

MINUTES  
REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION

Date: Wednesday, April 5, 2017  
Time: 6:30 PM  
Place: #2 CV Drive, Castle Valley Community Center

Present: Ryan Anderson attended electronically via phone, Mary Beth Fitzburgh, Marie Hawkins, Harry Holland, Bill Rau  
Absent: None  
Others Present: Jack Campbell  
Clerk/Recorder: Faylene Roth

**CALL TO ORDER**

Rau called the Regular Meeting of the Planning and Land Use Commission (PLUC) of the Town of Castle Valley, April 5, 2017, to Order at 6:32 P.M.

**1. Open Public Comment** – None.

**2. Approval of minutes.**

**Regular Meeting of March 1, 2017.**

Fitzburgh moved to accept the Minutes as presented. Holland seconded the Motion. Anderson, Fitzburgh, Holland, and Rau approved the Motion. Hawkins abstained. The Motion passed with four in favor and one abstaining.

**3. Reports.**

**Correspondence.**

Roth explained that this email from Howard Renshaw was included to inform PLUC Members about the suggestion from State Sanitarian Orion Rogers that a buried holding tank might be an appropriate method of handling sewage waste from a trailer/RV when used as a temporary dwelling on a Castle Valley lot.

PLUC Members agreed that the current Ordinance would not allow this option. The Temporary Dwelling Permit currently provides two choices for handling sewage: hook-up to septic tank or emptying the holding tank within the trailer/RV at a sewage disposal site.

PLUC Members asked Roth to contact Rogers to find out what his thinking is on this method of waste handling: how it would work, etc., and to inform him that his suggestion is counter to current Castle Valley policy.

**Town Council Meeting – Fitzburgh.**

Fitzburgh reported that the Town Council (TC) Meeting focused primarily on the proposed water rights ordinance. Other issues raised, she said, included the report by the Fiber Optics Research Committee that Frontier Communications has decided against using its grant money to bring fiber optics to Castle Valley. Despite that, their recommendation was that the Town Office stays with Frontier for their internet connection. The TC decided to retain the Committee on an *ad hoc* basis. According to Fitzburgh, there was also a reference to a recent TC Meeting at which representatives of Rocky Mountain Power (RMP) who were present reported that RMP did not have the necessary infrastructure for a total

**Comment [ED1]:** They also asked that the State Sanitarian be informed that his suggestion was counter to CV policy.



build-out of Castle Valley lots, which they estimated at an additional 200 homes. She said that RMP had stated they may be open to augmenting with solar.

Rau added that someone had asked the RMP representatives what would happen if the [Seventh Day] school or Colin Fryer's property were to sell to developers for a large project. According to Rau, one of the RMP reps replied they would not have the infrastructure to supply that and the developer would bear the cost (perhaps \$7-8 million) to bring the power up to speed.

**County Resource Management Plan Report - Rau.**

Rau reported that the County held a workshop about three weeks ago at the Moab Library. He said that 10-12 people were present who reviewed the rough draft prepared by the consultants in order to tighten up and wordsmith the language and details before presenting the draft to the Grand County Planning Commission. He did not have a timeline available.

**Permit Agent - Roth.**

Roth presented a report covering permit activity during the month of March. She clarified the activity listed for Brian Murray—Residential A—as a residential addition. Roth also provided an updated list of Business Licenses issued for 2017 to include a request from Rick Fullam to get a Business License for Fullam's Fireworks.

**Procedural Matters.**

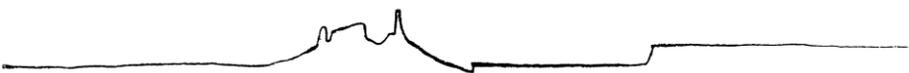
Roth presented two affidavit formats developed with Vauna Randall, Grand County Recorder's Office, to use when Decommissioning Contracts have been fulfilled. One format applies to Nonroutine Decommissioning Contracts which would be signed by the PLUC Chair or Vice-Chair and the other will be used for Routine Decommissioning Contracts which would be signed by the Building Permit Agent. PLUC Members approved the forms and their use.

**NEW BUSINESS**

**4. Discussion and possible action re: modify building permit procedure to require a plot map from the Grand County Recorder's office to use as the official plot plan for all building permits and to consider requirement of a site visit by a Town official to verify lot lines, proposed setbacks, as well as natural and existing grades.**

Rau presented some enlarged lot photographs provided by the Grand County Recorder's Office which show boundary lines, roads, and topography. He said that Mayor Erley had requested that the PLUC consider changing the Building Permit process to require that lot owners provide an authorized map from the Recorder's Office at the beginning of their building process and use that map as they develop the plot plan for their lot: well, septic, residence, etc.

Fitzburgh noted that the Recorder's Office also has maps that include survey notes and actual dimensions of the lots, which she thought would be more accurate. Holland agreed that survey maps would be the best option. Several Members expressed concerns about requiring maps that might include inaccurate information. Hawkins encouraged the use of a topography map because of its potential usefulness to property owners in siting their driveways and building sites. All Members favored the use of a standardized map if its accuracy was certain. The difficulty of getting accurate measurements using GPS equipment was also discussed.



PLUC Members agreed that it would be beneficial to add on-site reviews to the building permit process to verify lot lines and setbacks, as well as natural and existing grades and situations where the roads are not where they should be. Fitzburgh said that there are lots of survey stakes throughout the valley, so surveys would not be required in most cases if a laser level were used to establish the lines.

Roth, current Building Permit Agent, agreed that there is a need for more on-site inspections. There was general discussion about whether the Roads Manager or the Permit Agent would perform these inspections. The Roads Manager is currently inspecting drainage issues for building of roads and structures. The preliminary consensus was that it might be better for the Building Permit Agent to see the existing grade and determine when a setback might need to be adjusted. It was suggested that photographs would be useful.

PLUC Members agreed to drop further discussion until after TC Members review the PLUC Report and share their views with the PLUC. Fitzburgh said she did not think the Town should be responsible for providing the maps.

#### **5. Discussion re: requiring a business license for rental properties.**

Rau said that he requested this item be added to the Agenda to discuss ways to address the problem of short-term overnight rentals in Castle Valley. Despite a good Ordinance that restricts rentals to a 25-day minimum, he said that some property owners get around this by advertising the rental for 25 days but don't require that renters stay for that period of time. They then, apparently, rent it out again before the 25-day period is up. He said that he has received suggestion that the minimum rental time period be extended to 45 or 60 days.

According to Rau, some jurisdictions charge a tax on rentals, some require a business license, and some charge a fee. Fitzburgh observed that the Town does not currently require home occupations to obtain a business license, so it couldn't require rentals to operate with a business license. Rau said he considered property rentals are different from home occupations since the owner is not in the home running a business.

Hawkins questioned whether overnight rentals were a problem in Castle Valley. Fitzburgh confirmed that it is happening in violation of the Town Ordinance. She agreed this would provide a way for the Town to enforce its minimal rental period. She noted that the State legislature recently passed a bill that allows advertisement for short-term rentals but noted that the advertisement cannot be used as evidence that they are doing so. However, she said, if the Town did require a business license, then it could call the property owner on not having obtained a business license. Rau said that the Town Ordinance related to length of the rental period would still prevail. Holland wondered whether the restriction would hold up legally.

PLUC Members discussed how a business license would work. Campbell suggested it could be tied to health and safety issues, perhaps requiring a fire inspection. Hawkins suggested requiring a business license for property rentals that were not under a six-month minimum lease.

Fitzburgh explained that the Castle Valley Inn operates as a home-based business. The property owner or a full-time manager must be living there. She also said that Grand County charges a higher commercial water rate for rentals and imposes a higher tax rate on bed and breakfast rentals.

Holland suggested that lengthening the minimum rental period may be the solution. Fitzburgh suggested a 60-day minimum as an option.



Campbell suggested that the Ordinance could prohibit a second rental during the minimum period if a renter were to leave early. He said he thought the concern was more about the constant turnover of renters rather than their short stay.

Holland asked whether enforcing the current rule would work. Fitzburgh responded that enforcement has not been effective. She did say that legal counsel for the Town has confirmed that subsequent rentals after a renter leaves early is not a good argument and does not observe the spirit of the law. PLUC Members also discussed the difficulty in proving that short-term rentals are occurring. One source is observation by neighbors.

Rau emphasized his feeling that Castle Valley not copy Moab on the rise of short-term rentals. Members agreed to address this issue at their next Meeting under a new item that would allow both discussion and possible action regarding amending Ordinance 85-3 to extend the length of the minimum rental period and to require a business license. Hawkins reiterated that they could require a lease or a business license. Another suggestion was charging a tax on rentals.

Rau agreed to research the use of business licenses by other jurisdictions for rentals.

#### **UNFINISHED BUSINESS**

##### **6. Discussion and possible action re: updating Ordinance 2011-1 to adopt the most recent building codes used by Grand County (tabled).**

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

After a brief review, PLUC Members agreed that the revised Ordinance is ready for a Public Hearing at its next Meeting [May 3, 2017]. The required change to Ordinance 85-3 will be delayed until a Public Hearing on that Ordinance next occurs. Roth will post the announcement in the Times-Independent newspaper.

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

##### **7. Discussion and possible action re: amendments to Ordinance 85-3 to establish regulations for solar panels (tabled).**

Anderson moved to untable Item 8. Holland seconded the Motion. Anderson, Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

Fitzburgh reviewed changes in Sections 4.15.1(5) and (6) and 4.15.2(2) where “highest position or angle” is replaced with “maximum design tilt” which, she said, better fits their intention for measuring maximum height. She also clarified the distinction between routine and nonroutine in this section. Routine classification means the process is something that is simple and can be streamlined. Nonroutine governs a process that is not that simple and provides for a design review for projects that cannot be streamlined. She has based the language used in Section 4.15.2 on ordinances from other jurisdictions that make use of design reviews. She said it is similar to the way the Town handles routine and nonroutine decommissioning contracts, as well as routine and nonroutine building permits.

In the definition for Solar Energy System Fitzburgh reported that the designation as an accessory use has been deleted. This would allow future consideration of a municipal system or a shared or co-op proposal. The amendments would allow a stand-alone system as a permitted use with the requirements listed in the ordinance. She explained the reason for limiting square footage for a nonroutine system but not for a routine system was based



on the size of the system. The nonroutine systems, she said, would be the larger systems and the ones they would want to review.

PLUC Members discussed appropriate kilowatt restrictions—between 5kW and 12kW—for routine and nonroutine systems. According to Fitzburgh, Brian Murray had said 5kW was too low. Kevin Hanson said a typical house would need no more than 8kW; however, several solar applications received in Castle Valley have been higher than that. Preliminary consensus was for a maximum up to 10kW for a routine system. Hawkins suggested a maximum 18kW for nonroutine systems. Fitzburgh thought that maximum square footage was a better regulator for large systems than kilowatt size. Campbell said he thought a conditional use permit (CUP) provided more control. Fitzburgh replied that CUPs allowed the developer to provide mitigations for any concerns, whereas the nonroutine approval requires the developer to demonstrate a need for a larger system for either efficiency or for health and safety reasons and gives the Town the right to allow or not allow it. She reiterated that the two purposes of these amendments were to reduce visual impact as well as to encourage use of solar power. An either/or approach was proposed; i.e., up to 18kW if not more than 1500 S.F. Discussion noted that increased efficiency of panels will likely decrease square footage of system.

Holland asked about input on the layout of larger systems. Fitzburgh said that would be part of the design review. If there was a disagreement between the Town and the property owner, the PLUC would be authorized to hire a consultant to review the situation.

Preliminary consensus was to allow up to a 10kW system for a routine system and to limit nonroutine system to a maximum of 1500 S.F. based on acreage and a maximum height of 19 feet as cited in Section 4.15.2(3). Fitzburgh will get information on the range of panel size before the next Meeting.

Holland moved to retable Item 8. Fitzburgh seconded the Motion. Anderson, Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

**8. Discussion re: future amendments to Ordinance 85-3 (tabled).**

**9. Closed Meeting - None.**

**ADJOURNMENT**

Holland moved to Adjourn the Meeting. Hawkins seconded the Motion. Anderson, Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

Rau Adjourned the Meeting at 8:30 P.M.

**APPROVED:**

**ATTESTED:**

\_\_\_\_\_  
**Bill Rau, Chairperson**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Faylene Roth, PLUC Clerk**

\_\_\_\_\_  
**Date**