoie stated that moving to in-person meetings could lend to longer and more contentious meetings with the public. He stated that half of the ZAP are still working and have jobs and going to in-person meetings may limit the involvement of some of the panel members. He does not support going to in-person meetings prior to Moderator Eric Austin recommendations.

Joyce Evans stated she supports moving to in-person meetings, and stated her support for 9:30 a.m. on the 2nd and 4th Wednesdays of the month.

Archie Harper stated that it may be a good thing to re-time the ZAP meetings to accommodate the working members of ZAP so the meetings are not conflicting with their work day.

Secretary Lois Steinbeck: Amended motion to transition to in-person meetings no later than the first August meeting, or August 11th.

Pat Keim: 2nd the motion

Amended motion passed: 6-2.

Secretary Lois Steinbeck requested to table the specific meeting time discussion and place it on the following meeting agenda.

Moderator Eric Austin stated a survey will be created to poll the ZAP members on the best and most ideal meeting times prior to the next meeting. In conjunction, in-person meeting spaces will be assessed, and he will return with a recommendation for time efficiency.

Bylaws in regard to public comment

The ZAP members discussed the bylaws regarding the length and placement of public comment within the ZAP meetings. The meeting structure was adjusted to move public comment items to follow the business items on the agenda in order to make public comment more timely and connected to the business items. This structure allows the ZAP chair to manage time and keep ZAP on the agenda. The ZAP is a working group that needs to balance public comment with the need to maintain the working group. The meetings will retain the opportunity of oral comment, and the ZAP stated the value of written comment and there will be more opportunities created for public comment. The most impactful public comment will come when the ZAP recommendations are in front of the County Commissioners.

There were no amendments made to the ZAP Bylaws.

Public Comment: Future Meeting Format (*transcribed verbatim*)

Andrew Thomas stated that my only comment about public comment will ever be done is obviously, from my perspective, written comment is the most important in terms of providing you with detailed analysis regarding certain issues. But with regards to the proceedings, it would be appreciated if there were limited opportunities to comment on specific items that are raised during the meeting. I mean obviously the meetings are two and a half hours long and if you're dealing with one action item that takes half an hour or limited opportunity at the end of it to chime in would be useful. Also from the perspective of this is my intention to provide you with good information, bringing in people who might be learned on a certain topic especially given the morning time but frankly any other time, it would be useful to have public comment after each agenda item so that if these people have to take off time from their otherwise busy day, they can come in and provide their brief analysis and submit a written content and keep everything moving along. That's really my take on the entire matter, thank you.

Max Milton stated I just like to say that you know this kind of concern about the public having adequate chance to review and listen to you guys and comment, this is so much more opportunity than we've had in the past. I was involved in the citizen advisory group when the County revisited the comprehensive plan back in 1999. And we had informational meetings that went on for a year and a half and people could come and listen. But there was very little comment time until, like you say, there's actually some recommendations on the table, which I think is really the appropriate time for people to weigh in. But right now, people can go back and watch the recordings of these meetings and hear what you're hearing. We have the opportunity for written comments which you get to see, and so I really wouldn't be too concerned about that score. I think your concerns about meeting face-to-face are valid, but I kind of think that Eric's proposal made a lot of sense. You can get a lot of work done with this Zoom process until you really need to meet and start deliberating. I guess those are the things I wanted to say, thanks.

Wastewater in the Helena Valley Planning Area

Greg McNally introduced Beth Norbert, a sanitarian in the Lewis & Clark County Environmental Health Division. She deals with wastewater permitting, septic permitting, and was instrumental in the development of the County Septic Maintenance Program that provides inspections of septic systems and are in compliance. This program has been recognized as a model in Montana. This presentation is available on the [ZAP website](#).

Beth Norbert provided a powerpoint presentation on an overview of how a septic system and drain fields work, state and local wastewater rules regulations, how septic systems are permitted in Lewis & Clark County, septic maintenance, and loan programs. There are approximately 69,000 residents in Lewis & Clark County, and roughly 13,000 systems in the County with 7,000 septic systems in the Helena Valley.

Board Discussion

Greg McNally stated that the County rules for wastewater are dictated by the State, which cannot be any less stringent than the State rules. If the County is going to be more stringent than the State rules, then there needs to be peer reviewed studies conducted. Therefore, the County and most everyone across the state is following the State standards regarding treating wastewater. Prior to 1993, State law allowed for the creation of 20 acre lots without subdivision review, and how prevalent this pattern is in the Helena Valley. He added that even more is the pattern created by the Department of Environmental Quality (DEQ) allowance of a septic tank, drainfield, and a well on a one-acre lot, but the drain field could stretch underneath your

neighbor's property line. This regulation changed approximately seven years ago. The new regulation states that drain fields and septic tanks have to be retained on your property, and a 100-foot separation has to be retained all within the property line, or within your subdivision.

Beth Norbert added a clarification of a drain field versus a drain field mixing zone. Previously to the DEQ changes in regulations, the drain field mixing zone could cross into someone else's property. The mixing zone is where sewage hits the aquifer and starts moving in the direction of groundwater flow, there's a section within that aquifer that the sewage is mixing, and this area should not contain a well. Once the groundwater leaves the mixing zone, it's considered diluted enough to be consumable.

Greg McNally inquired on how the County keeps track of septic systems on properties, as there many new property owners were not aware that their property uses a septic system. He also asked how the Country captures data on failed systems?

Beth Norbert responded that the current County rules do not require an inspection at the time of property transfer. The County Septic Maintenance Program is a routine notification for homeowners to maintain their septic system. However, a lot of the real estate community has jumped on board with voluntarily having those septic systems professionally inspected during the buy-sell agreement for buyer protection. In addition, it is reported to the County and therefore brought into the maintenance program. But it's not a requirement. She added that there's been little support from the State Legislature, and therefore the Lewis & Clark County model of continuous operation and maintenance has been the preferred method.

Greg McNally asked about the cost associated with replacing a septic system?

Beth Norbert responded that the cost of replacing a gravity-fed standard septic system is approximately \$6,000. A level two system with advanced treatment and sand mounds costs approximately \$20,000. The Helena Valley contains numerous standard pressure systems that cost approximately \$10,000. This cost will depend on the site conditions and labor involved.

Pat Keim inquired if there is an existing undeveloped land survey of the Valley that shows the ability for the ground to absorb septic effluent that could provide environmental guidance of the location's capacity to be 2 acres zoning or 10 acres zoning?

Beth Norberg responded that there is a soil profile completed for all permitted septic systems. The US Department of Agriculture has an extensive soil map that provides a rough idea of what the soils might be for an area. But until the soil is actually tested, it's not verifiable that the soil

is good or bad or there's shallow bedrock and there's groundwater. Everything is very site specific. Helena Valley groundwater monitoring, conducting since the 1980's, has produce maps. However, it's hard to blanket an area, as there can be variation just 30 feet away.

Pat Keim inquired if there were any mechanism for completing soil sampling tests before a developer obtains a subdivision permit?

Beth Norberg responded that sometimes a preliminary non-degradation analysis of the area is required to see if it will pass the water quality requirements. Then, if it passes, a few preliminary test holes will be created before completing the full set of holes that is required in obtaining the DEQ permit. There is an application fee per lot, with costs associated per test hole.

Archie Harper inquired about the longevity of a residential septic system that has been fairly well-maintained, and are different soil types taken into account?

Beth Norberg responded that the national average is 25-30 years, although it may be longer due to the porous soils. She added that it is typically the drain field that needs replacement, but sometimes the concrete baffles or the exterior of the septic tank will deteriorate.

Secretary Lois Steinbeck inquired how the County monitors and predicts the mixing zone. She also asked what a septic system cannot filter and therefore ends up in the mixing zone versus what a municipal treatment system can filter. She also inquired about any catastrophic failures across the state and how those get funded.

Beth Norberg responded that the state standards require the mixing zone to be 100 feet, which is the length between the drain field and the groundwater or well isolation zone. This length is for a subdivision with 1 to 5 acre lots. As the lot sizes increase up to 10 acres, it becomes a 200 foot mixing zone. There are also 500-foot mixing zones. The length of a mixing zone is determined by lot size and subdivision size. She added when a subdivision is reviewed for the DEQ permit, it's part of the process to confirm the engineer created the lot layout correctly. For example, where is it in relation to groundwater flow, the correct size of mixing zone, and whether any of the mixing zones cross. The goal is to treat wastewater so that there is no degradation to groundwater or surface water with nitrogen or phosphorus. Septic systems do a good job if done correctly. The type of septic system required is determined by the soil types and its or their? filter ability. The municipality has a similar process, but maintains higher standards for discharge than septic systems. In regards to catastrophic failures, she referenced the Flathead Basin Commission study around Lion Mountain Subdivision in addressing nutrient loads and contaminates of an older subdivision with old septic systems around the lake on a

bedrock aquifer that has been leaching into the lake. She mentioned Missoula County is also doing some good work around an area of town that contained a lot of trailer courts with septic systems in gravel and sand that were experiencing some issues.

Mark Runkle noted the Total Maximum Daily Load (TMDL) study that was completed by the Bureau of Mines that revealed that the high level of nitrates in Lake Helena was contributed to by more than 25% from Valley septic systems.

Beth Norberg confirmed and responded that this study data was the impetus for the implementation of Lewis & Clark County Septic System Maintenance Program. Agriculture, septic systems, and the City of Helena wastewater discharge were the three main contributors of contaminants to Lake Helena and the Helena watershed.

Public Comment: Wastewater in the Helena Valley Planning Area

No public comment on the agenda item.

5. Public Comment on Items not on the Agenda (transcribed verbatim)

Max Milton asked if grey water can be used for gardens?

Beth Norberg confirmed and responded that grey water is still wastewater. Grey water can only be used for subsurface irrigation and it cannot be discharged onto the ground.

Bill Gowen stated he wanted to thank Beth for a really good presentation. I thought that was excellent. In working in the past, through our committee, I remember, we put together a grant to help with the starting of that septic maintenance program, which really helped a lot of places throughout the Valley in the transaction process. Okay, I'm just wanna say that I don't know that this has been brought up through part of it, but just kind of wanted to share what brought up by one of our members. In the whole process is part of the factors in lending and securing real property and what regulation changes can do and what consequences or some things that we probably want to look at in the regulation process were grandfathering existing properties that fall within. Maybe a tighter restriction after the fact, multiple buildings as it may be secure that then would become a violation or inappropriate if one of them was destroyed by fire or one of those things. And not knowing what all the regulations say, it needs to be put in there somewhere that if something is secured and insured and needs to be replaced, that there isn't a variant process to replace something that already existed. In that process, because of the security that lenders have on that asset, we have to keep in mind that lending on real estate is

based on the value of the property, not what it can make when you talk about residential. So just things to keep in the back of your mind as you go from this portion of the education parts and into the developing of regulation or determining some of those things. So I just wanted to bring that one up. I do appreciate all of your time, all the staff time. Sometimes we don't say when we should through this process but everybody has put in the time here especially those of you volunteering on this committee. It is much appreciated, and probably don't say it enough, so thank you all.

6. Announcements

Greg McNally stated the next meeting June 23rd at 9:30 a.m. and it will be focused on discussing any lingering questions that have been identified through the process.

Moderator Eric Austin stated that a meeting times poll will be sent via email and reminded the panel to review material covered during informational sessions as the ZAP moves into Phase II.

Mark Runkle: Motion to end the meeting.

Dustin Ramoie: 2nd the motion

Motion passed unanimously: 8-0

7. Next Scheduled Meeting

June 23, 2021 at 9:30 a.m.

Adjourned at 11:30 a.m.