Prairie County Board of Commissioners Meeting

February 28th, 2025

Prairie County Court House Commissioners Room

217 West Park St Terry, MT 59349

www.prairiecounty.org

Prairie County Board of Commissioners Christine Keltner and Dennis Teske met in regular session at 9:00 a.m. In attendance Administrative Assistant Harry McNall. Commissioner Todd Devlin is in Washington DC.

9:00 a.m. Pledge of Allegiance, Public notice, there will be a breakup of the quarm for commissioners for two interviews, one at 9:30 a.m. and another at 3:00 p.m. Recordings will be stopped for the interviews. Joining the meeting Road Supervisor Todd Henry. Commissioners discussed road concerns within the county.

9:25 a.m. Turned off recordings and ended commissioner public meeting until after the road department Interview.

10:15 a.m. Commissioners resumed the regular meeting.

10:17 a.m. Commissioner Keltner read the minutes from the February 19th, 2025 commissioners meeting.

10:22 a.m. Commissioner Keltner made a motion to accept the minutes from the February 19th, 2025, commissioners meeting as corrected, seconded by Commissioner Teske, "all in favor" motion passed.

10:28 a.m. County Attorney Dan Rice updated the commissioners on a current zoning petition. Petition for Type 1 Zoning, Big Sheep Mountain Park District-Review. Exabit A

10:45 a.m. Commissioner Teske made a motion to sign two "donation receipts from Devlin Ranch and Willard Unruh for gravel donation to the county", seconded by Commissioner Keltner, "all in favor" motion passed.

11:10 a.m. Clerk & Recorder Shari Robertson provided commissioners with Payroll.

Prairie County Voucher # 10 $6,739.48

Prairie County Voucher # 1101 $2,224.00

Prairie County Voucher # 1099 $63,260.39

Prairie County Voucher # 1100 $18,361.02

Prairie County Voucher # 1103 $32,550.01

Prairie County Voucher # 1102 $16,778.62

Commissioners Reviewed and signed claims.

Prairie County Voucher # 1104 $6,225.46

Prairie County Voucher # 1105 $5,064.53

Commissioners signed the Treasure Investment Report.

12:00 Lunch Break

2:25 p.m. Commissioners reviewed expenditure report to date.

2:45 p.m. Commissioners adjourn until 3:30 p.m.

3:30 p.m. Public Comment

4:00 p.m. Land Planning Board joined the meeting, Lon Reukauf, Tracy Dion, Renee Pirtz, Lisa Everett, Todd Tibbetts. Lon updated the commissioners of the survey that was sent out, he went over in detail the results of each question to the commissioners. Discussion about how to post the resulting information to the public. Various conversations about wind turbines, water rights, growth policy and other topics. Lon reviewed the proposed bi-laws for the land planning board.

5:30 p.m. Commissioner Keltner Made a motion to adjourn the meeting, seconded by Commissioner Teske, "all in favor" motion passed.

Signed this 12th day of March 2025

Todd Devlin

Todd Devlin , Commissioner Chair

ATTEST: Shari Robertson

Shari Robertson, Clerk & Recorder

Exhibit A

PRAIRIE COUNTY, MONTANA
OFFICE OF THE COUNTY ATTORNEY

217 W. Park St., P.O. Box 564
Terry, Montana 59349
(406)635-4529 or 232-4070

DANIEL Z. RICE
County Attorney

RECEIVED
FEB 28 2025
PRAIRIE CO. CLERK AND RECORDER

February 28, 2025

Mr. Shane Eaton, Petitioner;
Prairie County Commissioners;
Prairie County Clerk & Recorder.

Re: Petition for Type 1 Zoning, Big Sheep Mountain Park District – Review

Mr. Eaton, Commissioners, and C&R Robertson,

I have received a draft Petition for Citizen Initiated Zoning – Big Sheep Mountain Park District, from Prairie County resident Shane Eaton. I have reviewed the petition itself, and it is my opinion that the petition form is legally sufficient.

I have had an opportunity to review a proposed zoning district map, which was displayed on large poster board prepared by Mr. Eaton, and which is presently back in his possession. The map itself appears to be legally sufficient. The proposed district includes private, state owned, and federally owned real property. With the inclusion of the state and federally owned lands, the properties to be included in the district are contiguous. I will note that without the inclusion of sate and federally owned land, the properties would not be contiguous. I will address the inclusion of state and federal land, as well as the requirement for district land to be contiguous, below.

I have not seen or had an opportunity to review the proposed land use regulations pertaining to this petition, and as such, I am providing no opinion regarding the same.

The following issues have been reviewed and are pertinent to the above-described petition, and related process:

Calculation of "Real Property Owners:"

MCA 76-2-101 requires that "60% of the affected real property owners" within a proposed

district sign off on a petition prior to the petition being submitted to the County Commissioners to take further action. What constitutes "60%" is not explicitly defined in statute. The best interpretation of the statute which I am able to provide is that each unique property owner within the district counts as one property owner. For example, if Jane Doe owns a section herself, a section with her son, and a section owned by an LLC which Jane Doe owns a 100% interest, we have three different property owners at play. If Jane Doe owns multiple parcels of property in her individual name, they are all counted together as being owned by one "real property owner." At minimum, one person, who is an owner of the real property who represents that they have the authority to sign on behalf of themselves and any additional owners, or who is an authorized signatory who can legally bind an entity (corporation, LLC, etc.), would be necessary to be counted as having signed said petition on behalf of the "property owner." In the example above, Jane could feasibly sign once for her own property, once for the property owned by she and her son (so long as she represents that she does have such authority), and once on behalf of her LLC (so long as she represents that she is an authorized signatory of said LLC), ultimately signing on behalf of 3 "real property owners."

State and Federal land: "affected real property owners:"

76-2-402 limits local authority over government agency owned property. That said, this statute does not appear to prohibit these properties from being included within a district, as the only way for this statute to have force or effect (exempting agencies from control, following a hearing) requires that agency property first be *within the zoned area.* If there was a prohibition against including agency land within a zoning district, then there would be no scenario where that agency would be developing that property inside of the district. For an agency to be developing property "contrary" to local zoning regs also requires that the agency property be within the zoned area. This being said, as the state and federal properties are subject to 76-2-402 requires that property owned by government agencies notify the County and delay any development until after a public hearing has been held, it is likely that said government agency property owners would be considered "affected" as there are mandatory steps which must be completed prior to development of government agency properties which would not be required if the agency property was outside of a zoning district. As such, government owned property must be included within the calculation of "affected real property owners," and each the state and federal property owners should be counted as 1 property owner each, 2 total, toward any calculation regarding the total number of affected real property owners within the proposed district.

Contiguous Property.

As I find no prohibition against inclusion of state or federal land within the boundaries of a proposed zoning district, it appears that the properties within the proposed district are all

"contiguous" as was determined to be required by Attorney General's opinion, 42 Mont. Op. atty. Gen. No. 43, which carries the weight of law, unless overturned by the Court or unless the statute is amended by the legislature. The opinion of the Attorney General was as follows: "76-2-101(3), MCA, requires that acreage in a zoning district be one contiguous 40 acre parcel." As the proposed district is in excess of 40 acres, and is made contiguous by inclusion of state and federal land, this criteria appears to be met.

Before the County Commissioners are able to review the signed petition to determine whether the 60% threshold has been met, draft documents, as set forth in MCA 76-2-101(5), must be made available to the Commissioners.

76-2-101. Planning and zoning commission and district. (1) Subject to the provisions of subsection (5), whenever the public interest or convenience may require and on petition of 60% of the affected real property owners in the proposed district, the board of county commissioners may create a planning and zoning district and may appoint a planning and zoning commission consisting of up to seven members.

(2) A planning and zoning district may not be created in an area that has been zoned by an incorporated city pursuant to **76-2-310** and **76-2-311**.

(3) For the purposes of this part, the word "district" means any area that consists of not less than 40 acres.

(4) An action challenging the process to create a planning and zoning district must begin within 6 months after the date of the order by the board of county commissioners creating the district.

(5) (a) Before the board of county commissioners determines whether the number of affected real property owners necessary to meet the petition requirement of subsection (1) has been met, draft documents of the proposed materials that may potentially govern the proposed district must be made available to the board of county commissioners. Draft documents of the proposed materials required in this subsection (5) may include but are not limited to drafts of:

(i) a development pattern as provided in **76-2-104**;

(ii) a resolution as provided in **76-2-107**; and

(iii) the land use and zoning regulations as provided in **76-2-107**.

(b) The final adopted development pattern, resolutions, and other materials that govern the zoning district as required in **76-2-104** and **76-2-107** must be similar to the draft documents provided to the county commissioners as required in subsection (5)(a).

Sincerely,

Daniel Z. Rice
Prairie County Attorney

PETITION FOR CITIZEN INITIATED ZONING
PRAIRIE COUNTY, MONTANA
(BIG SHEEP MOUNTAIN PARK DISTRICT)

We, the undersigned, being the affected real property owners of more than sixty percent (60%) in the area described in the map attached as **Exhibit A**, petition to: organize the Big Sheep Mountain Park District (the District); and to describe the uses that can occur within the proposed district, establishing certain standards and conditions for land use (the Regulations) (see attached **Exhibit B**). This petition is brought pursuant to §76-2-101 et. seq., Mont. Code Ann.

Proposed District. All areas of Prairie County identified in the map attached as **Exhibit A.**

Purpose. The purpose of the proposed district and land use regulations is: (1) To promote the health, safety, and general welfare of the people of Prairie County. (2) To preserve property values. (3) To preserve and maintain so far as possible the character of the area and promote the growth of the area commensurate with this character. (4) To promote development that is compatible with the character of the area.

The undersigned represent that the proposed district (see Exhibit A) and the proposed land use regulations are in the public interest (see Exhibit B).

[SIGNATURES FOLLOW]

Attachment 1 (Exhibit A – Map)

Attachment 2 (Exhibit B – Land Use Regulations)

Attachment 3 (Landowner Signature Page)

This is a petition to the Board of County Commissioners for Prairie County, Montana to create a Citizen Initiated zoning district, pursuant to §76-2-101 et. seq., Mont. Code Ann. for the property or properties shown in the attached map and perimeter description.

Landowner 's Name (typed or printed): _____

Signature (as shown on the deed):_____

Description of Property Owned:_____
(Note "see attached" if you need additional room, and provide legal descriptions on a separate page.)

Mailing Address_____

On _____, 2025, before me the undersigned Notary for the State of Montana personally appeared_____ known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument and acknowledged to me that __he__ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by Notarial Seal the day and year first written.

_____

(Seal)

Notary for the State of Montana_____
Residing at _____
My Commission Expires_____