From:	Richard Bloom
To:	County Commissioners; Steve Weichman
Cc:	Erin Weisman; Tyler Sinclair - Teton County; Keith Gingery; Sherry Daigle
Subject:	Steelhead - David Quinn challenge in the Ninth District Court
Date:	Thursday, October 06, 2016 11:31:10 AM

October 6, 2016

Dear Teton County Board of Commissioners and Teton County & Prosecuting Attorney Steve Weichman,

As you know David Quinn (Steelhead Partners - represented by attorney Matthew Kim-Miller) after failing with the Teton County Commissioners on his various baseless appeals - has now moved on in an attempt to seek unwarranted relief through the Wyoming Ninth District Court (honorable Judge Tim Day). Their basis for appeal to the District Court seems very weak - yet extremely dangerous - in my opinion as a layperson.

I have followed this case since the middle of January, meet with both David Quinn and Matthew Kim-Miller (in January) and have read every legal brief and order – as well as have either attended or listened into the entirety of each and every hearing.

To start Mr. Weichman and Commissioners – you all should be proud of the incredible diligence, legal capabilities, integrity and work ethic Deputy Attorney Erin Weisman has exhibited throughout the entirety of these never ending legal maneuvers by Steelhead Partners (who we now understand is in fact solely David Quinn).

In addition County Planning Director Tyler Sinclair and his staff have done impeccable and unchallengeable work beginning with the pre-application conference in early January where David Quinn brought along legal council Mathew Kim-Miller to this, and subsequent, pre-application meetings (Environmental Assessment pre-application conference). The work product delivered in both the two pre-application summaries - as well as the determination by the Planning Director to deny the unwarranted environmental assessment (EA) exemption request on January 27 - were done with diligence, careful review and their legal basis can not in all reality be questioned. Yet we have seen a continual series of legal maneuvers by David Quinn ever since that January 27th decision.

From my experience the true intent (as Steelhead themselves call out in their various legal briefs and oral arguments) of all of these appeals - and now the most recent challenge in the Ninth District Court - is a thinly veiled effort to attack, undermine and unwind key portions of our 2012 Jackson/Teton County Comprehensive Plan, our Land Development Regulations (LDRs) and our wildlife & natural resource protection regulations.

I know that is blunt and to the point - but I do not come to that conclusion without good reason.

So I have a few suggestions and requests for your consideration:

First: I would ask the Teton County attorney's office to assign the appropriate priority and staff resources to forcefully defend the Teton Board of County Commissioners - and by default our community's LDRs and 2012 Jackson/Teton County Comprehensive Plan.

I am sure Mr. Weichman has already considered this but wanted to put this point forward in writing.

Despite the unquestioned exemplary legal capacity of Deputy Attorney Erin Weisman – I would hope given all that is at risk in the outcome of the forthcoming Court decision/decisions - especially from the Wyoming Supreme Court – that Mr. Weichman you will carefully consider whether additional outside legal counsel is warranted to augment your staff's time and capabilities.

That in no way means that I question the capability of either Erin Weisman or Keith Gingery – quite the opposite. I simply note that with the influx of so many new appeals and the normal demands on your department – that outside council could in fact be helpful to the County in putting forward the best defense of our planning process, our County Commissioners decision made on August 29 – and most importantly defending our Land Development

Regulations, their environmental safeguards as well as the 2012 Jackson/Teton County Comprehensive Plan.

Second: For the Teton Board of County Commissioners I am merely day lighting an issue of a possible special budget request that could come forward from the attorney's office which I bought to your attention in verbal comment late February of last year. I trust you will give any budget request due consideration if Mr. Weichman finds such a request serves the County's best interests.

In sum Mr. Weichman and Commissioners please do what ever is needed in order to successfully persevere with both the Wyoming Ninth District Court but more importantly with the Wyoming Supreme Court - by considering an out-of-budget request for additional legal resources to augment Erin Weisman's incredible work to date.

Simply this very intentional test case to the Wyoming courts is too important to lose because of already stretched County legal staff resources.

Third: I would ask that the County Commissioners hold firm and demand that David Quinn - Steelhead Partners reimburses the taxpayers - as prescribed by the LDRs - for the costs of hearing officer Joe Moore's legal fees totaling some $25,000. In the signed stipulated agreement Steelhead agreed to the reimbursement. Now with the knowledge that the County has been inconsistent with enforcing that aspect of the LDRs – Matthew walked backed his commitment on Tuesday. I find that both unfortunate – and I must say also quite incredulous.

Given the weak basis for these series of appeals, the tremendous costs of County staff time involved (both attorney and planning offices - plus the Commissioners themselves) – and the community interest and angst triggered by all of this – you should carefully consider whether now is a time to begin enforcing the LDRs that require someone who appeals – and loses that appeal – to at a minimum reimburse the cost of the outside hearing officer.

This is a policy discussion that will be based on what staff will bring in with better historical information – but please just consider the message you will send with your decision to the next developer and lawyer (or neighbors to proposed project) who want to clog up the planning process with what in this case were baseless appeals.

In closing the most recent challenge of the Teton County Commissioners correct dismissal of the three Steelhead appeals to the Wyoming Ninth District Court is a blatant attempt to change the intent and direct language in the unanimously approved 2012 Jackson/Teton County Comprehensive Plan affirming South Park (central) as an area designated for Rural Preservation - not growth.

David Quinn wishes to create tremendous density out of thin air and move it to an area the community has targeted for Rural Preservation - not growth - all without first having to produce the required environmental assessment.

David Quinn has also made clear that he wishes to unwind and diminish our wildlife and natural resource protections codified into our LDRs (by going after the Environmental Assessment process).

Erin Weisman said it better then I in her statements below from her final reply brief on the three dismissed appeals:

> *"What the Contestant disputes is being held to the LDRs, and especially the April 1, 2016, version of the amended, rural LDRs, which it seeks to avoid in this onslaught of early, impulsive appeals as a mechanism of gamesmanship and delay.*
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> *The Contestant's wish to disregard and appeal the pre-application conference summaries, simply because the summaries reiterate that the proposed project does not meet the tenets of the Jackson/Teton County Comprehensive Plan. The Neilson/Lucas project Contestant proposes in Central South Park is presently categorized as Area 10-2, which is an area intended and directed for Preservation, not growth. (See Jackson/Teton County Comprehensive Plan, District 10: South Park, p. IV-73).*
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> *Contestant desires to not only play by its own rules, but also aims to make its own rules, thereby avoiding the LDRs, which have been adopted by the Board of County Commissioners, and equally apply to all property owners and developers in Teton County."*

I unequivocally feel what is at risk now with this most recent action of suing the Teton County Commissioners in the Wyoming Ninth District Court - and eventually the Wyoming Supreme Court (that assumes Judge Tim Day will likely uphold the Commissioners' ruling) - has implications valley-wide - not just for South Park.

This is a very big deal.

Thanks for listening.

Respectfully,

Rich Bloom