



Wyoming Planning Association

September 12, 2017

To: Corporations, Elections & Political Subdivisions Committee
FROM: The Wyoming Planning Association (WYOPASS)
RE: Extraterritorial Jurisdiction Proposed Legislation

Dear Committee Member:

Thank you for allowing the Wyoming Planning Association (WYOPASS) to consult with the Corporation, Elections & Political Subdivisions Committee on the matter of Extraterritorial Jurisdiction legislation.

This letter is intended to briefly explain the reasoning and status of the WYOPASS versions of the proposed legislation, which are attached for your review. You will note that WYOPASS does not have any proposed modifications to the amendments to §15-9-103, Definitions (urban renewal), as proposed by the Wyoming County Commissioners Association (WCCA). When it comes to §34-12-103, which pertains to municipal review of subdivisions within one mile of their boundary, WYOPASS takes the position that a formal review process by the municipality must be accommodated.

WYOPASS differs from the WCCA proposal on this matter because we believe that any formal decision should be made by the governing body, not through staff consultation. The existing method, which is already well established and works well for the majority of municipalities and counties, is for the governing body to conduct a public meeting, which creates a process that is not only transparent, but encourages discussion and public comment. The proposed "staff consultation" creates the opposite effect.

This point relates to the overall question of participation by the municipality in the subdivision review process for development near the municipality. WYOPASS supports inclusive planning that involves all affected parties, which in the matter of extraterritorial jurisdiction includes municipalities. Only through mandatory participation in the subdivision process are both counties and municipalities required to try and come together and balance their interests. Oftentimes through this process, it is realized that the parties do not have competing interests, but rather share complimentary interests such as reducing future public costs, preserving property rights, and the efficient provision of services. After all, are not municipalities part of a County? By recognizing the interests of the municipal citizens within the County along with those of the non-municipal citizens, the entire population is represented.

Regarding the extent of the extraterritorial jurisdiction for subdivision review, it is the preference of WYOPASS that it remain at one mile. One mile is a common minimum standard across the United States. However, one-half mile is acceptable for most of the jurisdictions we serve. It is noted that

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some municipalities have existing infrastructure (utilities) that serve county developments beyond ½ mile from their borders. The reduction of subdivision review authority to ½ mile would likely affect those communities the most. For many of the smaller jurisdictions that do not have resource industries surrounding them, the ½ mile distance is adequate. The option of dividing the municipalities by size into two categories with different distances is there (e.g. population of 5,000 or more has one-mile review authority, population <5,000 has ½ mile), but we have decided to leave that to the committee to discuss.

The option of a County Commission to nullify a subdivision requirement or decision of the municipality within the area of joint review addresses the primary concern of the committee and legislature, as we understand the issue, and is contained in the attached draft. However, this “nullification,” just like any other legislative veto authority is not a light matter and demands special controls for those who wield such power. For this reason, WYOPASS strongly believes that the three-fourths affirmative vote language be included as a requirement for any nullification.

Not included in the WYOPASS recommendation but within the WCCA proposal is a “shot clock” requirement. We are unclear as to the intent of such language and would request an explanation so that we can provide consultation on more appropriate language if the concept continues forward. We note that including a “shot clock” limits options for the applicant, as some applicants choose to completely go through the review process with one jurisdiction before submitting to the other. Unless there is justification otherwise, the “shot clock” concept may be trying to be address a problem that does not exist.

Also not included in the WYOPASS recommendation, but within the WAM version, is language pertaining to placing a notice of any nullification on the plat and all offers, solicitations, advertisements, contracts, agreements, and deeds. Again, we are unclear as to the intent and believe more explanation is needed. It is noted that the decision is “of record” with the subdivision process and a note on the plat would easily disclose the nullification, but to include language on each of the other documents identified does not appear to change or strengthen any legal situation pertaining to the nullification.

It is our understanding that much of the language in 18LSO-0054, Working Draft, 0.4 is carried over from last year’s discussions as a placeholder in case other language could not be developed. Now that other language has been developed, although admittedly not unanimously, we recommend removal of the uncoordinated and conflicting portions from the working draft, specifically, the removal of Section 1 of that document that would adopt a new section §16-13-101 Extraterritorial jurisdiction; authorization; and removal of the portion of Section 2, that includes modifications to §15-3-202, Jurisdiction beyond corporate limits; exception. WYOPASS does not believe those amendments are in line with the concepts previously noted of coordination, inclusive participation, and issue resolution.

Thank you for considering our comments and reviewing the attached WYOPASS version of the legislation. Please contact any of the WYOPASS Board members if you have any questions, or if the concepts of the “shot clock” and nullification disclosure move forward, so that we can provide additional comment as needed.

Respectfully Submitted,

The WYOPASS Board of Directors

cc: WCCA, WAM