

MINUTES

SPECIAL REGULAR COUNCIL MEETING

Mountain View County

Minutes of the Special Regular Council Meeting held on Thursday, October 9, 2014, in the Council Chamber, 1408 Twp Rd. 320, Didsbury, AB

PRESENT: Reeve B. Beattie  
Councillor A. Aalbers  
Councillor K. Heck  
Councillor A. Kemmere  
Councillor P. McKean  
Councillor D. Milne  
Councillor J. Sayer

IN ATTENDANCE: T. Martens, Chief Administrative Officer  
J. Rusling, Director, Planning and Development Services  
R. Morrison, Acting Director, Operational Services  
J. Holmes, Director, Legislative, Community, & Agricultural Services  
M. Bloem, Manager, Planning Services  
S. Madge, Manger, Development Services  
T. Connatty, Planner  
G. Eyers, Executive Assistant

CALL TO ORDER: Reeve Beattie called the meeting to order at 9:00 a.m.

Reeve Beattie introduced Council and Staff.

AGENDA RC14-591 Moved by Councillor Sayer  
That Council adopt the agenda of the Special Regular Council Meeting of October 9, 2014.  
Carried.

PUBLIC HEARINGS  
Bylaw #LU 39/14  
Land Use Bylaw Amendment  
Reeve Beattie opened the public hearing regarding Bylaw #LU 39/14 and read the bylaw in its entirety.

The Planning and Development Department advised that correspondence received prior to October 2, 2014 was provided in the original agenda package; additional correspondence received from October 3 to 7, 2014 was provided in the revised agenda package; and, hard copies of correspondence received October 8 and 9, 2014 were provided to Council at the beginning of the meeting.

The Planning and Development Department provided an overview of proposed amendments to Bylaw No. LU 29/14 – Moratorium on Subdivision and Development in McDougal Flats and provided specific information as follows:

- Proposed moratorium area includes the AESRD Flood study area
- Bylaw Content
- Letters of objection/concern
- Proposed bylaw amendment

Reeve Beattie asked if there were any comments from the gallery or individuals who had indicated their wish to address Council.

Bill McLean declined the opportunity to provide comment.

Brian Gray declined the opportunity to provide comment and stated that he is opposed to the proposed bylaw.

Andy Gray declined the opportunity to provide comment.

J. Campbell declined the opportunity to provide comment.

Ken Thorkelson stated that he is opposed to the proposed Moratorium Bylaw.

Robin Tudor stated that he is currently developing property at the corner of Twp. Rd. 61 and Rge. Rd. 325. He stated that he is questioning the need for a moratorium as well as the proposed boundaries. He discussed the Red Deer River berm. He stated that he is opposed to the proposed moratorium.

Hugh Ham, Barrister and Solicitor, representing Coyote Creek Developments discussed the proposed Moratorium Bylaw which he stated would freeze development within the area. He discussed potential legal action by his client and stated that claims from landowners and developers could be in the millions of dollars. He advised that the timeline by the AESRD to approve the Golder study could be years and not months and that the County is being asked to take on a problem that they cannot control or do not have the resources to resolve. This is the Crown's problem and they should be responsible to resolve it.

Gary Perras stated that he did not have anything to add.

Mari-lou Ziegenhagel stated that she is opposed to the proposed moratorium and had nothing to add.

Ellen Power advised that they had recently purchased their home. They would not have purchased if they had known this was going to happen. She discussed an adjacent government gravel pit. She discussed process and feels that the public meeting should have taken place before first reading of the Bylaw. It should not just be the McDougal Flats area as it should also include the Town of Sundre.

Liz Negropontes, County landowner, stated that she is opposed to the proposed moratorium. She does not live in the area but is familiar with it.

Staff advised Ms. Negropontes that the Golder report is a Flood Hazard Study that was prepared for the Provincial government. In response to a question Ms. Negropontes was advised that Administration recommended the proposed moratorium bylaw to Council as a result of legal advice.

Ms. Negropontes was advised that the public would be provided the opportunity to provide comment as required by the Municipal Government Act.

Ms. Negropontes stated that a number of studies have been undertaken since 1952. She provided comments regarding past Council, gravel pit development, AESRD gravel pit approval process, and other Provincial approval processes. She stated that if the berm would have been completed there would have been a lot less damage to Coyote Creek and other residences. She stated that it is not wise to place a moratorium on these lands. This is the Provinces problem; not our problem. She stated that the people and their lands should be protected. Development should not take place in a floodway. Floods are more frequent and severe than in the past which is caused by clear cutting and other environmental issues.

Judy Madsen stated that she is a County landowner. Her land has never been flooded but she is in the study area. She questioned the need for the moratorium as it is causing a lot stress and hardship. She requested that the moratorium not be approved. The defined flood area has created a stigma and is already affecting land sales.

Allan Saunders stated that he is opposed to a proposed moratorium.

Myron Thompson discussed past river studies. He stated that the river is the property of the Federal and Provincial government. He urges the County and Town of Sundre to not get involved and have the Province do their due diligence to protect the lives of the citizens and the quality of the water. If there should be a moratorium it should be the responsibility and liability of the Province. He is not for, or against, a moratorium but is concerned that it is not a local government responsibility but that it is the responsibility of the Province. He feels that municipalities should serve notice on the Province that the river is their responsibility and the municipalities will no longer be responsible to protect the landowners.

Council questions resulted in the following information:

- Alberta did a flood hazard study north and west of Sundre and included the Town of Sundre in 1997
- The Town of Sundre has building restrictions in flood area
- If a moratorium is not passed and the County approving authority approves development the County would be liable
- The Golder Study has not been adopted by the Province
- A public meeting has been arranged on November 4, 2014 at the Sundre Legion.

Jerry Mossing, Coyote Creek Developments, stated that he feels that the County should not depend on the study. He feels the current Land Use Bylaw should remain in effect until the flood hazard study has been adopted. Each approval should be dealt with individually and on a case-by-case basis. A moratorium would restrict any development whatsoever in the Coyote Creek Development, such as decks and new residences. Bill 27 will change the rules and he feels that the County should wait until that time.

Council questions resulted in the following information:

- The current Land Use Bylaw is not in contravention or more restrictive than Bill 27
- Alberta Environment recommended that the County use the 1952 Flood Channel area down to the main channel and treat that as floodway

Recess and Reconvene

Reeve Beattie recessed the meeting at 10:35 a.m. and reconvened at 10:49 a.m.

Paddy Munro stated that he thinks we will have more floods and they will come more often and discussed possible causes. He believes that there should be a moratorium but the area should be closer to the river. There should be nothing built on low ground. He discussed areas that were flooded in 2005 and subsequent high water events. He feels that the County needs to get the Province on side and deal with the problem. The berm needs to be built. The defined moratorium area needs to be reduced.

Murray Griffin discussed the area included in the proposed floodway, the Municipal Government Act, and previous flood areas. He feels that this is not a County problem but is a Provincial problem. It is his opinion that if there is a moratorium it should be a smaller area.

Council questions resulted in the following information:

- There are currently no subdivision, redesignation or development permit applications for the area

Colin Simmons, Solicitor, is acting on behalf of a developer. He states that there is substantial liability for the County. His client has subdivided 10 lots and is now unable to sell his lots. His client will suffer severe economic loss and substantial lost profits if this moratorium is passed. He stated his clients lands are unlikely to flood. He proposes that the boundaries should be changed and that applications should be dealt with individually and a moratorium is not necessary.

Donna Miedema passed the opportunity to comment.

Doug Smith moved into the study area one week ago. Everyone's property value within the study area have been effected. It would be much better if the area is determined after the Golder report is approved. Approving the moratorium is putting the cart before the horse.

Kay Packer declined the opportunity to speak.

Kari McElhinney stated that she is opposed to the moratorium. They have not been affected by the past two floods. It is unfair to be included in the moratorium area prior to the Golder Report being finalized. She discussed the process for flood relief grant applications.

Council questions resulted in the following information:

- 3 Million dollars was received from the Province to complete the berm. The County is currently going through the approval process

Lorne Plemel stated that he recently moved into the area. He sees many mistakes and feels that the County needs to use historical data to determine the area. The County should use an independent study to determine the floodway area. Historical data such as rainfall, time of year, and snowpack that caused previous floods should be studied. He feels that a moratorium is not required and each application should be considered on an individual basis. A risk assessment should be undertaken. He asked what kind of compensation package the County would provide.

Dave Chorkwa, Sundre Airport, stated that during the 2013 flood waters ran through the Sundre Airport right to the boundary of the Sundre Contracting lands. We need to get the facts before we bring in rules. He said that he understands the liability that could be brought on the County. He feels that the County could regulate development under the current regulations.

Dave Reimer stated the he lives south of the Coyote Creek Golf Course. He has concerns about the County bringing in a bylaw before the Province determines an exact floodway.

The County should be proactive in undertaking mitigation. He stated that none of the current Councillors live within the proposed floodway.

Council questions resulted in the following information:

- Councillor Aalbers advised that she resides in the middle of the proposed moratorium area
- The area between the 1952 flood channel and the main channel map was prepared by the County under the recommendation of the AESRD

Don Molesky stated the Molmac Subdivision was originally approved by the Red Deer Regional Planning Commission. He discussed the previous approval process, conditions of the Development Agreement, and correspondence from Energy and Natural Resources. Mr. Molesky stated that 3 or 4 Molmac land owners who have their property for sale are having difficulty selling them. A moratorium is not necessary. He feels that the Province is responsible for the river.

Mari-lou Ziegenhagel stated that a number of landowners have already been affected. She was told by the Province that the Golder Study will most likely not be changed and that the County should use that area. The County should assist the landowners in designated floodways get compensation from the Province. Everyone should get on with promoting McDougal Flats as the best place to live.

Council questions resulted in the following information:

- The Golder Study is still in a draft stage
- The County was not given approval by AESRD to use the draft Golder Study documents

John Jensen stated that we do not need a moratorium we just need common sense. We have past evidence where flooding has occurred. We have people on staff that have expertise and common sense.

Ken Curley stated that he owns property in Coyote Creek and that the proposed moratorium scares people. He asked if there is the possibility of including a grandfather clause.

David Moore stated that the Coyote Creek Condo association is the one that approves this type of the development.

Council questions resulted in the following information:

- Park models are defined under the Land Use Bylaw

Ralph Gallup stated that Park Models have wheels just like an RV.

ADOPTED

Dave Lamb stated that you are only allowed to have an RV on an RV lot. The building of a berm does not change the floodway area. He feels that this is above and beyond what municipalities should be involved in. If we are waiting on the study then why not just wait until the study comes out before making any rash decisions.

Council questions resulted in the following information:

- RVs are only permitted on an RV lot
- The final document will be adopted by the Province after an open house and public consultation

Gerry Vida owns a manufactured home in Coyote Creek and is now limited to further development. Council should not bring in a moratorium for the Coyote Creek development.

Jerry Provencal stated that initially it was set in the Condo Association Bylaw that only seasonal residents were allowed. In consultation with their lawyer they amended their Condo Association Bylaws about three years ago as it is unconstitutional to restrict where a person lives.

Bruce Johnson stated that the Planning Department no longer approves park models but approves modular homes.

Jim Kryway believes that the people support the County to lobby the Provincial Government to step up and be responsible.

Recess and Reconvene

Reeve Beattie recessed the meeting at 12:49 p.m. and reconvened at 1:30 p.m.

Reeve Beattie asked if there were any comments from the gallery.

Robin Tudor was advised that the 2013 Flood was rated as a 1 in 100 year event.

Myron Thompson discussed the 1976 process for building the Dickson Dam and stated that back then the Province did not undertake erosion control. He requested that Council hold the Province accountable for being responsible to protect the entire area.

Liz Negropontes stated that her biggest concern is the lack of flood mitigation. The Province needs to stop clear-cutting and control things that cause the floods. Council needs to lead the way and get the Province to be responsible.

The Planning and Development Department was provided the opportunity for closing remarks and declined.

Council questions resulted in the following information:

ADOPTED

- The Province uses a Flood Hazard Toolkit
- If a berm is constructed properties behind a berm are still in a floodway or flood fringe
- A berm may negatively impact the properties behind the berm by making the flood area larger

Bill Radway lives adjacent to the proposed berm and was advised that any decisions regarding the construction of a berm will be addressed at future meetings. He thinks that the moratorium area is too large.

Mari-lou Ziegenhagel was advised that if the Golder study is adopted someone located outside of the area would not likely be required to undertake further studies.

Reeve Beattie asked if there were any comments from the gallery or questions from Council.

Hearing no further comments Reeve Beattie closed the Public Hearing.

Moved by Councillor McKean

RC14-592 That Council give second reading to Bylaw No. LU 39/14 to amend the land Use Bylaw 01/14 for a Moratorium on Subdivision and Development in McDougal Flats.

The question on Motion #RC14-592 was not called.

Moved by Councillor Sayer

RC14-593 That Council amend Bylaw No. 39/14 so that the title and purpose reference: “..Redesignation, Subdivision and Development”.

Carried.

Moved by Councillor Kemmere

RC14-594 That Council amend Bylaw No. 39/14 to include only lands flooded during the June 2013 flood event.

The question on Motion #RC14-594 was not called.

Moved by Reeve Beattie

RC14-595 That Council defer Bylaw No. LU 39/14 to November 12, 2014 at or after 9:00 a.m.

Carried.

ADOPTED

ADJOURNMENT

Reeve Beattie adjourned the Regular Council Meeting of October 9, 2014 at 2:09 p.m.

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Chair

I hereby certify these minutes are correct.

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Chief Administrative Officer