



MINUTES
REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION

Date: Wednesday, March 4, 2015
Time: 6:30 PM
Place: #2 CV Drive, Castle Valley Community Center

Present: Jocelyn Buck, Mary Beth Fitzburgh, Jen Goff, Marie Hawkins, Bill Rau
Others Present: Jack Campbell
Clerk/Recorder: Faylene Roth

Deleted: ¶

1. CALL TO ORDER.

Rau called the Regular Meeting of the Planning and Land Use Commission (PLUC) to Order at 6:34 P.M.

Open Public Comment - None.

2. Approval of Minutes.

Regular Meeting of February 4, 2015.

Fitzburgh moved to approve the Minutes of February 4, 2015, as presented. Goff seconded the Motion. Buck, Fitzburgh, Goff, and Rau approved the Motion. Hawkins abstained. The Motion passed with four in favor and one abstention.

3. Reports.

Correspondence. – None.

Town Council Meeting – Vice-Chair.

Fitzburgh reported that John Groo, Water Agent, expects the Watershed Study should be completed within one year, rather than two years. Since the Town decided to fund the Study with its Capital Funds rather than the tax increase, it is not under any financial constraints to extend the expense over a two-year period. Fitzburgh said that the Town is considering the purchase of audio-visual equipment that would be available for presentations to the Council or PLUC, as well as library programs and community use. Roth said that the Town is preparing a grant application and seeking donations to help fund the purchase.

Fitzburgh reported that the Town Council approved the changes recommended by the PLUC to Ordinance 85-3 regarding conditional use permits and changes to the appeal authority structure as outlined in Ordinances 85-3 and 2006-3. She said that the Town has talked with Zacharia Levine about serving as the Town's appeal authority. Since Levine is a Grand County employee, the Town is checking to ensure there would be no conflict involving his taking action for or against the Grand County Building Department. Fitzburgh said that there is likely to be no conflict since appeals would be against actions taken by the Castle Valley Permit Agent, not the County Building Department.

Fitzburgh also reported that the Town has sent a letter to the Grand County Council to support the inclusion of watershed protection in the County's recommendations to the Bishop Public Lands Initiative. She said that Elizabeth Tubbs, the County Council representative for Castle Valley was also present at the Town Council Meeting and provided a lengthy discussion of issues currently under consideration by the Grand County Council.

Hazard Mitigation Committee – Rau

Rau reported that the Hazard Mitigation Committee now has an extremely rough draft of their eventual report. He said there is not yet enough detail to indicate whether the report will

impact any existing ordinances. Possible areas of concern that might need to be addressed by the PLUC would be related to sanitation, water quality, and sources of water contamination.

Permit Agent.

Roth submitted a Building Permit Report for February 2015 which included two building permits and one Certificate of Land Use Compliance.

Procedural Matters.

Roth included a copy of Utah Code Title 10 Chapter 9a Part 1 Section 102 for PLUC members to retain in their binders. This section describes what is a land-use issue according to Utah State Law. Fitzburgh said that, according to Meg Ryan of Utah League of Cities and Towns, there is some ambiguity around what is a land-use ordinance and what is not. According to Fitzburgh, ordinances considered to be land-use ordinances in Castle Valley are Ordinance 85-3 but also include ordinances addressing fencing, lighting, driveway culverts, electric utility installation, and adherence to the International Building Code. Ordinances 2006-3 and 95-6 address the Town's establishment of a Planning and Land Use Commission and its structure and procedures along with building permit regulations. The Town also has one resolution that requires the PLUC to approve building permits for structures to be used as part of a conditional use permit. Fitzburgh said that according to Ryan, animal control, nuisance, and enforcement ordinances are not considered land-use ordinances; livestock regulations are considered a land-use and are addressed in Ordinance 85-3.

NEW BUSINESS

4. Discussion and possible action re: amending the Town of Castle Valley Ordinance 92-1 Electric Utility Installation Requirements to allow for the Town to move a power pole out of an emergency access easement.

Rau reported that Mayor Erley had submitted this Ordinance for the PLUC to review. He said that Erley was waiting for legal counsel to comment on the Ordinance, but nothing is yet available.

Fitzburgh provided some background information. She said there is a spot on the Shafer emergency access road that needs to be widened at a point that will leave a power pole in the middle of the road. The Town would like to move the pole to prevent a traffic hazard. According to Fitzburgh, the Town is concerned that Ordinance 92-1 might limit the Town's ability to move the pole without putting the line underground, which would be cost prohibitive. It may be necessary for the PLUC to revise the Ordinance to allow the Town to move a power pole within the road easement without putting the line underground if it needs to be moved for a reason such as, flooding, erosion, etc., or for safety reasons as in this particular instance.

PLUC Members discussed whether the requirements in Section 2.0 for underground installations would apply to the situation on Shafer since it is not requiring new electrical service or replacing power lines at the "end of their service lives..." Another approach discussed was to add an item "c" to Section 3.3 which would allow the Planning Commission and the Town Council to approve aboveground placement and relocation of power poles within its road easement under certain types of circumstances.

Campbell, who was instrumental in writing the original Ordinance 92-1, said that the intention of the Ordinance was to prevent extensions of new service aboveground. In his opinion, since this pole is not in the primary distribution system and it is moving an existing pole—not adding a new pole or replacing a pole at the end of its service life—it was not the intention of the Ordinance to prevent necessary movement of a pole, especially if it was not violating Section 2.3 which was intended to protect property owners who may have built so that they couldn't see a pole.

Buck said that the pole may have to be moved as much as 10-15 feet which could require additional structural support. Campbell commented that the current Ordinance was written with a lot of verbiage which the PLUC might want to simplify at some point.

UNFINISHED BUSINESS

5. Discussion re: issues surrounding the use of drones within the Town boundary.

Rau reviewed his concerns about commercial and recreational use of drones within the Town. He questioned whether the Town should take a proactive approach or wait until a situation arises. According to Rau, the Federal Aviation Administration is currently considering regulations related to commercial use of drones, but he noted that the commercial sector (Amazon, for one) is pushing back. Rau referred to Buck’s reference at the last PLUC Meeting about the real estate industry’s use of drones as another potential commercial application that might affect Castle Valley. He noted that there are guidelines—but not regulations—that apply to recreational use of drones, such as keeping the object within the visual line of sight of the pilot and below 400 feet elevation. There was general discussion regarding invasion of personal privacy and approaches to regulating drones either through the nuisance ordinance, the prohibition of commercial activity, the establishment of permitting requirements for filming, and/or the current aircraft ordinance since drones are classified as aircraft.

Fitzburgh said she would talk with Town Clerk Fuller to clarify conflicting reports that Fuller had relayed regarding Attorney David Church’s comments on the use of Castle Valley’s ordinance against commercial activity as a means to prohibit drone filming within the Town boundary and the reply that Fuller had sent to the film company that had requested permission to film with a drone.

Campbell suggested finding out how other towns are regulating the use of drones. Rau reminded members that Utah has addressed the use of drones by law enforcement and other state government agencies. State law prohibits the use of surveillance without a warrant; although, it does allow law enforcement to use information obtained from personal use of drones if it appears that a crime might be involved. Fitzburgh noted that there is a federal law that prohibits anyone from taking pictures of agricultural livestock.

Fitzburgh moved to table Item 5. Goff seconded the Motion. Buck, Fitzburgh, Goff, Hawkins, and Rau approved the Motion. The Motion passed unanimously.

6. Discussion and possible action re: regulations for solar panels, windmills, and other alternative energy structures (tabled).

Left tabled.

7. Closed Meeting (if needed).

None.

ADJOURNMENT

Fitzburgh moved to adjourn. Buck seconded the Motion. Buck, Fitzburgh, Goff, Hawkins, and Rau approved the Motion. The Motion passed unanimously.

Rau adjourned the Meeting at 7:15 P.M.

APPROVED:

ATTESTED:

Bill Rau, Chairperson

Date

Faylene Roth, PLUC Clerk

Date