

Submission of Petition

to

Stillwater County Commissioners

Regarding Creation of Planning and Zoning District

Pursuant to § 76-2-101, Montana Code Annotated

1. Submission of Petition. The many signatories to the attached Petition hereby respectfully exercise their right, pursuant to § 76-2-101, Montana Code Annotated (“M.C.A.”), to petition the Stillwater County Commissioners (“Commissioners”) to (1) create a planning and zoning district referred to as the “Stillwater County Beartooth Front District” (“District”) and (2) appoint a planning and zoning commission for the District.

A very large grassroots effort was undertaken to contact and educate property owners within Stillwater County, and the attached Petition has been signed by the necessary number of property owners as required by § 76-2-101, M.C.A.

The signature sheets represent the support of the many Stillwater County property owners within our proposed district. This demonstrates how broad-based the support is for the Petition, and it reflects the legitimate concern of the signers regarding the potential harms from oil and gas activity that may result if adequate safeguards and enforcement are not in place within the proposed district.

Attached are the two documents that were provided (prior to signing of the Petition signature sheet) to each person who has signed the petition: (1) the document titled “Proposed Stillwater County Beartooth Front District, For Distribution to Landowners Within the Proposed District, August 12, 2014” and (2) PETITION FOR CREATION OF CITIZEN-INITIATED ZONING DISTRICT WITH PLANNING & ZONING COMMISSION, September 12, 2014.

This Petition reflects important Montana values: (1) volunteer efforts to support local communities and (2) self-determination regarding land use.

2. Petition Complies with M.C.A. According to § 76-2-101(2), M.C.A., 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. None of the area subject to the Petition has been so zoned.

According to § 76-2-101(3), M.C.A., a district must include an area of not less than 40 acres. The District subject to this Petition exceeds 40 acres.

According to § 76-2-101(5), M.C.A., if real property owners representing 50% of the titled property ownership in the district protest the establishment of the district within 30 days of its creation, the

Commissioners may not create the district. Real property owners representing more than 50% of the titled property ownership in the District have signed this Petition.

3. Petition Seeks Regulation of Only Oil and Gas Activity within District. The Petition seeks adoption by the Commissioners of regulations regarding any oil and gas activity within the District (but only to the portion of land that is devoted to oil and gas activity). The Petition seeks to regulate no other land use, and the Petition does not seek to ban any type of oil and gas activity (such as hydraulic fracturing) within the District.

4. Petition is in Accordance with Stillwater County Growth Policy and Montana Constitution. This Petition seeks action (1) in accordance with the Stillwater County Growth Policy (adopted 2007) and to further the health, safety, and general welfare of the people of the District pursuant to § 76-2-104, M.C.A., and (2) to advance the right of the people in the proposed district to a clean and healthful environment under Article II, Section 3, and Article IX, Section 1 of the Montana Constitution 1972.

5. No levy required. § 76-2-102(3) provides that the finances necessary for the planning and zoning commission “must be paid from a levy on the taxable value of all taxable property within the district.” We propose that the County adopt regulations that would include a fee structure (with the fee to be paid by the applicant for a permit) that would reimburse the County for all County expenses reasonably related to issuance of a permit for oil and gas activity. Accordingly, (1) the County would incur no expense subject to § 76-2-102(3) and (2) no levy would be required.

6. Goal to Avoid Cost Shifting. Oil and gas activity involves significant burdens and costs (that are caused, and properly should be absorbed, by the oil and gas operator), some of which may be shifted to others, such as the local government and nearby property owners. As to this Petition, the combination of the proposed fee structure (to be paid by a person seeking to undertake oil and gas activity) and the regulations would minimize cost-shifting away from the oil and gas operator to either the County or other property owners. Accordingly, the Petition is not “anti-job” or “anti-oil and gas activity.” Instead, the Petition seeks to fairly allocate those costs to the oil and gas operator who enjoys the benefits of the oil and gas activity.

7. Finding of Public Interest or Convenience. Pursuant to § 76-2-101, M.C.A., the Commissioners must make a finding of whether it is in the public interest or convenience to (1) create the District and (2) appoint a planning and zoning commission for the District. The Petition seeks the adoption of regulations to protect important public interest or convenience values within the District. Consistent with Section 3 of the Stillwater County Growth Policy 2007, the Petition seeks to maintain the rural residential and agricultural character of the District. Stillwater County and the District enjoy a unique quality of life marked by rural lifestyle; ranching traditions; pristine air, rivers, and streams; and stunning day and night views of the Beartooth Mountains in their natural state, and this Petition seeks adoption of regulations requiring that oil and gas activity be conducted in a responsible manner within the District to (1) preserve public health, (2) protect private property, (3) protect and improve public infrastructure and public services, (4) protect surface and ground water, (5) protect air quality, (6) protect soil quality, and (7) maintain the quality of life by preserving the rural residential and agricultural character of the

area. The Appendix “Resources Regarding Possible Impacts of Oil and Gas Activity” contains relevant information, and Petitioners respectfully request that the Commissioners consider the items in this Appendix in their deliberations regarding this Petition.

8. Petitioners Prepared to Assist County. The Petitioners are prepared to assist the County in dealing with this Petition in offering draft resolutions and other documents for the consideration by the Commissioners regarding implementation of the Petition, including (a) creation of the District, (b) creation of the Planning and Zoning Commission for the District, (c) adoption of regulations regarding oil and gas activity within the District.

9. Signature Matters. The relevant Montana Code provisions relating to citizen-initiated zoning (Title 76, Ch. 2., Part 1, Montana Code Annotated) prescribe no rules with respect to signatures in support of a petition. Some counties have adopted ordinances regarding citizen-initiated zoning, but it appears that Stillwater County has not adopted any such ordinance. Accordingly, it is the understanding of the Petitioners that there is no applicable statute regarding signature matters with respect to our Petition.

When some of the petitioners first met with the Commissioners on October 9, 2014, to advise you of our plans to seek signatures in support of a Petition, we requested guidance as to signature matters. Several of our group wrote a letter dated October 13, 2014, to the Office of the Stillwater County Attorney, with a copy to each Commissioner. A copy of that letter is attached. We received no response to that letter. Shortly after sending that letter, one of our group left a telephone message for Ms. Rohde asking about the subject of the letter, but Ms. Rohde did not return that telephone call. Absent any specific guidance from the County, we have moved ahead in good faith in what we believe is a cautious and painstaking manner to ensure that the signatures are valid and accurately reflect the large number of landowners who support our Petition.

Because of the lack of applicable law with respect to signatures and because of the lack of assistance from Stillwater County with respect to signature matters, we ask that our group be provided the opportunity to rectify any not-legally-significant signature issues that the Clerk and Recorder may identify in the process of verifying the signatures in the signature sheets submitted with the Petition. Our group has worked very diligently over a period of more than a year to collect signatures from this very large number of property owners who desire creation of a zoning district. We believe that it would be grossly unfair (and it would frustrate the expressed desires of the property owners) if the Clerk were to apply unnecessarily rigid and restrictive rules in verifying signatures. We believe that we should be permitted to rectify signatures deemed by the Clerk not to be satisfactory because of the application of highly technical rules, including (1) minor discrepancies between the signature and the proper legal name of record for the property, (2) signatures of lawful representatives of separate legal entities (such as corporations, partnerships, limited liability companies, etc.), and (3) signatures of lawful representatives of other legal relationships (such as an executor of a decedent, a trustee of a trust, etc.). The unwillingness of the County to provide guidance at a prior time when signature matters could have been addressed should not result in unfair consequences with respect to the many property owners who have expressed in good faith their desire to support the Petition.

10. Petitioners Request Opportunity to Participate. If the Commissioners seek any assistance from County officials or others regarding this Petition, the Petitioners request that they be informed thereof and have a reasonable opportunity to participate in, or comment upon, any such Commissioners' communications and any such assistance received. A great amount of time and effort already have been expended in the petition process, and the Petitioners should be fully involved in the consideration by the Commissioners of this Petition. Petitioners also request copies of all correspondence or email that references this Petition, the Regulations, or the subject of oil and gas development.

11/11/15