

MINUTES
REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION

Date: Wednesday, August 6, 2014

Time: 6:30 PM

Place: #2 CV Drive, Castle Valley Community Center

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

Absent: Marie Hawkins

Others Present: Jack Campbell

Clerk/Recorder: Faylene Roth

REGULAR MEETING

1. CALL TO ORDER

Cameron called the Meeting to Order at 6:34 P.M.

Open Public Comment.

Campbell stated that he had concerns about language used in the Castle Valley Zoning Ordinance that he thought had been carried forward from the original version without consideration of how Castle Valley had changed. He expressed concern that problems for the Town could arise in the future if the language were not corrected. He said he would like to comment more specifically when the land-use ordinance was discussed later in the Agenda.

2. APPROVAL OF MINUTES

Regular Meeting July 2, 2014.

Fitzburgh moved to approve the Minutes of July 2, 2014, as presented. Goff seconded the Motion. Cameron, Fitzburgh, Goff, and Rau approved the Motion. The Motion passed unanimously.

3. REPORTS

Correspondence.

None.

Town Council Meeting – Chair.

Cameron reported that the Town Council adopted parts of the proposed changes to Ordinance 85-3. Adopted changes included sections regarding beekeeping restrictions, septic setbacks, and road easements. The other proposed changes were not adopted.

Cameron also reported that the Council asked her to canvas PLUC Members for interest in representing the Town as part of the Castleland Resource Conservation and Development. She suggested that anyone who might be interested should explore the group's website. It shows that they deal with conservation, agriculture, water quality, and historical preservation issues. The group meets six times per year in Green River.

According to Cameron, the Council briefly discussed the FEMA flood insurance program but made no decision since only three Council Members were present. Cameron said that Council Member Duncan asked for clarification from the Town Attorney about whether the Town would have any liability if it did not adopt the ordinance.

Cameron announced that the Town Council will hold a Public Hearing followed by a Special Meeting on Tuesday, August 12, 2014, regarding the proposed budget and tax increase. A second Special Meeting will be held on Thursday, August 14, 2014, if needed. The regular monthly Town Council Meeting is scheduled for Wednesday, August 20, 2014.

Hazard Mitigation Committee – Rau

Nothing to report.

Permit Agent.

Roth presented the Building Permit Report for July 2014 which included two building permits and one solar permit. Cameron informed PLUC Members that she reviewed and signed the building permit issued to Roth. Roth also reported that the annual inspection of the Castle Valley Inn had been completed on Monday, August 4, 2014. It included a physical inspection of the premises by Roth, Mayor Dave Erley, and Fire Chief Ron Drake. Documents provided with the inspection included proof of good standing with the Utah Division of Corporations, written approval of the Southeastern Utah Health District Sanitarian, and verification of inspection of fire extinguishers by Rim to Rim Fire Safety. Fitzburgh inquired about the comment allowing the Inn to retain the light fixture on the lower bungalow which is shielded on the top but not the sides. She felt it was important to insure that the Lighting ordinance is enforced consistently. Roth replied that the inspection team considered that it was an old fixture and had been grandfathered in after the lighting ordinance passed. She noted that the fixture used a fluorescent bulb and that there were no residences on that side of the property that could be affected by the light. The inspection report requires that a compliant fixture be used when this one needs to be replaced or if a complaint is received before then.

Procedural Matters.

Cameron announced that she will not be present at the September 2014 Meeting. She said that Fitzburgh will chair that Meeting. She also noted that Rau will be absent from that Meeting.

NEW BUSINESS

4. Discussion and possible action re: non-routine CUP application by Dustin Grimm to move base location for Straight Edge Automotive from Lot 441 to Lot 426.

Cameron reported that Grimm was out of town and would not be present at tonight's Meeting. He also was not available for his 3rd quarter inspection which had been scheduled last Friday, August 1. Cameron noted that Grimm had informed Roth that he would be out of town. He plans to return to Castle Valley in the next few weeks. She suggested that they discuss the proposed conditions for his application which have been drafted by Fitzburgh. She observed that this application was more complete than the previous application received.

Fitzburgh suggested modifying condition #3 to align it with his proposal to use only spray cans for parts cleaner, WD-40, grease, and degreaser. She asked whether grease and degreaser come in spray cans and how much to allow. Campbell said that grease was like Vaseline and usually packaged in a tube and applied with a manual application gun. Campbell did not imagine that Grimm would be storing lots of this material.

Roth asked for clarification of proper containers and storage as described in condition #3. It was determined that the spray cans themselves would constitute approved storage.

Fitzburgh will add brake cleaner, grease, and degreaser to the allowed materials in #3.

Fitzburgh referred to the statement added in condition #7 at Rau's request that \$5 million in coverage be required to cover damages to the Town's ground water from pollution or to the Town's infrastructure from fire. PLUC Members discussed whether liability insurance, a trust, or a surety bond would best cover the Town's concerns. They decided to state that the applicant must secure coverage for corrective action in the case of damages from pollution or fire.

Cameron commented that since his business moved from place to place, it minimized the possibility of impact from his work that would affect the watershed. She observed that a shop restricted to one spot would present a greater hazard. She said she would like to see younger people coming into the community and being able to support themselves. Cameron said she thinks the quarterly inspections provide a good way to monitor the conditions of this business. Goff agreed with Cameron. She feels the imposed conditions avoid the major issues. She noted that insurance can be a problem for a beginning business and said that she is comfortable with the conditions.

Fitzburgh said she did not think the Town Council would ask for additional surety bond coverage. She said the original concerns with the Rhoads' request for a permanent shop stemmed from the larger quantities of hazardous materials that would be stored. She said she thinks those conditions may be "overkill" in this situation, although she noted that Grimm could be doing a lot more of this type of work than a homeowner would be doing.

Rau agreed that the Town did not need to require Grimm to take out personal liability insurance. He said that would be a decision between him and his clients. Rau's concern was that the Town be protected, so he supported asking for a surety bond. Fitzburgh suggested that they remove the requirement for personal liability insurance and ask for a \$5 million surety bond to cover damage to the watershed from leaks and migration and to the Town infrastructure from fire.

There was a discussion about what amount of coverage would be sufficient. Fitzburgh noted that if something did happen that contaminated the aquifer, it would be too expensive to fix. She noted that other applicants with potential fire hazards have not been asked to provide liability coverage.

Campbell said it was hard to envision large damages from the kind of work that Grimm wants to do. He supposed a gas tank could rupture, in which case a backhoe could be hired to remove the contaminated dirt.

Cameron summarized the decision to remove the personal liability requirement and add the requirement for a surety bond. Fitzburgh said she did not know whether a surety bond company would even accept this as a risk. Goff suggested that they ask Grimm to do the homework on finding out what kind of coverage was available.

Cameron asked Roth to draft a letter to Grimm stating that he cannot operate his business until a new permit is approved and to ask him to obtain information about surety bonds. Roth will inform Grimm that the requirement for personal liability insurance will be left up to him and let him know that he must meet all the approved conditions before commencing his business activity.

PLUC Members agreed to use language that would say the applicant agrees to purchase coverage that would pay for corrective action from accidental discharge, dispersal, seepage, migration, release or escape of pollutants or hazardous materials in association with this permit or damage to Town infrastructure from fire caused by work done by the applicant. Roth will include a copy of the revised conditions with the letter to Grimm.

Cameron asked whether the Town had guidelines governing the time period for response from an applicant for a permit. Fitzburgh said that Ordinance 95-6 follows state code in governing time frames for Town action but not for the applicant.

Fitzburgh asked Cameron and Rau—who will not be present at the September PLUC Meeting—whether they felt they could support the application with the proposed conditions. Cameron replied that she would support the application. Rau said he opposed it.

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

5. Discussion and possible action re: assess 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 she had a conversation with Jean Binyon, Board of Adjustment Member for Grand County, who declined the offer to serve as Castle Valley's single appeal authority. According to Cameron, Binyon consulted with Mary Hofhine, Community Development Coordinator for Grand County, about possible candidates for Castle Valley to consider. They suggested Richard Grice, currently residing in Telluride, CO, who served as a Grand County planner for 12 years and currently retains a second dwelling in San Juan County. During several conversations with Grice, he suggested several options: (1) he could serve as an advisor to a Board of Adjustments (BOA); (2) the Town Council could serve as the BOA; (3) he also suggested a different model for appeals in which certain types could be designated to go directly to judicial review. Cameron said that she explained to him that Castle Valley did not currently have a BOA and that the Town Council could not serve as the BOA because it is the land-use authority. Fitzburgh agreed with Cameron that the Council could not serve as the BOA and did not think that Grice's examples of the specific types of appeals that should go directly to judicial review were appropriate.

Rau reported that he had consulted with three possible candidates. Two declined; one did not respond.

Fitzburgh reported that she had received an email from Meg Ryan, Land Use Planning Consultant for Utah League of Cities and Towns. Ryan suggested contacting Moab Mayor Dave Sakrison, for suggestions of possible candidates. According to Fitzburgh, Ryan also suggested reasonable payment options. Ryan suggested a set fee over an hourly rate—around \$500.00 for variances and \$800.00-\$1000.00 for appeals. Fitzburgh acknowledged the difficulty in budgeting for this, since the need rarely occurs. Rau, too, suggested a set honorarium would be preferable than paying lawyer fees by the hour.

Fitzburgh cited the qualifications for an appeal authority listed in the Utah League of Cities and Towns Land-Use Training Handbook, page 61, to explain why she thinks a planner or an attorney are best qualified to serve as the appeal authority.

The possibility of considering Grice as a candidate was discussed and due to the problems related to his suggestions on how to structure the BOA, he was eliminated as a possible candidate. Fitzburgh said Craig Call, land-use attorney and the Founder and Executive Director of the Utah Land Use Institute, would be an excellent choice. Though, she said, she would like to retain the option of using Call as a land-use attorney for the Town, if needed, and thought that might not be possible if he were serving as the Town's appeal authority. She will, however, consult him for references.

Rau suggested that they ask the Town Council to look for potential candidates. Fitzburgh will email them with that request.

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

6. Discussion and possible action re: amendments to Ordinance 85-3 related to conditional uses, permitted livestock requirements, and definitions.

Cameron referred to the document that incorporates the changes adopted by the Town Council and retains the remaining proposed changes that had been submitted to the Town Council by the PLUC. Fitzburgh stated that she would like direction from the Town on what they did not like about the proposed amendments that they sent back to the PLUC for further consideration. She said she feels that the changes are in accordance with the General Plan.

Goff, who attended the recent Town Council Meeting, said the Council was concerned about finding language that would differentiate between foster family homes and foster group homes. Fitzburgh cited the ULCT Powers and Duties Handbook, pages 125-6, which explains the obligation to provide group homes for the elderly and disabled. Fitzburgh said these issues should be studied more fully at a later date. She said that the proposed change to delete "foster care homes" from the Conditional Uses in Section 4.5 is a separate issue and means that no conditional use permit would be required for a foster family home. Currently, she said, only single family homes are allowed with no more than four unrelated people. According to Fitzburgh, the list in this section refers to conditional uses that are permitted. She said that including foster care homes here could indicate that foster care group homes were allowed with a conditional use permit.

Cameron agreed with Fitzburgh that the proposed changes for conditional use permits were appropriate. However, she felt that the changes concerning permitted livestock should not be included at this time. Fitzburgh agreed that the paragraph about contiguous lots had become a contentious issue. She, too, thought further discussion should be postponed and that, now, they should just deal with the conditional use issues. Rau and Goff agreed. Cameron will let the Town Council know of this decision.

Campbell commented on the statement he made earlier during the Open Comments period of the Meeting. His concern, he said, was regarding the description of the Rural Agricultural Residential Zone (RAR-1) in Section 1.1 of Ordinance 85-3. According to Campbell, the RAR-1 zone is described as primarily agricultural land that is interspersed with residential structures. He thinks that Castle Valley is the direct opposite—mostly residential with occasional small agriculture permitted. He commented that the current Ordinance now allows animals on an industrial scale. He is concerned that the current number of animals will damage the watershed, not just from manure but from nitrate contamination due to high urine levels. He also expressed concern that different parts of the Ordinance oppose other parts, such as the intent to protect the local bee population and the lack of management of pesticide use that could destroy the bee population. Campbell also expressed concern about the language regarding

the Range and Grazing Zone (RG-15). Fitzburgh explained that the 15-acre minimum requirement for each septic tank system was to minimize the impact of any subdivision that might have been developed on SITLA land.

Cameron asked Campbell to write up these concerns and bring them back to the PLUC when these sections come up for discussion. Rau asked that Campbell submit his concerns now because the issues he raises are interconnected with everything they are discussing.

Fitzburgh stated that the General Plan provides the to-do list for the PLUC. She noted that some key issues—like livestock, watershed, pesticide use—need community input to get a sense of who we are as a community. She also thought professional help would be useful in determining how to develop the ordinances to address the goals set forth in the General Plan. Campbell observed that the difficulty of enforcement must also be addressed.

UNFINISHED BUSINESS

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

Left tabled.

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

Left tabled.

9. Closed Meeting (if needed).

None.

ADJOURNMENT

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

Cameron adjourned the Meeting at 9:02 P.M.

APPROVED:

ATTESTED:

Laura Cameron, Chairperson

Date

Alison Fuller, Town Clerk

Date