

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

Date: Wednesday, November 4, 2020

Time: 6:30 PM

Place: Conference Call

Electronic Meeting Determination

Consistent with provisions of the Utah Open and Public Meetings Act, Utah Code Ann. § 54-2-207(4), Bill Rau, Chairman of the Town of Castle Valley Planning and Land Use Commission issues this Determination supporting the decision to convene electronic meetings of the Planning and Land Use Commission via Conference Call without a physical anchor location. Due to the COVID-19 pandemic Meetings at the anchor site may present substantial risk to public health and safety. Taking into consideration public health orders limiting in-person gatherings, the average "at risk" age of Town residents and the limited space in the Town building, the Planning and Land Use Commission will continue to hold meetings by electronic means. This determination expires 30 days after the day on which the Chairman has made the determination. The public can join the Conference Call Meetings or submit comments through email.

Present: Ryan Anderson, Marie Hawkins, Bill Rau, Colleen Thompson, Stephen Curtis

Absent: None

Others Present: Jack Campbell

Clerk/Recorder: Susan Curtis

CALL TO ORDER REGULAR MEETING (some attendees optionally shared video)

Electronic Meeting Determination read by Rau

Rau called the Regular Meeting to Order at 6:32 P.M.

1. **Open Public Comment** - none

2. **Approval of Minutes**

Regular Meeting of October 7, 2020

Anderson moved to approve the Minutes as presented. Thompson seconded the Motion. Anderson, Hawkins, Rau, Curtis, and Thompson approved the Motion. The Motion passed unanimously.

3. **Correspondence** - none

4. **Town Council Meeting Report** —Thompson

The Town Council meeting was held on October 21. This year's tax revenues for Castle Valley and Moab are up and not having the budget issues from Covid-19 as first feared. Chipper day is on November 9 and 10. Clean-up day is this Saturday November 7. Jeff Whitney was appointed to the Castle Valley Road Committee.

5. **Building Permit Agent Report** —Thompson

- Permit Activity:

TOWN OF CASTLE VALLEY - Building Permits Report

Approval Date Between 10/1/20 And 10/31/20

Approval	Lot	Road	Owner	Type	Purpose	Description	Height	Sq Ft <=19	Sq Ft >19
10/29/2020	160	Buchanan Lane East	Hill, Tory & Stock, Mit	Building	Residence	ZBR residence	15.75	1580	0

- Updates on Recent Applications:

- Received signatures on sunroom on lot 54 that we talked about at last month's PLUC meeting and Thompson can proceed with approval. The permit will be completed once the applicant decides how to submit, via the Grand County online portal or on paper.

6. Procedural Matters

- **Update on action items from previous PLUC meetings, including Discussion re. Livestock Committee**

Discussion:

Thompson – I know some people are anxious to take action on pig front. The Livestock Committee had a meeting last week and had a fruitful discussion, committee decided would be more efficient overall to present on all types of livestock at same time and estimate can present proposed language in January or February to the PLUC; the pigs will take more thought than anything else. Two of main goals in terms of process are to engage Livestock owners to avoid a contentious situation, and want to make sure to do as much research as possible, consensus is the 2010 ordinance is thought to not have done this.

Rau – so we won't see any draft language or anything in depth from the livestock committee at our December meeting?

Hawkins – asked if Bruce Keeler was on the call to see if he wanted to give an update on conversation they had last week. Hawkins talked with Keeler and Keeler agreed we could go ahead and put a moratorium on pigs while the rest of the work gets completed and he wants to get this completed by February as folks don't buy animals over the winter. Want to close the possibility of someone coming into the valley and putting a bunch of pigs in.

Thompson commented that Keeler advised committee not to act too hastily on livestock.

Curtis – two interests and concerns is to be responsive to survey results and town, gave a report in July and don't want to rush things, and need to make sure have information we need when go to present. Secondly, the priority he sees for the Town is pigs. Would hate to see somebody get 30 pigs on the lot next to them and feel like we have not done everything we could have done, need to be as timely as we can be and be would like to see us prioritize pigs and maybe moratorium can help with that.

Hawkins – Keeler said he is fine with that, he thinks other livestock owners will be fine with that and the owners are starting to understand the PLUC is trying to work with them.

Thompson – Campbell and Thompson have been looking into state laws on moratoriums and read the same law differently. Thompson left a message for lawyer friend to get opinion on whether town can even do a moratorium for something that doesn't require a permit.

Hawkins – moratoriums are put on things that are detrimental but not necessarily being asked about on paperwork, doesn't seem logical to not be able to have a moratorium as couldn't get anything done.

Thompson – if we do a moratorium, for at least one person in the valley this would be like a red flag to a bull in terms of legal challenge. In Town ordinance 2007-4, if cannot do a specific moratorium, when starting to amend a land use ordinance, an automatic moratorium kicks in, but this isn't triggered until the amendment appears on Town Council agenda and is discussed.

Anderson – want to verify something he thinks he saw while driving by the lot across from the Town building, he saw 6 black pigs, asked if anyone has seen these. Thompson hasn't seen them but has smelled them and heard they are let out on pasture sometimes, Anderson said they were wrangled into a sty the next day but they were out in the yard. News to Ryan that these pigs were on the lot.

Campbell – smelled pigs at the last livestock committee meeting at the pavilion. An occasional odor just wafting by is not a big deal usually, but when odors linger it is a problem, gave examples of residents having to have windows closed due to noxious coal smoke. We need a law or something to keep livestock from causing people to feel they have to move out of the valley due to smells, residents should not have to be subject to these issues. Campbell does not agree with Thompson that no imminent danger exists because we don't know what is going to happen tomorrow and just increasing time period where something bad could happen.

Thompson – even if only amend ordinance for pigs, there is a window where someone could max out on pigs, only conceivable way to halt this is to have a moratorium, which may be a good reason to use part of budget to get legal advice on implementing a moratorium. Can we ask the Town Council to start a moratorium on something that does not have a permit process? Since it seems to be a simple legal question, may be worthwhile to do this.

Curtis – is there anything Town Council can do to in terms of a public health threat or emergency could they freeze it immediately?

Anderson – have seen this precedent set by Grand County Council when they are building in certain areas until research can be completed, thinking we could have moratorium until research is completed.

Rau – moratoriums are for 6 months and not sure if Town Council would see it in the same way as PLUC with all research that has been done.

Hawkins – Town Council saw same surveys as PLUC.

Campbell – do have a strong legal basis to put in a moratorium on zoning ordinance in light of geologic survey about aquifer and possible contamination of ground water, many communities have bans on pigs with no justification at all, have had quality of life issues here in the valley due to pigs, do need to find out the legal opinion if moratorium is allowed, my sense is we could have a moratorium implemented by Town Council, for example if there was RoundUp being sprayed all over the valley a commonsense approach for Town would be to prohibit something like this until we have established law, even if no permits required at the moment.

Curtis – makes sense and thinking of one lot now with 30 pigs, legally we could be thinking of this as multiple lots could have pigs, this could be public health threat and not sure how we mitigate this.

Rau – not sure if considered a health threat or nuisance by state, agriculture has some exemptions from nuisance lawsuits in Utah, suggest we get opinion from a lawyer somewhat familiar with Castle Valley on whether or not the Town Council can declare a moratorium on swine. In Jan or Feb PLUC can have language for discussion and public hearing. Hear what lawyer has to say, Town Council meeting in two weeks, and be good to get on Town Council agenda for November.

Campbell – need someone with experience in Utah property law, Campbell called Ombudsman about a moratorium and they agreed could have a moratorium on something that does not require a permit, but got sense they were not familiar with this topic.

Thompson – left message for Laurie [actually Julie], Moab City Attorney (CV resident), asking this question; Moab has had several moratoria lately, if she can't answer then maybe ask Christina the Town lawyer. Hope to hear back in a day or so.

Rau – need to have an answer by next Monday, November 9.

Curtis – to put all together, livestock committee will keep moving forward, work on pigs, but don't want to lose time as Marie mentioned earlier, keep moving forward the rest of the work while we work on the moratorium.

Hawkins – the moratorium would be on pig language. Rau reminded all that in January we will have a new person on PLUC and good to have them involved, dealing with swine now and bigger question shortly thereafter.

Curtis – asked Thompson to elaborate thought process of livestock committee thinking on best to not separate swine, if anything else went into decision or if wrapped up in 6 month moratorium.

Thompson – Keeler shared more conversations with livestock owners, there are more pigs in valley than we were originally aware of, so many are not problematical, none ever want as many as even 10, a litter may have more but then always get rid of them. Part of tools in how to write ordinance. Keeler and Campbell pointed out the original proposal from June had numbers that are not far off from current owner's units, and owners are ok with proposed numbers— with needed tweaking like how to deal with subadult animals. Aside from one person, the thinking is there's not immediate urgency. A lot of people bought land here in the 70s, 80s, and 90s because CV allowed agriculture and livestock. Maybe we can only allow weaners and not allow breeding of pigs, that's a tool, for example, also limiting to smaller breeds, setbacks, etc.

Hawkins – why can't we figure all this out while we have a moratorium and look like we are doing something?

Thompson – trying to answer Curtis question, and if we can do a legal moratorium, am fine with that.

Anderson – how familiar is the Town Council with the current livestock committee information?

Thompson – Thompson gave them the Livestock Committee report, they get our minutes, which hopefully they read, and the PLUC sat in the July meeting and updated council on waste and livestock impacts— but we should reach out and make sure they know what we are thinking about.

Curtis – trying to learn all we can about livestock and cycles, etc... part of this is the livestock owners' understanding they have responsibility in existing ordinances and how they manage their farms and purchase animals, looking at Keeler's report from last month on pig numbers.

Thompson – Need to come up with a livestock ordinance they can live with, most agree the 2010 numbers are not viable. Curtis commented on Keeler's numbers from last month, Keeler's report did not include lots 54 and 55. Thompson said understanding given by owner is piglets to be kept on lot 429 by Town Building, adult pair to be kept on lot 54, he said that at a meeting but...

Rau – best path to determine if we can have a moratorium is to contact the lawyer, the next step would be to present language for a moratorium for Town Council to review on November 18, and then the Livestock Committee could bring draft language to the December meeting. Town Council has to understand what they are being asked to do.

Curtis – reiterated original livestock committee report was very close to surveys unit numbers.

Thompson – agree and owners overall could live with those numbers; we need to keep them engaged and involved to avoid a circus like 2010.

Campbell – think this [moratorium] will be more than a paragraph, and to be sufficient it will likely be several pages to give enough force and not easily challengeable and can't just say no pigs.

Thompson – rather than laying out all legal arguments, can we say in recent Town survey, which was required by law, we received overwhelming support to reduce swine numbers; and that PLUC is asking for a moratorium for no additional pigs (unless someone has a pregnant pig, of course).

Campbell – think need way more language than that from what has seen in past, especially due to past errors made by town. Think will need a specific language in what is being addressed and why like watershed. Have two options: 1) beginning amendment to ordinance and Town Council could start talking about it; 2) if we do moratorium, identify fairly serious health type issue and language to justify moratorium, it is thing like watershed as modifying 2010 ordinance.

Hawkins – can Council put on the agenda and discuss limiting bringing in pigs to trigger the moratorium?

Campbell – yes think if put on agenda and discuss, can reduce window of someone coming in with pigs, and will have 6-month moratorium.

Thompson – would we have to have a proposed amendment to put on the TC agenda?

Rau – don't think so, could see proposed amendment coming, TC could direct PLUC to work on amendment to 85-3.

Anderson – agree, conversations with livestock owners are not that far off with exception of pigs. This is what we need them to look at and create moratorium, and expedite process.

Curtis – reminded Keeler's report last month could find zero livestock owners that support current swine numbers.

Rau – agree useful for Town Council initial discussion to know about that and other supporting information, asked Thompson to let us know what she hears back from lawyer; Anderson and Rau to work on moratorium language for Town Council.

- **Discussion re. Preliminary List of Renewals 2021 Conditional Use Permits and Business Licenses**
Clerk - 21 Business Licenses up for renewal and 31 CU HPO (Home & Premises Occupations) up for renewal. Rick Fullam has historically had a fireworks business and he passed away last year and need to know if fireworks are still being stored on property.
Thompson – heard second-hand from new owner that he was working on moving fireworks and will double check on this for PLUC, think new owner is not interested in business and will find out if it needs to be inspected.
- **Discussion re. 2021 PLUC Meeting Schedule**
Rau - looked at calendar and did not notice any holiday conflicts, the PLUC will continue to meet on first Wednesday of each month.

Special note – Hawkins wished Curtis (the Scorpio) a happy birthday!

7. NEW BUSINESS – none

UNFINISHED BUSINESS - none

CLOSED MEETING – none

Summary/Action Items for November 4 PLUC Meeting:

1. Rau and Anderson – write up draft language for swine moratorium to present to the Town Council at November 18 meeting.
2. Thompson – write question to lawyer asking if Town Council can set a moratorium on swine while working on amending the ordinance and let PLUC know answer by Monday November 9.
3. Thompson – check with new owner of Rick Fullam property [#299] to see if fireworks are being removed or if will need to be inspected.
4. Clerk – send PLUC 2021 meeting schedule to Town Clerk for November Town Council meeting.

ADJOURNMENT

Curtis moved to adjourn the Meeting. Anderson seconded the Motion. Anderson, Hawkins, Rau, Curtis, and Thompson approved the Motion. The Motion passed unanimously.

Rau adjourned the Meeting at 7:29 P.M.

APPROVED:

ATTESTED:

Bill Rau 12-8-20
Bill Rau, Chairperson Date

Susan Curtis 12-8-20
Susan Curtis, PLUC Clerk Date

FINAL