

# **MINUTES**

## **PLANNING BOARD**

**The Powell County Planning Board met in a regular session on Thursday, May 6th, 2021 at 1 PM.**

**Members Present:** Bill Pierce, Justin Williams, Tracy Manley, Rick Hirsch, Randy Mannix, John Wagner & John Beck

**Members Absent:** John Hollenback & Earl Hall

**Staff:** Scott Hazelton, Ann O'Toole

**Public:** Nina Benjamin, Helen Dobbins, Carolyn Carter, Betty Eisenzimer, Andy Whitehead, Mike Stenberg, William Danforth

**President Hirsch called the regular meeting to order at 1:06 PM.**

### **Agenda Item #1 – Attendance**

With seven members being present, a quorum was established.

### **Agenda Item #2 Approval of Agenda**

The Board made no changes to the Agenda and approved by overall consent.

### **Agenda Item #3 – Approval of Minutes**

The minutes were discussed with the proposed alteration from Member Mannix. Member Mannix asked for the addition of his comment on the alteration of the intent of the Neiberg Conservation Easement. Member Mannix also pointed out a typo in the original minutes to change Board to Boyd. The board voted to accept the minutes with the proposed alterations and the board voted seven to zero to approve the Minutes.

### **Agenda Item #4 – Non-Public Hearings**

#### **Broken Circle Boundary Relocation**

Mr. Hazelton presented the proposed boundary relocation of the Broken Circle Ranch through their agent Mr. William Danforth. The agent was in attendance. The relocation would create parcels that were in conformance with the appropriate zoning district. President Hirsch asked questions about the Boundary Relocation reason. Mr. Danforth stated that the reasoning for the boundary relocation was settling acreage that would satisfy the buy sell agreement between Broken Circle and Paul Grieco. Member Beck asked about any irrigation ditches that might be included in the relocation. Mr. Danforth stated that the Boundary Relocation would not incorporate any irrigation ditches. President Hirsch asked for a vote on the proposed boundary relocation. Member Wagoner moved to accept the application with staff conditions. Member Manley seconded and the vote passed 7-0.

#### **Classic Properties XVI, LLC. (North) Amended Plat**

Mr. Hazelton presented the proposed amended plat application of the Classic Properties XVI, LLC. through their agent Mr. Mike Stenberg. The agent was in attendance. The amended plat would aggregate two parcels that were in conformance with the appropriate zoning district into a larger parcel that would still conform with the zoning. Member Mannix asked about residences on the parcels. Mr. Stenberg stated that the parcel only has one residence and at this point that was the only planned unit. Member Manley moved to accept the application with staff conditions. Member Pierce seconded and the vote passed 7-0.

## **RCCC/Dubois Amended Plat**

Mr. Hazelton presented the proposed amended plat application of RCCC/Dubois through their agent Mr. Mike Stenberg. The agent was in attendance. The amended plat would adjust the boundary of two parcels that were in conformance with the appropriate zoning district into a parcels that still conform with the zoning. Mr. Stenberg clarified that the parcel is part of the ranchland and not the PUD open space. Member Pierce moved to accept the application with staff conditions. Member Mannix seconded and the vote passed 7-0.

## **Agenda Item #5 – Public Hearings**

### **Eisenzimer CUP**

This was the second public hearing on the Eisenzimer CUP due to the last round being tabled. Mr. Hazelton presented the application again and explained that proper documentation was provided from Ms. Eisenzimer showing that she was authorized by the trust to proceed. Mr. Hazelton explained that he had had multiple conversations with Ms. McEnery, who was unable to attend.

Mr. Hazelton provided the Board and Ms. Benjamin with copies of minutes from the Carol Joyce Boyd Trust meeting held with all trustee members; Carolyn Carter, Betty Eisenzimer, and Willard Carter. Copies are held in the Eisenzimer CUP file.

Ms. Benjamin was concerned about the validity of the signatures on these minutes. Ms. Eisenzimer explained that the minutes were typed up after the meeting and signed on different days to accommodate differences in Trustee's location.

Member Pierce asked for distinction between Beneficiaries compared to Trustees. Ms. Eisenzimer and Mr. Hazelton stated that Willard Carter, Betty Eisenzimer and Carolyn Carter were the authorized trustees and that Nina Benjamin and Helen Dobbins are beneficiaries of the trust.

Member Mannix asked about the motion for Mediation filed by Ms. Benjamin and Ms. Dobbins. Mr. Hazelton stated that the board's decision would not have any impact on any court proceedings. Mr. Hazelton also stated that nothing had been decided on the motion for mediation.

Ms. Benjamin submitted a letter in opposition to Ms. Eisenzimer's application that was provided to all present board members. Member Williams asked about the possibility of doing a family conveyance so that the issues were resolved by it becoming individual property. Ms. O'Toole clarified that family conveyances can only be submitted when the transfer is individual to individual.

Member Wagner asked about legal guidance. Mr. Hazelton stated that Ms. McEnery had advised him that the board should process the application based on its merits alone because the legal proceedings would supersede any decision of the planning board. Mr. Hazelton reiterated that Ms. McEnery said she was comfortable with the county's legal position in the matter.

Member Pierce asked if the board could defer their decision to Ms. McEnery. Mr. Hazelton informed him that the only options available to the board were to Table, Approve or Deny Ms. Eisenzimer's application.

Member Wagner asked about the obligation to notify beneficiaries of any action of the trust. Mr. Hazelton said that was not a point of consideration for the board. Ms. Benjamin stated that was process of the trust but Ms. Eisenzimer disagreed.

Member Pierce asked about reviewing MCA about notifying beneficiaries. Mr. Hazelton reiterated that was not a point of board consideration. Ms. Benjamin questioned Mr. Hazelton's ability to read regulation or speak on trust

law. Mr. Hazelton answered that regulation and interpreting law was a regular activity for him and that he felt comfortable with where the board stood and their ability to process the application.

President Hirsch had to intervene between the applicant and the dissenting parties. President Hirsch stated that reviewing the application was all the board could rule on.

Member Mannix asked for consideration of the Fire Department of Ovando. Mr. Hazelton stated that it was a condition of approval. Member Manley asked that acquiring the proper septic permit be added to the conditions of approval. Ms. Benjamin asked the board to deny the application.

Member Mannix moved to table the application until the judicial review could occur or the legal situation could be clarified beyond Mr. Hazelton's conversation with Ms. McEnery. Member Pierce seconded the motion and it was passed 7-0.

### **Bob Barce Conditional Use Permit "Garrison Custom Butchering"**

President Hirsch opened the hearing and explained the procedures that the Board would follow. President Hirsch explained that the hearing had been noticed twice in the Silver State Post. President Hirsch asked Mr. Hazelton to provide his report.

Mr. Hazelton gave a brief description of the project, which includes the creation of a new shop for butchering. Mr. Hazelton explained that the proposal complied with all of the requirements of the County Zoning Regulations after a proper agreement had been struck between Mr. Barce the Powell Rural Disposal District. Mr. Hazelton also stated that the proposed buildings do not interfere with current agricultural operations or waterways. Mr. Hazelton also stated that the plans have been reviewed by the Tri-County Sanitarian, Chad Lanes, and that he has no concerns at this time.

Mr. Barce was in attendance to answer questions.

Member Wagner asked about previous dumping of carcasses in the Garrison rural dumpster. Mr. Barce responded that it was an error and would not happen again. Member Mannix asked about the offal. Mr. Barce responded that he either ground it to give to people with dogs or that it was buried on the property. Member Manley cautioned Mr. Barce about this and that depths should be excessive to prevent bears from digging it up.

Member Mannix asked about cutting beef. Mr. Barce said he was coordinating with the state to get into compliance. Multiple stakeholders have brought up conflict with Wildlife. Mr. Barce stated that he was aware that there was concern and that he had no previous problems. He stated that if it became an issue he would meet with Bo Walker to address them.

There were no public comments.

Member Manley moved to accept the CUP with staff recommendations. Member Beck seconded and the motion passed 7-0.

### **Agenda Item #6 – Continued or Tabled Business**

None

### **Agenda Item #7 – Planning Board Comments**

Board members expressed continued concerns about protecting the county and the board from legal action from either side of the Eisenzimer CUP.

### **Agenda Item #8 – Staff Comments**

Mr. Hazelton proposed researching changing from 1 acre to ½ acre zoning in the Rural Community Centers. The other possibility that was proposed was moving to no lots smaller than DEQ requirements. Member Beck said that he believes that is how it is currently written, Mr. Hazelton said he would review.

The County Attorney was not present.  
Chad Lanes, the Tri-County Sanitarian, was not present.

**Agenda Item #9 – Public Comments**

Mr. Andy Whitehead said that he was appreciative of the boards commitment to the county. He also said he was in attendance to learn about how his local government works.

**Agenda Item #10 – Announcement of the September Meeting**

President Hirsch announced the Planning Board would hold their next meeting on June 10th at 1 PM in the Library due to a scheduling conflict.

**Agenda Item #11 – Adjourn**

A motion to adjourn was presented by Member Manley with Member Williams seconding. The motion was voted on 7-0 in favor and President Hirsch adjourned the meeting at 3:08 PM.

Respectfully Submitted,  
Scott Hazelton  
Powell County Planning Director

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President Rick Hirsch

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Date