

MINUTES
PUBLIC HEARINGS ON
AMENDMENTS TO ORDINANCE 95-6 AMENDED, AN ORDINANCE OF THE TOWN OF CASTLE VALLEY REGARDING THE BUILDING PERMIT PROCESS AND APPROVAL OF A FORM ACKNOWLEDGING CASTLE VALLEY'S PROHIBITION OF SHORT TERM RENTALS
and
AMENDMENTS TO ORDINANCE 85-3 RELATED TO LARGE-SCALE BEEKEEPING OPERATIONS, CONDITIONAL USES, PERMITTED LIVESTOCK REQUIREMENTS, SETBACK REQUIREMENTS FOR WELLS AND SEPTIC SYSTEMS, AND DEFINITIONS.
and the
REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION

Date: Wednesday, June 4, 2014

Time: 6:30 PM

Place: #2 CV Drive, Castle Valley Community Center

Present: Laura Cameron, Mary Beth Fitzburgh, Jen Goff, Marie Hawkins, Bill Rau

Absent: None

Others Present: Jocelyn Buck, Jazmine Duncan, Deb Holling, George Holling (HF Holdings) Sally Rains

Clerk/Recorder: Faylene Roth

PUBLIC HEARINGS

Cameron called the Public Hearings to order at 6:39 P.M.

1. Amendments to Ordinance 95-6 Amended, an Ordinance of the Town of Castle Valley Regarding the Building Permit Process and approval of a form acknowledging Castle Valley's prohibition of short term rentals.

Rains asked for clarification of what was changed in the Ordinance. Fitzburgh explained that the cross-outs represent what was deleted and underlined sections represent what was added.

Buck asked if the short-term rental prohibition form would be part of the building information packet. Cameron responded yes and said that designations of land use authority were also added to the Ordinance, as well as a new Road Encroachment form. Cameron noted that wording in the Ordinance was changed to allow for a reasonable period of time to consider an application for a building permit in accordance with state law. The current Ordinance designates a period of 10 days. State law allows a "reasonable period of time."

2. Amendments to Ordinance 85-3 related to large-scale beekeeping operations, conditional uses, permitted livestock requirements, setback requirements for wells and septic systems, and definitions.

G. Holling spoke on behalf of HF Holdings, Castle Valley property owner. He said that Castle Valley setbacks for septic systems were more stringent than Grand County's setbacks. He said that some property owners had used the County setbacks in planning for future development on their lots. He said that the current setbacks would interfere with original plans made for future relocation of septic systems as required by the County.

Duncan asked about the minimum distance of 100 feet between wells and septic systems defined in Sections 5.2.C and 5.2.D and asked why septic systems and wells on the same lot were not included. Fitzburgh explained that some septic systems had been put in at less than 50 feet from the property line. New septic systems must then be at least 100 feet from any existing septic system. Duncan thought the minimum 100 feet should also apply to septic systems and wells on the same lot.

Holling said that their plans for a place to replace their septic—as required, he said, after 20 years of use—would not work under this Ordinance. He said it seemed that PLUC Members did not care if property owners were injured by this amendment. Fitzburgh explained that the current setbacks are not being changed. She also noted that these

setbacks are not unique to Castle Valley. She said that changes in this section are intended to clarify the minimum distances.

Holling objected to the prohibition of migratory beekeeping operations in 4.4.C. He said that would prevent property owners from bringing in bees for pollination of their orchards. Both Duncan and Goff expressed their belief that the number of hives in Castle Valley is sufficient for the pollination needs within the Valley. Holling disagreed, saying that he has yet to see bees on his property. He said, also, that disease could enter the bee community when new hives are purchased.

Cameron said the limit was only on commercial beekeeping operations and to limit the number of local hives to 30 per lot. According to Goff, migratory hives are transported all over the country and can carry disease from one area to another. She agreed that a purchase of permanent beehives could also bring disease into an area; but, she felt that the local bee communities in Castle Valley and Moab actively monitor their hives and have access to a local bee inspector who serves these communities in a voluntary capacity. Goff reiterated that the goal of this amendment was to try to limit the spread of disease to local hives. Both Cameron and Goff reported that small towns—Telluride as a nearby example—are currently addressing this issue through their ordinances.

Holling asked if there had been problems here. Goff said no. She reported that the Highway 191 corridor is currently one of the few places in the country where there is no transport of migratory beehives. She said that recently, however, a large-scale bee operator had inquired about moving his operation to this area. Concerns that the operation would involve migratory bees at some time in the future prompted the amendments to this Ordinance.

Holling asked that the second paragraph of Section 4.9 be deleted. He said that the requirement that livestock be located on lots contiguous to the property owner's lot is arbitrary and limits the rights of non-resident property owners. He said that allowing five cows each on 20 contiguous lots, but not on noncontiguous lots would not stand up in Court. He stated that he was willing to test it, if necessary. Cameron explained that the amendment was written to prevent large numbers of animals in a small place. She said the Town wants to encourage sustainability while also maintaining the quality of life on neighboring lots. Fitzburgh stated that it was unlikely that anyone would buy 20 contiguous lots. She said that the amendments were intended to close loopholes in the current Ordinance that would allow livestock to be kept on lots where no one lived.

Holling said that people with noncontiguous lots and without homes on their lots were being treated unfairly compared to other property owners. He asked why he should not be able to buy a lot down the road where he could plant feed for his horses to graze. Fitzburgh made a comparison to how Castle Valley manages home businesses. She said that the Town does not allow purely commercial lots. The business owner must live on the lot. She said that Castle Valley is not a purely agricultural zone; it is both agricultural and residential.

Hawkins referred to the smells, flies, and noises associated with livestock. She said that the Survey results showed that people favored the least amount of nuisance in their surroundings. She also observed that the impact of a lot covered with an orchard was not equivalent to the impact of a lot holding 5 cows. She also said it did not seem cost effective to raise cattle commercially on Castle Valley lots. Holling said that it would be cheaper to move cows to a lot for feeding than it would be to mow and move the feed to the owner's lot.

Fitzburgh explained that the intention of the amendments is to limit the overall number of livestock in the Valley. She said the amendments eliminate a loophole that would allow livestock to be kept on lots where they are untended and the owners were not aware of the impacts of the animals on nearby residents. Cameron said she was not comfortable with the idea that animals would be put on an unsupervised lot. If something were to happen, she said, the neighbors would be left to deal with it. Holling asked if such a situation had ever been a problem. Cameron responded that complaints have been made regarding the smell from livestock. Since, he said, this is an agricultural area, Holling likened the situation to buying a home near an airport then complaining about the noise.

Cameron announced that the PLUC would be voting on approval of these amendments at tonight's Meeting. Their recommendation will be transferred to the Town Council to consider at their June 2014 Meeting. She said that everyone present was invited to attend the Town Council Meeting to make further comments.

Buck asked if the amendments would preclude her from having animals on her lot and arranging to have someone feed them if she were away for a period of time. Both Cameron and Fitzburgh said it would be okay because she had her primary residence here. Holling presented a scenario where someone lived six months in Castle Valley and six months in Salt Lake City. He said if the primary residence was in Castle Valley, they could have livestock on their property; whereas, if the primary residence was in Salt Lake City, they could not.

Duncan asked about the intent of the amendment to 4.7.4(c) which makes conditional use permits contingent on there being sufficient utility and infrastructure capacity within and adjoining the site. She asked whether a specific number or capacity had been set. Fitzburgh replied that this requirement was recommended by Utah League of Cities and Towns for inclusion in local ordinances for conditional use permits. Duncan asked if property owners would be allowed to pay to increase the infrastructure if necessary. Fitzburgh said they could. She said the intent is to prevent a conditional use from drawing too much electricity and negatively affecting another's utility supply. Hawkins said that decisions would be made on a case by case basis. They would consult with local utilities, as needed, for information about sufficient infrastructure. Rau reported that he had initially been concerned about lack of a fixed number capacity for this amendment; however, he realizes that as technology changes, it may be difficult to define specific capacity at this time.

3. Adjournment.

Fitzburgh moved to adjourn the Public Hearing. Rau seconded the Motion. Cameron, Fitzburgh, Goff, Hawkins, and Rau approved the Motion.

REGULAR MEETING

1. CALL TO ORDER at 7:20 P.M.

Open Public Comment.

None.

2. APPROVAL OF MINUTES

Regular Meeting May 7, 2014.

Hawkins moved to approve the Minutes of May 7, 2014, as presented. Goff seconded the Motion. Cameron, Goff, Hawkins, and Rau approved the Motion. Fitzburgh abstained. The Motion passed with four in favor and one abstaining.

3. REPORTS

Correspondence.

Fitzburgh read an email from Pam Hackley expressing her support of the amendment to prohibit migratory bee operations.

Town Council Meeting – Chair.

Cameron reported that the Town Council passed the amendments to the Culvert Ordinance at their last Meeting which would make installation of culverts the responsibility of the property owner.

Hazard Mitigation Committee – Rau.

Rau reported that the last meeting of the Hazard Mitigation Committee was primarily devoted to reviewing various drainages within Town boundaries and deciding which would require regular maintenance.

Permit Agent.

Roth submitted a Building Permit activity report for May 2014 which included one Certificate of Occupancy, two building permits, one Certificate of Land Use Compliance for an agricultural building, one electrical permit and one septic permit.

Roth also reported that Lot 280 had received its Certificate of Occupancy from the Grand County Building Department. She will contact the lot owners within the next few days to schedule a CO inspection for Castle Valley and to determine the status of decommissioning the prior dwelling.

Procedural Matters.

None

NEW BUSINESS

4. Discussion of the Annual Open and Public Meetings Act Training on June 19, 2014.

Cameron informed PLUC Members of the OPM Training to be held June 19, 2014. She encouraged new PLUC Members to attend.

UNFINISHED BUSINESS

5. Discussion and possible action re: amendments to Ordinance 85-3 related to large-scale beekeeping operations, conditional uses, permitted livestock requirements, setback requirements for wells and septic systems, and definitions.

Cameron said that the PLUC has spent quite a few Meetings reviewing the proposed amendments to Ordinance 85-3. She said that she personally favors the amendments. Fitzburgh proposed deleting the statement “on a neighboring lot or parcel” from Items 5.2.C and 5.2.D as suggested by Duncan. She asked Rau about his concern that Item 4.8.3(15) did not allow for community concerns regarding magnetic and electrical interference that could result from a future cell phone tower in the Valley. Rau replied that he had learned that cell phone towers cannot be placed on residential lots; but, he thought that any future placement of a cell phone tower should be presented to the public for discussion.

Fitzburgh referred to a statement from the Minutes of the May 7, 2014, PLUC Meeting which stated that the number of children in a day-care nursery might be self-limiting because of the restriction in the General Operating Requirements for Conditional Use Permits of the number of vehicles allowed on a lot per day. She said that she did not know whether botanical gardens and day-care center (nonpermanent conditional uses allowed in Item 4.5) are required to adhere to the General Operating Requirements for home and premises occupations, such as the restriction on number of vehicles allowed on the lot. Fitzburgh suggested that they determine this for future discussion.

Rau asked whether the proposed prohibition of migratory beekeeping operations in Item 4.4.C would allow migratory bees to come into the Valley for temporary purposes. PLUC Members agreed to add the phrase “either permanent or temporary” so that the statement reads: ...and migratory beekeeping operations of any size, either permanent or temporary, are prohibited.

Fitzburgh acknowledged the challenge to find the right wording to address the livestock and caretaker issue. Goff commented on the need to look for a balance between residential and agricultural concerns. She said she tries to be appropriate, clean, and respectful in her agricultural activities and to look for a balance between the residential and agricultural nature of the Valley.

Goff expressed her concern that the amendments would conflict with the agricultural efforts of those in the Valley raising livestock with sustainability in mind and in a way that minimizes impact on their neighbors. She asked whether the goal of the amendments was to ensure that someone was supervising the livestock. Fitzburgh replied that the requirement that livestock be on the owner’s or caretaker’s primary lot or contiguous lot puts the

responsibility on them to maintain proper conditions. Goff said that she did support the allowance to temporarily graze your animals on another lot.

Duncan asked why the Town's Nuisance Ordinance wouldn't be used to handle complaints about livestock without the need for the additional language in paragraph 2. Cameron replied that the Town requires someone to make a formal complaint and some property owners have said they are afraid to do so. Fitzburgh said she thought that a specific ordinance provided better enforcement than waiting for complaints. Goff asked about a specific procedure to handle nuisances resulting from livestock. Fitzburgh said that the Town's provision for a Complaint Resolution Board provides the necessary process. Hawkins noted that the recent General Plan Survey revealed that property owners have not always found the Complaint Resolution Process satisfactory, although it was noted that it has not been used very often. Hawkins agreed that an ordinance provided stronger enforcement; "an ounce of prevention," she said, "is better than a pound of cure."

Rau observed that livestock nuisances are defined in paragraph 3 of Section 4.9. PLUC Members were not sure how the Nuisance Ordinance defines a nuisance. Holling noted that enforcement can be selective. Duncan said that she thought paragraph 3 clearly defines how livestock should be maintained and should take care of the issue without the proposed change. Fitzburgh stated that the goal of the amendment was to limit the impact of livestock on neighbors. She said she was comfortable with the wording.

Fitzburgh moved to approve the Draft Amendments dated May 7, 2014, to Ordinance 85-3 as amended tonight—with additions to 4.4.C and deletions in 5.2.C and 5.2.D. Rau seconded the Motion. Cameron, Fitzburgh, Hawkins, and Rau approved the Motion. Goff voted nay. The Motion passed with four in favor and one dissenting.

6. Discussion and possible action re: amendments to Ordinance 95-6 Amended, An Ordinance of The Town of Castle Valley Regarding the Building Permit Process and approval of a form acknowledging Castle Valley's prohibition of short term rentals.

Cameron presented the amendments to Ordinance 95-6 Amended and asked for comments from the PLUC. None were presented.

Fitzburgh moved to approve the amendments in the draft from May 7, 2014, to Ordinance 95-6 Amended. Hawkins seconded the Motion. Cameron, Fitzburgh, Goff, Hawkins, and Rau approved the Motion. The Motion passed unanimously.

7. Discussion re: flood damage prevention sample ordinance from John Crofts, Utah FEMA National Flood Insurance Coordinator (tabled).

Fitzburgh moved to untable Item 7. Rau seconded the Motion. Cameron, Fitzburgh, Goff, Hawkins, and Rau approved the Motion. The Motion passed unanimously.

Cameron presented copies of recent communication between the PLUC and the Hazard Mitigation Committee. The most recent thread—Cameron said—began with an email from Duncan saying that John Crofts, Utah representative for the Federal Emergency Management Administration, would like to see our community participate in FEMA's flood protection plan. Cameron said she responded by email with her own concerns about the Town's involvement in the program. She asked Duncan about the benefit to the Town. Would a flood ordinance allow Castle Valley to get funding if a disaster did occur? Duncan said the reason for the ordinance would be to allow property owners to purchase flood insurance. Cameron noted that she had quoted insurance coverage in her email which she didn't realize—at the time—was from a private company. Duncan said the insurance companies don't have to accept an applicant for flood insurance. Fitzburgh asked if residents would be able to purchase insurance if the ordinance were adopted. Duncan said yes. Cameron reported that she had called the Utah Insurance Trust but never heard back from them.

Rau said that he had reviewed a 2009 report—from either Grand County or FEMA—which stated that Castle Valley was not flood-prone. Fitzburgh said that the Pinhook flood occurred in 2008, but the report referred to by Rau may not have considered it.

Fitzburgh suggested gathering questions to submit to Attorney Jonathan Clyde. Some questions posed were: would Crofts suggestion that a disclaimer would exempt the Town from enforcing the ordinance be legal; what section of the Level A Ordinance would apply to Castle Valley; would the Town be required to enforce the Ordinance if it lost its Level A standing; is the Town required to progress to Level B; would building permits have to change to meet restrictions in the ordinance.

Cameron expressed discomfort about our small community making this commitment. She acknowledged, however, that Grand County—which has chosen not to participate in the FEMA flood program—has more funds available to deal with emergency situations such as a culvert replacement. Both she and Goff wondered whether anyone who had a mortgage would be required to purchase the insurance if the ordinance were passed. Hawkins expressed her discomfort with an ordinance that doesn't need to be enforced.

Fitzburgh will compile one list of questions for Jonathan Clyde and one for an insurance agent. She will send the lists to PLUC Members for further suggestions. Duncan agreed to submit the questions for an insurance agent to a local insurance company that has agreed to review them.

Goff moved to retable Item 7. Hawkins seconded the Motion. Cameron, Fitzburgh, Goff, Hawkins, and Rau approved the Motion. The Motion passed unanimously.

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

Left tabled.

9. Discussion and possible action re: reviewing and amending Ordinance 96-1: Watershed Ordinance (tabled).

Left tabled.

10. Closed Meeting (if needed).

None.

ADJOURNMENT

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

Cameron adjourned the Meeting at 8:24 P.M.

APPROVED:

ATTESTED:

Laura Cameron, Chairperson **Date**

Alison Fuller, Town Clerk **Date**