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**MINUTES**  
**REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION**

Date: Wednesday, July 2, 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: None

Clerk/Recorder: Faylene Roth

**REGULAR MEETING**

1. CALL TO ORDER: Cameron called the Meeting to Order at 6:38 P.M.

Open Public Comment.

None.

2. APPROVAL OF MINUTES

Regular Meeting June 4, 2014.

Fitzburgh moved to approve the Minutes of June 4, 2014, as presented. Rau seconded the Motion. Cameron, Fitzburgh, Goff, Hawkins, and Rau approved the Motion. The Motion passed unanimously.

3. REPORTS

Correspondence.

Cameron made reference to a letter sent to Town Council Members from a local resident regarding the amendments to Ordinance 85-3 which the PLUC had moved to recommend to the Town Council at the last PLUC Meeting. She said that the letter will be considered at the Public Hearing to be held by the Town Council at its next Meeting. She reported that she had emailed the Town Council in response to the letter to express her opinion that the amendment to Ordinance 85-3 regarding prohibition of migratory bees within the Valley be approved. The other proposed amendments to Ordinance 85-3 could be sent back to the PLUC by the Town Council for further review. Fitzburgh noted that there had been a question as to whether the Castle Valley residents whose names were attached to the letter had been aware that their names were used.

Cameron also reported that Hawkins and Fitzburgh were both reappointed for four year terms to the PLUC by vote of the Town Council. Fitzburgh added that Jason Matz was named Road Manager and that Greg Halliday and Merrill Brady were appointed to the Roads Committee.

Fitzburgh reported that the Town Council approved the amendments to Ordinance 95-6 with the caveat that they would have an attorney look at the encroachment easement form. According to Fitzburgh, the Council also discussed the controversy surrounding changes in Ordinance 85-3 regarding management of livestock. She suggested that the paragraph added in Section 4.9 as paragraph 2 could be withheld and that the rest of the proposed amendments could be passed as is.

Fitzburgh said that if the Town Council were to redirect this discussion back to the PLUC, she would like to hire a land-use attorney, perhaps Craig Call, to advise them in formulating language that expresses the intent of the proposed amendment. She also said that she thought the PLUC will need to identify what low-impact agriculture looks like before proceeding with further changes to this section of the Ordinance.

Fitzburgh also reported that Dustin Grimm attended the Council Meeting. She said that the Council denied his request to modify his conditional use permit for his mobile auto repair business to include welding. According to Fitzburgh, Grimm said that he was moving to a different residence in Castle Valley, which means he will have to reapply for the conditional use permit he currently holds. She said that he is also interested in applying for a conditional use permit to operate a welding business on-site at the residence to which he is moving. Rau expressed his concern that Grimm's insurance policy still does not provide any coverage for damage to water quality or other damage for which the Town might be held liable. Roth added that Mayor Erley had offered to attend a meeting with Grimm and an insurance agent to see if there is a way to cover the Town's concerns.

#### Hazard Mitigation Committee – Rau

Rau reported that the HMC is continuing its process to identify levels of risk for fire-related hazards within the Valley. He has drafted a letter that addresses these fire hazards which would be mailed to all residents. Rau will ask Jazmine Duncan, HMC Chair, to send a copy of the draft to PLUC Members.

#### Permit Agent.

Roth submitted a report of building permit activity for the month of June which included septic and electrical permits for Lot 259B, a Certificate of Occupancy for Lot 280, and an electrical permit for Lot 332. Roth explained that she had discovered that Lot 259—a 10+ acre lot—had been split and recorded at the County Recorder's office as Lot 259A and Lot 259B. Fitzburgh said that lot splits are supposed to be approved by the PLUC. Roth did not know when the split had occurred but said that it was not recent. Cameron agreed that it had occurred some time ago. Roth also reported that she had talked with one of the owners of Lot 280 regarding their Decommissioning Contract to remove their pre-existing residence within 30 days of their

Certificate of Occupancy. The owner has said they are on schedule to have it removed. Roth said she plans to call them as their deadline approaches to confirm compliance with the Contract.

Roth also presented preliminary copies of the application from Dustin Grimm for moving his conditional use permit for Straight Edge Auto to 426 Amber Lane. Rau related his memory of the PLUC's initial discussion regarding concerns about contamination of the aquifer. He also noted a number of contradictions in the application. Fitzburgh offered to rewrite the conditions applied to his original conditional use permit to make the language and references cited in the original CUP consistent with the modifications suggested in this application.

#### Procedural Matters.

Cameron noted here that the letter referred to earlier regarding the proposed amendments to Ordinance 85-3 had been directed to the Town Council.

Roth asked PLUC Members whether they wanted to continue to offer an inactive status to conditional use permit holders upon renewal for 2015. After discussion, it was decided that the inactive option is not in contradiction with the Ordinance and would have no significant impact on the Town. They agreed to continue to offer the inactive option, which would allow the permit holder to retain the conditional use permit without acquiring a business license for the inactive year.

#### Open and Public Meetings Training.

Cameron reported that new bills issued by the Utah Legislature became effective May 13, 2014. She mentioned several new bills, some of which might impact the Town of Castle Valley, such as rules for districts with budgets less than \$250,000.00; the right to discuss purchases in Closed Meetings if they involve trade secrets; a pilot project to test same day voter registration; a requirement that County Recorders keep an index of water rights numbers that are included on documents being recorded; and new rulings on water issues involving irrigation, well drilling, and alteration of the course of natural streams (Senate Bill 17). Cameron also referenced several items of interest under study by the Legislature that involve elections, water allocation, and municipal water rights.

Roth reported that some localities were posting more and more of their public documents on line in order to reduce costs related to GRAMA requests. She also noted that the Town has to record in an annual State audit that it notifies its Council and Commission Members about the Open and Public Meetings Training and the number of those who attend. She relayed a suggestion from the moderator, LeGrand Bitters, that the Town post its public hearings in the local newspaper three weeks prior to the hearing and again the week prior to the hearing. This would allow the Town to correct any omission of the first announcement. Roth reported that the rules for calling an Emergency Meeting were that an attempt be made to reach all members, that a majority of members approve the Meeting, and that 24-hour notice be given to the Public. She also said that the retention schedule for audio recordings was changed from 12 months to 24 months, although Bitters thought it likely that the ruling would be switched back to 12 months.

## NEW BUSINESS

4. Discussion re: assessing the effectiveness of the Town's current appeal authority of a three member Board of Adjustments, consider alternate forms and determine the form that best meets the community's long-term need for a fair and effective appeal authority.

Cameron reported that Andrew Fitzgerald, Grand County Attorney, serves as legal resource for the Grand County Board of Adjustments and that Attorney Autumn Fitzgerald serves on the City of Moab's Board of Adjustment. Cameron said that she spoke with someone from Andrew Fitzgerald's office to inquire whether he might be able to serve as an appeal authority for Castle Valley, but her contact did not think it was a realistic option due to his current work load with the County. She did, however, say that several attorneys in Moab do have experience with land-use issues.

Other possible candidates mentioned during the discussion included a Moab attorney, Steve Russell, as well as unnamed local attorneys for the Southern Utah Wilderness Association. Non-attorneys suggested included Dean [Kirkland] of Castleton and Meg Ryan who works with Utah League of Cities and Towns, both of whom have planning experience. Rau also suggested considering professionals in Moab, perhaps someone with the university or from one of the local federal agency offices.

PLUC Members agreed that sentiment within the Town was that Members of the Board of Adjustments should not be neighbors of those whom they are deciding for or against. Several PLUC Members expressed the opinion that a person from the area would better know the community than someone from a more distant or urban area and some PLUC commissioners were not comfortable with the idea of just one person making the decision. Others said the need for someone with unbiased training was the most important factor. All agreed, however, that the BOA needed someone who understands land-use issues and can look at the issues in an objective, legal way.

Other issues discussed included the expense to the Town of using the services of an attorney, an experienced planner, or a professional as its appeal authority. It was noted that there is no residency requirement and that decisions can be transmitted through e-mail.

Fitzburgh asked whether the Town could share the BOA from another locality, such as Grand County, or select one person from their BOA to serve as Castle Valley's appeal authority. She suggested looking at the types of people serving as Appeal Authorities in other communities.

Before the next PLUC Meeting, Cameron will contact Steve Russell about his availability and costs. Fitzburgh will contact Meg Ryan; Rau will contact local SUWA attorneys and explore potential university candidates. Roth will get contact information for Dean [Kirkland] and transmit it to Cameron.

Fitzburgh moved to table Item 4. Hawkins seconded the Motion. Cameron, Fitzburgh, Goff, Hawkins, and Rau approved the Motion. The Motion passed unanimously.

## UNFINISHED BUSINESS

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

Fitzburgh moved to untable Item 5. Rau seconded the Motion. Cameron, Fitzburgh, Goff, Hawkins, and Rau approved the Motion. The Motion passed unanimously. PLUC Members reviewed and discussed the comments from Attorney Jonathan Clyde in response to questions presented to him concerning the FEMA Flood Insurance Ordinance.

Cameron expressed concern that adoption of the Ordinance might prevent someone from building on a lot that they've held for years. Fitzburgh suggested rewording the Ordinance to eliminate references to special flood hazard zones that have not been identified and to remove ambiguous language that states the Town's responsibilities. Hawkins cautioned that FEMA representative, John Crofts, had said they could not alter the Ordinance. Rau asked whether the Town might become aware of the location of flood hazards through the work of the Hazard Mitigation Committee. Fitzburgh responded that the Town also has hazard maps, but they do not provide the detail that a FEMA study would provide. Rau and others said they were struck by Clyde's comments of vague, equivocal, and confusing language, as well as onerous conditions and requirements, and lack of clarification in the Ordinance regarding the Town's responsibility. Cameron asked whether the community even wanted this Ordinance. Fitzburgh suggested sending a letter to property owners along with the fire hazard letter. It was also suggested that they upload the Ordinance or a synopsis of it to the Town website and request community input by email.

General discussion continued about expenses to the Town and the required insurance rates, how to determine what kind of insurance was needed without detailed maps, and whether the Town would be required to produce its own maps once the Ordinance was adopted. Cameron concluded by stating that she was not in favor of adopting this Ordinance. She did not think it realistic for the Town of Castle Valley. She did not see that there would be enough benefit to individual property owners or the Town to justify adopting the FEMA Flood Ordinance. Any financial aid that the Town might get from FEMA sometime down the road is also questionable and an unknown. She also noted that FEMA insurance rates continue to rise and that once you get the insurance you cannot drop it.

Fitzburgh moved to recommend to the Town Council that we do not adopt the sample Flood Ordinance as presented by John Crofts because of the issues raised by Attorney Jonathan Clyde regarding numerous ambiguities and Town liability and expenses to the Town and lack of information about how this would affect property owners and lack of understanding of whether property owners want this or not. Rau seconded the Motion. Cameron, 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. Discussion and possible action re: reviewing and amending Ordinance 96-1: Watershed Ordinance (tabled).

Left tabled.

8. Closed Meeting (if needed).

None.

**ADJOURNMENT**

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

Cameron adjourned the Meeting at 8:38 P.M.

**APPROVED:**

**ATTESTED:**

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**Laura Cameron, Chairperson**

**Date**

\_\_\_\_\_  
**Alison Fuller, Town Clerk**

**Date**

**APPROVED**