

Final Report, Phase One
A Survey of Wyoming Planners
Concerning Wyoming's Planning Statutes

Results and Recommendations
July 2009

Steve Kurtz, FAICP - Consultant
Jim Whalen, Partnership for Wyoming's Future

PART I - INTRODUCTION

Project Goal

The goal of this project is to determine realistic and viable proposals for changes in the planning statutes, regulations and practices that will help Wyoming have a stronger planning process and a more efficient development pattern. The intent is to continue working with the Wyoming Planning Association (WYOPASS), Wyoming Association of Municipalities – (WAM), and the Wyoming County Commissioners Association (WCCA) to achieve the goal of developing recommendations on planning to the Wyoming Legislature and Governor's Office as the beginning of an ongoing process of honest and positive discussion about what changes are needed in the planning process and statutes.

Project Phases: Phase One - The Survey of Wyoming Planners

This is a report on the initial phase, a survey of Wyoming's professional Planners. Steve Kurtz semi-retired after a thirty year career in planning in Wyoming; Jim Whalen joined the Partnership as Director after a long career at the Wyoming State Land Office. Both have much experience in and knowledge of planning in Wyoming.

The intent of Phase One is to determine what Wyoming's planners think. Why ask the planners about planning and the statutes? The planners are in the field every day, implementing the formally adopted and informal planning policies of the State and local jurisdictions. They understand first-hand how a statute can affect the ability of the housing industry to build affordable housing and individuals to find affordable housing; how regulation of land use affects property values and how regulation of land can protect the health, safety and welfare of individuals. The planner understands what works and what doesn't and what is good and what is not in implementing the state statutes. Therefore, any recommendations on the planning process and planning statutes need to start with the planners.

The planner's role is to work for the common good of their jurisdiction, while working for a boss, the elected and appointed officials of their jurisdiction. The planner walks the line between what he/she understands as the common good and the sometimes political reality of planning in their jurisdiction. The reality is it isn't nearly as important what the planner thinks as what *the* elected officials think. It is the planner's job to provide good advice to the elected officials to promote good planning. Wyoming is a "property rights"

state, where compared to some other states and local jurisdictions planning takes a second seat to the property rights of individuals. For example, only half the counties in Wyoming have zoning and about the same number have adopted building codes.

Phase Two

Having determined what the planners think in Phase One, the Partnership intends to work with WAM and WCCA to survey the elected officials of local jurisdictions in Phase Two to determine what they think planning needs are, so there can be coordination between the planners and elected officials.

Phase Three

Phase Three will be a presentation of recommendations on planning to the Legislature and Governor's Office.

Coordinated Effort

WAM and the WCCA are participating in this project. The staffs reviewed and helped develop the survey. As outlined above, the Partnership, WAM and WCCA will work together in Phases Two and Three to develop strong recommendations based on a coordinated effort.

Survey Details and Methodology

The survey process reached out to all counties and major communities in the state as well as some state agencies. WYOPASS has nearly 250 members, of which about 70 are professional planners. The other members are planning commissioners and other interested individuals and agencies.

The survey was emailed and mailed to 50 professional planners and others involved in the process in the state in October 2008. These included all counties and major municipalities, planning consultants, private and public sector attorneys who work with planning, and there were responses from WYDOT as well. Follow up phone calls were made to ensure the surveys were received. Three counties did not reply, and the total response was 39.

The responses are anonymous, so that the planners could feel free to express their own opinions and not worry about having different opinions than their bosses. Non planners might not understand this phenomenon as well as planners, but it is a serious issue every day for planners. This phenomenon also affects WYOPASS's ability to propose a strong legislative agenda, as many planners feel their agenda should be those of their bosses.

The questions were designed to set out a positive view of planning, and to repeat some questions to verify responses on the variety of topics. The questions were reviewed by the WAM staff and WCCA staff prior to the survey being completed and sent. A couple planners critiqued some questions as being leading, biased, or hard to understand. The survey was thus long, and covered a broad range of issues. Some planners felt they didn't have enough experience to respond, some felt they hadn't been in Wyoming long enough to respond, some felt they didn't work with the statutes enough to respond.

Results

Responses to the yes/no questions are summarized in Part IIA, while the top priorities for planning from the planners are all listed in Part IIB. The long summary of all the responses, eighty pages in all, and the short summary, are available as email Word attachments, from Steve Kurtz, wlcplan@wlcwyo.com. You can contact Steve at his email address with any questions you have about accessing the files. All responses are included in the document *Partnership for Wyoming's Future Survey Results - Survey of Wyoming Planners Concerning Wyoming's Planning Statutes January 22, 2009*, available on the blog at: <http://wyomingplanningsurvey.blogspot.com>

There is significant value in reading not only the results to the yes/no questions, but also the answers to the questions on specific issues, and top three recommendations for planning process and statute revisions in Wyoming. There is a lot of wisdom in these responses.

PART II - SPECIFIC FINDINGS AND RECOMMENDATIONS

The survey included two parts. One part asked for yes/no answers on statements about various planning issues. The summary of these responses is presented in Section IIA with recommendations addressing these comments. A second section asked planners to list their top three priorities for changes in the planning process and planning statutes. These are included in Part IIB. As the vast majority of these comments request a program of support for planning most recommendations addressing these priorities are included in Part III, the summary of recommendations.

Unless listed as the planners being divided, with specific percentages, the terms “planners agreed” or “planners said,” mean more than 70 percent of those responding agree with the statement listed. Some municipal planners did not comment on county issues and vice versa so all 39 did not comment on each item.

All responses are included in the document *Partnership for Wyoming’s Future Survey Results - Survey of Wyoming Planners Concerning Wyoming’s Planning Statutes January 22, 2009*, available on the blog at: <http://wyomingplanningsurvey.blogspot.com>.

PART II A - RESPONSES TO SPECIFIC ISSUES AND RECOMMENDATIONS BY THE CONSULTANTS ON EACH ISSUE

A. Community Participation in Planning:

- The vast majority of planners agree - planning is better with community grass roots participation. Good planning is based on a well developed vision and set of goals for the community – with clear standards to implement those policies, which minimizes the negative impact of small vocal special interest group actions.
- **Recommendations:** Planners are working hard to get citizen participation into the planning process. Web sites and email help significantly in getting information out to the public. No changes are needed to require more effort; technical assistance would be beneficial.

B. Compact Development/Infill:

- The vast majority agrees - compact urban development is better than expansion outward. Infill can keep development costs down; makes better communities; it should be well planned; but it isn’t the only solution to good development. Existing infrastructure should be reviewed to determine if it is adequate. Higher urban densities are good for urban developments; cluster development could be a good thing and Planned Unit Developments (PUD) could lead to good design and cost savings. However, many commented that a PUD process doesn’t necessarily mean you will get good design.

- Clustering and higher densities were good for rural subdivisions, and preserving open space through clustering and higher densities in rural areas is beneficial. It is important to note that clustering is a good planning policy that doesn't necessarily increase density, but works to preserve open space. Rural county subdivisions should be limited, as provision of services can be disproportionately expensive.
- **Recommendations:** Technical assistance in development design and Smart Growth Principles for planners and elected officials would be beneficial. Technical assistance on developing and using good PUD regulations and processes would be beneficial. Infill and good development design can't be legislated.

C. New Development Costs:

- The vast majority of planners agree - new development should pay all costs of development, with no cost to existing development. There were several comments that there are times when community funded infrastructure, often with recapture of the initial investment from the developer based on a prorated share, is a good plan to guide development.
- **Recommendations:** The recently adopted changes in the annexation statutes require documentation of the costs of annexation to the annexing lands and to the municipality. The jury is still out on this process. Local jurisdictions who have limited recent experience in development could very much benefit from technical assistance in development review/cost sharing/subdivision agreements/impact fees.

D. The Urban Fringe Area and Annexation:

- The vast majority of planners said the urban fringe area, the unincorporated area around municipalities, is a source of major planning issues; municipalities and counties should jointly plan the urban fringe area; the municipality should have priority over the county in annexations. Half said municipalities should not be able to annex non-contiguous properties. One third said municipalities should be able to annex non-contiguous lands.
- There were significant changes in the annexation statutes in the early 2000s. However only 15% stated yes and 15% stated no - that annexation requirement changes in the statutes in the past few years have improved the annexation process. 70% did not respond to the question.
- Just over half said all lands contiguous to a municipality should be required to annex in order to be developed, and that owners of parcels contiguous to municipalities should not be able to buy public utilities without being required to annex.

- Planners agree - it would be good policy to have suburban standards for large residential lots, with public water, paved roads, but with septic tanks, and allow those properties to be annexed or to remain in the unincorporated area.
 - One serious concern is what to do when annexing existing county development creates many nonconforming uses under municipal codes.
 - Planners favor pre-annexation agreements, where the municipality provides water to a county development, but has an agreement with the land owners concerning future development, annexation and costs.
 - Recommendations: 1) The legislature should adopt legislation to enable, and require, municipalities and counties to formally jointly plan the fringe area, to allow the joint adoption of growth areas and establish how land use, transportation and subdivisions in those growth areas will be planned for and to determine how subdivisions will be reviewed in the one mile area around municipalities. They should be enabled to establish policies on annexation, how utilities will be provided for growth in these areas, develop design standards and regulations for the growth area, and a process to cooperatively enforce them.
- 2) The legislature should consider requiring preannexation agreements between developers and municipalities, and require subdivision improvement agreements for all subdivisions, city or county, and provide technical assistance in implementation of these requirements. These requirements make the local jurisdictions consider the requirements and impacts of development, whether the development pays for itself or not, and how to ensure subdivision improvements will get built if the developer fails to build them.

E. Joint Planning:

- Planners agree - municipalities and counties should have a joint plan for the fringe area and that the planning area should be set based on local determinations. Planners agree that municipalities should be able to extend their zoning and subdivision regulations into the unincorporated areas if there is a joint plan. Only 42% said municipalities should be able to extend their zoning and subdivision regulations into the unincorporated areas if there is not a joint plan.
- Planners agree - a joint planning commission or joint decision making process for the fringe area was desirable and agree that there needs to be enabling legislation that helps municipalities and counties plan the fringe area.
- Current statutes require municipal approval of all subdivisions within a mile of their boundaries, but the statute is vague, subject to misuse, non-use and misinterpretation. There are serious issues of taxation without representation in

extending regulation into the county. The issue is that if you pay taxes in the county and not the municipality you shouldn't be under the control of the municipality as far as land use is concerned. Some jurisdictions have representatives from the growth areas on a joint planning commission.

- **Recommendations:** As in D. , above, The legislature needs to adopt legislation to enable municipalities and counties to formally jointly plan the fringe area, to allow the joint adoption of growth areas and establish how land use, transportation and subdivisions in those growth areas will be planned for; to determine how subdivisions will be reviewed in the one mile area around municipalities; policies on annexation developed and implemented, how utilities will be provided for growth in these areas, and how local decisions can be made on what development design standards and regulations to enforce in the growth area, and how to cooperatively enforce them.

F. Large Parcel Development:

- Planners agree- selling of 35 acre parcels in the unincorporated area, which don't have to be platted as subdivisions, is a major problem, and agreed the increase from 35 acres to a minimum lot size of 140 acre lots for subdivisions exemption approved by the Wyoming Legislature in 2008 was a positive planning tool.
- **Recommendations:** WCCA and WYOPASS should review the effectiveness of the new legislation on large lot developments with the counties who have adopted the regulations and make recommendation to the legislature for updates.

G. Mobile Homes:

- Planners agree - mobile homes need to be carefully managed as to their location.
- **Recommendations:** Every jurisdiction handles mobile, manufactured and modular homes differently. There should be a state standardization of these terms, and minimum code requirements for installation, while allowing local jurisdictions the authority to determine where the units will be allowed. HUD has requirements on this issue which affect the manufactured housing market significantly and need to be considered.

H. Nuisance Enforcement in Counties:

- Half the counties have difficulty in nuisance enforcement because of a lack of workable enabling authority. A new law was passed in 2008 which should help with this problem (W.S. 18-2-101(a) (viii)).

- **Recommendations:** WCCA and WYOPASS should conduct a study of the effectiveness of the new statute with those counties who have adopted the legislation and make recommendations on changes or no changes.

I. Funding for Planning:

- The only regularly available state funding for planning is the Planning Only Grants from the Wyoming Business Council (WBC). Many counties and communities have used and are using these funds for planning. The program should be expanded and the individual grant awards increased such that there is enough funding to complete thorough projects. Planners agreed that the Planning Only Grant through the WBC is a good program.
- **Recommendations:** The WBC recently increased the maximum grant amount for Planning Only grant program. This helps, as the previous amount didn't cover the true cost of completing a plan for a town, but the program is still limited in its scope. The State needs to establish a fund and program with WAM and WCCA for updating plans for local jurisdictions as outlined in Part III.

J. Development Review:

- Planners agree - review and approval of new development should include evaluation of impacts on wildlife, water, adjacent property, public infrastructure and services, water bodies, and public health and safety, among others.
- **Recommendations:** Technical assistance in how to find information to determine impacts on these elements would be beneficial.

K. State Involvement in Planning

- Planners were split on the State role in planning. Half the planners felt the State should have more oversight in planning, standardizing regulations, and assisting in implementing a statewide plan, half disagreed.
- Planners agree - the State should provide technical assistance in good planning design, either through circuit riders working for the State or state-funded consultants.
- The mood was generally that enabling legislation is good, technical assistance is good; support is good, State established requirements are bad.
- Only one fourth of the planners felt current state statutes enable planners to complete good plans and do good planning. At the same time half felt there should not be statutes which spell out what the plan is in detail.
- **Recommendations:** The State should complete its Building the Wyoming We Want project, and as outlined in Section III, establish an overall vision and then establish a program, with WAM and WCCA, to provide significant

funding and technical assistance in updating plans (long range planning) and technical assistance and education for current planning.

L. Zoning Statutes:

- Again a split decision - two thirds felt the current zoning statutes are workable. Only half felt that permit systems, which are similar to zoning, should be allowed to be used to implement plans. The Wyoming Supreme Court declared Converse County's permit system could not be used in place of zoning to implement their comprehensive plan.
- **Recommendations:** Planners and county commissioners have suggested the only way to truly bring the state into the current century in planning is for the state to require counties to adopt building codes and zoning. Commissioners feel the need for zoning and the building codes but also many wanted to be reelected and don't want to take this kind of action in the face of often vocal minorities who are opposed to zoning and codes. Often individuals from this vocal minority are the first to complain of a new use near their property which they don't appreciate.

M. Irrigated Lands:

- Half the planners said irrigated land in a natural state is more valuable to the community than developing the irrigated land. This issue varies from county to county. Some counties have preservation of irrigated land as their top land use priority – it seems this is not directly proportionate to the amount of irrigated land in the county, but the location of the irrigated land in relation to the location of residential development.
- Only 20% of local jurisdictions have policies to preserve irrigated land. At least one county has a no net loss of irrigated land policy.
- Half the counties currently work with the State Engineer on irrigated land issues in subdivision of land. Most said the State Engineer's policies are workable. State law requires lands to be subdivided to dispose of the water rights, use the water rights within the subdivision, or transfer the water rights.
- **Recommendations:** Technical assistance to counties to help them develop and implement irrigated land policies would be beneficial.

N. County Subdivisions:

- Planners did not agree on whether Department of Environmental Quality (DEQ) requirements and review of major county subdivisions results in better developments. Thirty percent said DEQ requirements and review of major county subdivisions does not result in better developments (20% - did not comment). At the same time several said DEQ is overloaded and the process is a problem.

- Regarding DEQ requirements and review, responses were split about whether the regulations had the effect of developers selling off parcels rather than subdividing land to avoid the DEQ review.
- Planners were split on whether the *new simple subdivision requirement* results in good planning.
- Two thirds agree limiting rural area subdivisions is good planning.
- **Recommendations:** WCCA, WYOPASS, and DEQ should revisit the big issue of subdivision review, in a comprehensive, not piecemeal fashion; how the process works, if the State needs to increase DEQ staff to deal with the current growth and workload, and determine what changes should be made in the statutes and process.

O. Improvement and Service Districts:

- Two thirds of the respondents said all developments should be required to form an improvement and service district to upgrade or maintain roads and utilities.
- There were a variety of comments on this issue, there is some variation of opinion about the different kind of districts and what counties can and can't do.

Recommendations: Homeowners' associations have a history of not being successful in funding maintenance of infrastructure. The legislature should adopt a requirement that all major subdivisions form an Improvement and Service District (ISD) or join an existing district. ISD's are set up in the statutes to allow landowners to successfully assess themselves for maintenance and construction of new facilities. Technical assistance for education of counties and developers on this issue would be very beneficial.

P. Disclosure Statements:

- Planners agreed - there should be a requirement for every developer to file a disclosure statement with a subdivision plat, which explains the status of utilities, roads and other improvements; costs of construction and maintenance; and any other fees or expenses associated with the subdivision.
- **Recommendations:** The Legislature should adopt a requirement that the developers of all subdivisions be required to record a disclosure statement with all deeds to lots sold in the subdivision, so that they are of record. WAM/WCCA and WYOPASS should develop the requirements for disclosure statements to be included in the legislation.

Q. Phasing Large Subdivisions:

- Planners agree - there should be a phasing plan for major developments, such that the developer doesn't build large areas of a development that the local jurisdiction has to maintain, but which don't develop quickly, if at all.

- **Recommendations:** The Legislature should adopt requirements that all major subdivisions shall have a phasing plan approved by the governing body and recorded with the subdivision plat. This will allow the developer to post security for one phase at a time, but require the developer and local jurisdiction to develop a reasonable phasing plan, such that all the infrastructure doesn't have to be built, and/or that particular phases of subdivisions have one house at the end of the road.

R. Financial Security:

- Planners agree - a developer should be required to provide financial security for the entire project and for each phase. If the developer fails financially, the local jurisdiction can cash in the financial security and hire someone to complete the necessary improvements.
- **Recommendations:** Statutes provide for security requirements. These should be reviewed for updating and technical assistance would be beneficial for those jurisdictions without current experience with securities.

PART IIB - TOP ISSUES

The planners were asked to list their top three priorities for the planning process and statutes. All are listed, with recommendations from the consultants after each response or set of responses. It is apparent that most responses address a state supported assistance program for local jurisdictions, and fringe are/joint planning. The comments on these responses are included in Part III.

Response A:

“Lack of a state planning office signals planning is not important in Wyoming. Lack of ombudsman program does not foster “self help” attitudes in communities and counties; when will the “crew” be able to leave the brush fires and move to the forest fires?”

1. Lack of dedicated funding options for open space acquisition. Enable local jurisdictions to raise dedicated funding.
 2. Distinguishing between development review/enforcement and long range planning. Provide separate funding dedicated to each.
 3. Uninspired design professionals. Provide educational sessions at the local level.
- **Recommendations:** The state should develop a mechanism enabling counties and municipalities to raise funds for open space acquisition.

Response B:

“Legislation to enable planning should be broad, giving counties the choice of restrictions and requirements. What may be good and necessary in Teton

County is not necessarily good in Goshen County. Each county should be allowed and enabled to be as strict or lenient as desired by the local electorate.”

Coordination between towns and counties for joint planning efforts for lands surrounding incorporated towns.

- **Recommendations: Joint planning recommendations as outlined in Article III, and development of a state technical assistance program.**

Response C:

“Make the awarding of state monies contingent on good planning practices (cluster development, infill, open space preservation, higher densities, location in relation to urban centers, etc.) Poorly planned projects should not be rewarded!”

- **Recommendations: Provide technical assistance and planning education such that the planners have the tools and knowledge to promote good planning practices.**

Response D:

“A state planning office that provides adequate guidance for the overall planning processes within our communities.”

- **Recommendations: As outlined in Part III.**

Response E:

1. County ability to require road improvement districts.
2. Community Review/approval of all subdivisions on parcels less than 140 acres in size.
3. Availability of state land use attorney(s) to provide advice to planners on legal issues.

- **Recommendations:**
 1. As above, require all major subdivisions to form an improvement and Service district or join one.
 2. Utilize the new legislation on major land divisions.
 3. Most county attorneys are prosecutors and don’t work in planning as a priority, often leaving the planner with little legal support. WAM has a technical assistance program, with attorneys providing advice. This program should be expanded, for both municipalities and counties.

Response F:

1. We need a State Planning Agency with support from the Governor.
2. We need expertise to provide requested help with planning to local governments.
3. Wyoming needs a broader set of Regulations and Statutes to implement land use plans, subdivisions and Building Codes.

- **Recommendations: See Part III.**

Response G:

1. There are significant amounts of money provided by the state that is used by communities without any real long term plan. There needs to be specific 5, 10 and 20 years plans for communities so that they can properly allocate funds. In particular, with good planning in place, funding for infrastructure, planned growth, incentives to affordable housing and work on identified needs could take place on a more consistent basis.
2. Education of the public on planning and development issues is in severe need. This state is extremely cautious and anti government, yet when issues arise, these same folks turn to the government for intervention. There is a need to provide information, outreach and training for the citizens so they understand that we really are here to help and not intrude on their rights.
3. Counties and municipalities allow politics and personal issues to get in the way of good planning efforts. There needs to be some effort to mediate these issues and push good planning ahead of these types of differences.
4. Planning professionals in this state need to have additional education. I am not confident that overall planning efforts can be elevated if the folks leading the charge are not competent. There are many practicing planners, both in private and in public positions, that are in fact not trained properly, do not have relevant experience, or are not prepared to lead the state into the future. The State should emphasize efforts to educate and prepare planning professionals to lead.

- **Recommendations: As in Part III.**

Response H:

1. Formation of a State Planning Office, providing technical planning assistance to local jurisdictions and facilitating positive changes in state statutes to promote smart growth and more modern planning techniques.
2. State matching funds for agricultural preservation programs.
3. Clarify and update Real Estate Subdivisions Statutes.

- **Recommendations: As in Part III.**

Response I:

“A State Planning Office needs to assume a leadership role to support the efforts of those of us still professionally engaged in trench warfare and still enjoying the adventure. We are helping to make a difference in each of our communities by anticipating the future.”

- **Recommendations: As in Part III.**

Response J:

1. Annexation should be logical and consistent and not driven by public services.
2. Towns and counties should communicate.
3. It would be nice for a planning office to be available to discuss annexation issues.

- **Recommendations: As in Part III.**

Response K:

1. Establish and fund an Office of Local Government Planning Assistance to provide the following:
 - a. clearinghouse for collecting and distributing planning-related information, templates
 - b. provide temporary planning expertise/advice, possibly planning assistance to small communities
 - c. provide planning assistance grants, focus on special projects as plans for smaller communities
 - d. coordinate with WYOPASS educational programs
 - e. special assistance for major impact activities (e.g. commercial wind development).
2. Legislative review to more clearly define the jurisdictional boundaries, limits, overlaps between cities and counties.
3. Pass a Corridor Protection Act. The State and communities depend heavily upon tourism and recreation and should look to these sources of income if, or when, mineral income subsides. The corridors, interstates, state highways, some county roads, gateways into communities all have major impacts on impressions. I have lived my life in Wyoming, but have traveled a lot in this country and elsewhere throughout the world. We have done a poor job of preserving or enhancing, but seem to have specialized in degradation of what we truly have to offer to visitors and residents alike. Junk, billboards, signage, and landscaping, etc. all can play roles. This subject can be addressed locally and we have, but much more emphasis is needed and on a statewide basis. For example, the billboard alley at the Terry Ranch.”

- **Recommendations: As in Part III.**

Response L:

“Many of our problems exist in the fringe area, the commissioners (being elected) don’t want to just say we adopt zoning or joint planning – to give them additional support, maybe in the state statutes could be more mandatory as far as joint planning in the fringe area. However, there is always an element of fear when we ask the State to mandate.”

- **Recommendations: As in Part III.**

Response M:

“Small poor counties need help developing and keeping up the plans. Some state help with the planning process – hire planners to complete, initiate the planning process and adopt the necessary zoning statutes.”

- **Recommendations: As in Part III.**

Response N:

1. Strengthen the urban renewal process and help facilitate the development of assistance programs like tax increment financing.
2. Provide state funding assistance with urban renewal.
3. Grant greater authority and powers to local historic preservation commissions.

- **Recommendations: State adopt Tax Increment Financing enabling legislations, and provide technical support for using it and for funding urban renewal projects.**

Response O:

1. Rewrite the statutes to identify a growth management plan at the state level.
2. Rewrite the statutes to provide more strength to the comp plan and the elements that should be addressed in the plan.
3. Rewrite the statutes so that all of the policy strategies (education/information, regulation, incentives, acquisition, capital improvements, and financing options) have equal weight in providing jurisdictions with the means to implement their plans.

- **Recommendations: As in Part III.**

Response P:

“I think that Wyoming needs to pay more attention to planning for amenities in addition to basic infrastructure. We need to address the community aspect of planning, not just the costs of putting more asphalt and pipe in the ground. Quality of life needs to include more than raw infrastructure and the lowest possible fees.”

PART III – SUMMARY OF RECOMMENDATIONS FROM SECTIONS IIA AND IIB, AND RECOMMENDATIONS ON PROCEEDING WITH THE PROJECT

The following are the recommendations for changes in the process, regulations and statutes of planning in Wyoming. As planning in Wyoming has been a step child for years, a planner's point of view, the tasks are daunting. The recommendations propose a plan to make planning meaningful in Wyoming, update statutes and regulations, to actually do some more meaningful planning, and make the state a better place.

All recommendations should be worked on as a joint effort among WYOPASS, WAM, WCCA, the Legislature, and the Governor's Office.

Recommendations on topics from the survey:

A. Community Participation in Planning:

Planners are working hard to get citizen participation into the planning process. Web sites and email help significantly in getting information out to the public. No changes are needed to require more effort, technical assistance would be beneficial.

B. Compact Development/Infill:

Technical assistance in development design and Smart Growth Principles for planners and elected officials would be beneficial. Technical assistance on developing and using good PUD regulations and processes would be beneficial. Infill and good development design can't be legislated.

C. New Development Costs:

The recently adopted changes in the annexation statutes require documentation of the costs of annexation to the annexing lands and to the municipality. The jury is still out on this process. Local jurisdictions who have limited recent experience in development could very much benefit from technical assistance in development review/cost sharing/subdivision agreements/impact fees.

D. The Urban Fringe Area and Annexation:

The legislature should adopt legislation to enable, and require, municipalities and counties to formally jointly plan the fringe area, to allow the joint adoption of growth areas and establish how land use, transportation and subdivisions in those growth areas will be planned for and to determine how subdivisions will be reviewed in the one mile area around municipalities. They should be enabled to establish policies on annexation, how utilities will be provided for growth in these areas, development design standards and regulations to enforce in the growth area, and how to cooperatively enforce them.

The legislature should consider requiring preannexation agreements between developers and municipalities, and require subdivision improvement agreements for all subdivisions, city or county, and provide technical assistance in implementation of these requirements. These requirements make the local jurisdictions consider the requirements and impacts of development; whether the development pays for itself or not, and how to ensure subdivision improvements will get built if the developer fails to build them.

The annexation statutes should be looked at in their entirety, with definitions of contiguous, the requirements for annexation report (which many see as not helpful) notice requirements, and other requirements reviewed as a whole in relationship to fringe area planning enabled.

E. Joint Planning:

Recommendations: As in D. , above, The legislature needs to adopt legislation to enable municipalities and counties to formally jointly plan the fringe area, to allow the joint adoption of growth areas and establish how land use, transportation and subdivisions in those growth areas will be planned for; to determine how subdivisions will be reviewed in the one mile area around municipalities; policies on annexation developed and implemented, how utilities will be provided for growth in these areas, and how local decisions can be made on what development design standards and regulations to enforce in the growth area, and how to cooperatively enforce them.

F. Large Parcel Development:

WCCA and WYOPASS should review the effectiveness of the new legislation on large lot developments with the counties who have adopted the regulations and make recommendation to the legislature for updates.

G. Mobile Homes:

Every jurisdiction handles mobile, manufactured and modular homes differently. There should be a state standardization of these terms, and minimum code requirements for installation, while allowing local jurisdictions the authority to determine where the units will be allowed. HUD has requirements on this issue which affect the manufactured housing market significantly and need to be considered.

H. Nuisance Enforcement in Counties:

WCCA and WYOPASS should conduct a study of the effectiveness of the new statute with those counties who have adopted the legislation and make recommendations on changes or no changes.

I. Funding for Planning:

The Wyoming Business Council increased the grant amount for Planning Only grants. This helps as the previous amount didn't cover the true cost of completing a plan for a town, but is still limited in its scope.

J. Development Review:

Technical assistance in how to find information to determine impacts on these elements would be beneficial.

K. State Involvement in Planning

The should complete its Building the Wyoming We Want project, and establish an overall vision, and then establish a program, with WAM and WCCA, to provide significant funding and technical assistance in updating plans (long range planning) and technical assistance and education for current planning.

L. Zoning Statutes:

Planners and county commissioners have suggested the only way to truly bring the State into the current century in planning is for the State to require counties to adopt building codes and zoning. Commissioners feel the need for zoning and the building codes but also many wanted to be reelected and don't want to take this kind of action in the face of often vocal minorities who are opposed to zoning and codes. Often individuals in this vocal minority are the first to complain of a new use near their property which they don't appreciate.

M. Irrigated Lands:

Recommendations: Technical assistance to counties to help them develop and implement irrigated land policies would be beneficial.

N. County Subdivisions:

WCCA, WYOPASS, and DEQ should revisit the big issue of subdivision review, in a comprehensive, not piecemeal fashion; how the process works, if the State needs to increase DEQ staff to deal with the current growth and workload, and determine what changes should be made in the statutes and process.

Many planners need help, technical and legal assistance with subdivision review and zoning issues. Often a planner will have one major subdivision in his county every five years or less. The experience just isn't there to handle the job without assistance. A good planner comment was, I can talk to FEMA about flood regulations, but who do I talk to when I have a major subdivision to review?

Enabling legislation to establish the use of preannexation agreement in the fringe areas would be beneficial.

O. Improvement and Service Districts:

Homeowners' associations have a history of not being successful in funding maintenance of infrastructure. The legislature should adopt a requirement that all major subdivisions form an Improvement and Service District (ISD), or join an existing district. ISD's are set up in the statutes to allow landowners to successfully

assess themselves for maintenance and construction of new facilities. Technical assistance for education of counties and developers on this issue would be very beneficial.

P. Disclosure Statements:

The Legislature should adopt a requirement that the developers of all subdivisions be required to record a disclosure statement with all deeds to lots sold in the subdivision, so that they are of record. WAM/WCCA and WYOPASS should develop the requirements for disclosure statements to be included in the legislation.

Q. Phasing Large Subdivisions:

The Legislature should adopt requirements that all major subdivisions shall have a phasing plan approved by the governing body and recorded with the subdivision plat. This will allow the developer to post security for one phase at a time, but require the developer and local jurisdiction to develop a reasonable phasing plan, such that the entire infrastructure doesn't have to be built, and/or that particular phases of subdivisions have one house at the end of the road.

R. Financial Security:

Statutes provide for security requirements. These should be reviewed for updating and technical assistance would be beneficial for those jurisdictions without current experience with securities.

Recommendations not covered above, addressing topics from the priorities listed by planners in the survey:

Response A: Open Space

Enabling legislation should be adopted to strengthen the public's ability to preserve open space and fund such programs.

Response C: Good Planning Practices

Provide technical assistance and planning education such that the planners have the tools and knowledge to promote good planning practices.

Response E: Legal Assistance

Most county attorneys are prosecutors and don't work in planning as a priority, often leaving the planner with little legal support. WAM has a technical assistance program, with attorneys providing advice. This program should be expanded, for both municipalities and counties.

Response N: Tax Increment Financing

State adopt Tax Increment Financing enabling legislations, and provide technical support for using it and for funding urban renewal projects.

Other recommendations:

1. The conflict between the recording statutes and the subdivision requirements for county subdivisions should be eliminated. County clerks should not be required to record a deed if it violates the subdivision requirements.
2. Standards for road geometric design should be adapted, using the AASHTO standards, which provide for a wide variety of standards based on existing local conditions, traffic generations etc. These standards are flexible enough to be used by all communities and counties, yet are based in sound engineering principles. Such standards are in effect for public utilities of water and sewer.
3. Enabling legislation for use of impact fees should be adopted.

PROPOSAL FOR A PLAN TO SUPPORT PLANNING IN WYOMING

The State has invested somewhere around \$200 million of State Loan and Investment Board (SLIB) money in the in the last four years in infrastructure with the counties, towns, cities and districts. The distribution process has changed from a SLIB based process to a county based process. While there is no criticism of any projects, it stands to reason that there needs to be a process of time and money invested in planning for these projects. One percent of the \$200 million invested in planning for these projects could have potentially eliminated duplication and provided more efficient and effective projects, saving everyone much more funding, through well planned projects, than is spent on the planning effort.

Wyoming, a property rights state, has not honestly supported planning. Plan and zone have four letter word connotations, and the State has minimal programs to support the local jurisdictions in their planning. There has been no statewide vision of what Wyoming should be. There are currently efforts ongoing to determine what Wyoming's vision is. This plan is not to determine Wyoming's vision, but to put in place a process where the state and local jurisdictions can have a planning process that works toward that vision.

1. The Wyoming Association of Municipalities, the County Commissioners' Association, and the Wyoming Planning Association should partner in 2009 and 2010, to develop strategies and recommendations to the legislature to establish a serious planning program for the State. An appropriate Web site and communication process shall be established and maintained for use in this process. Coordination would be maintained with other agencies and organizations and other organizations should be added as determined by the initial three. A recommendation for changes in the planning process would be made to the legislature in the summer and fall of 2010 for approval in the legislative session of 2011.

2. The proposed recommendation to the legislature should be based on the following: Establish a planning fund from the general fund to be set aside for use in developing a Wyoming Planning Program. The amount of this fund would be determined by WAM/WCCA and the Legislature. The fund would be under the auspices of a joint WAM/WCCA commission, with WYOPASS as a participating entity, charged with implementing the program. An alternative would be to house the program within an existing state department. The theory for recommending WAM/WCCA is that these are the people who are on the ground doing planning. WAM/WCCA would hire staff and contract with professionals to complete the Planning Program Project and provide grants to local jurisdictions for developing plans, for technical assistance, training planners and developing and maintaining a library of quality design standards. The commission would continue to work for a period of five years to complete the project, at which point in time the program would be reviewed for continuation in assisting local jurisdictions in implementing and updating their plans.

The value of the fund would change depending on how the program is laid out. Even if the funds were \$2 million, this amount of money would be saved many times over

through the more efficient planning process for capital improvements. This amount is one percent of the funding distributed by the SLIB at the beginning of the current biennium.

3. *The fund would be used development of plans: All local jurisdictions would be required to have a new or updated comprehensive or master plan within three years. These plans would address:*

- Projected growth
- Land use and development, based on sound contemporary principles developed with WAM/WCCA
- Growth areas/ planning areas
- A joint plan for the urban fringe areas around municipalities
- Transportation – corridors major future roadway locations and design standards, financial planning
- A plan for water for the county, or community and the fringe area
- Capital improvements - a capital improvement plan based on the above, and including all public facilities, water systems, wastewater, streets, and others that are eligible to be funded by the through the SLIB or other programs
- Affordable housing plans
- Open space plans
- An education component for the public and elected officials
- An implementation plan, listing the tools used to implement the plan, such as capital improvement planning, subdivision regulations, zoning

4. The depth and effort of these plans will be based on the size of communities and counties, the smaller towns will have necessarily simpler plans, but they will have plans.

5. WAM/WCCA will develop initial guidelines for sound planning to be used in the planning process.

6. Many of the local jurisdictions have such plans in place, meeting these requirements possibly with updates. Others have no such plans in place. Funding for the work on these plans will be from the Planning Program Fund administered by the WAM/WCCA commission. The commission will establish the process of hiring consultants /contractors to work with the communities to develop these plans.

7. Beginning in FY 2012 no project for a town, city, county or district shall be funded by the SLIB or other state programs, unless it is a component of the appropriate development plan, be it that of a town or town and county or county and district. The commission will be charged with reviewing projects and providing the SLIB and legislature with a recommendation as to the adequacy of the planning for each project.

8. The fund would be used to develop a state wide public education element to assist local planners and elected officials in the development of their plans.

9. The fund would be used to work with WYOPASS and develop workable planning design guidelines for Wyoming and an accessible library of a variety of planning support materials. Rather than reinvent the wheel the process should begin with a review of the Plan Cheyenne and other recently developed urban design guidelines, and workable processes used elsewhere such as those submitted by Bill Collins that Idaho uses to spell out criteria for fringe area planning, and similar regulations used by Virginia, as submitted by John Dahlgren, Green River Planner, for example.

10. The fund would be used to develop an ongoing training program for Wyoming planners.

11. The fund would be used to assist local jurisdictions in developing and updating and maintaining modern implementation strategies and tools.

12. The fund would be used to provide legal technical assistance to planners and attorneys for local jurisdictions who need the assistance. The current WAM program could be expanded. The job of county attorney is often one of prosecuting and not dealing with land use issues.

13. WAM/WCCA and WYOPASS will make recommendations to the legislature for 2010 of those quick simple changes in planning statutes that can be of immediate help to the planning process.

14. WAM/WCCA/WYOPASS will establish a committee whose job it is to review the broad range of planning statutes and processes and make a recommendation for wholesale updates on county subdivision regulations, county zoning, annexations, fringe area planning and other major planning elements. Amending bits and pieces of a thirty year old county subdivision statute is not good planning. The deadline for this recommendation to the legislature shall be the 2011 session.