

MINUTES
PUBLIC HEARING REGARDING ORDINANCE 2017-1: AN ORDINANCE TO ADOPT
THE BUILDING CODES AND AMENDMENTS CURRENTLY ADOPTED
BY THE STATE UNDER UTAH STATE RULES 156-56
OF THE UTAH UNIFORM BUILDING STANDARDS ACT
AND
REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION

Date: Wednesday, May 3, 2017

Time: 6:30 PM

Place: #2 CV Drive, Castle Valley Community Center

Members Present: Mary Beth Fitzburgh, Marie Hawkins, Harry Holland, Bill Rau

Absent: Ryan Anderson

Others Present: Jack Campbell

Clerk/Recorder: Faylene Roth

PUBLIC HEARING

1. Rau called the Public Hearing to replace Ordinance 2011-4 with Ordinance 2017-1 in order to adopt the building codes and amendments currently adopted by the State under Utah State Rules 156-56 of the Utah Uniform Building Standards Act to order at 6:33 P.M.
2. Public Hearing to replace Ordinance 2011-4 with Ordinance 2017-1 in order to adopt the building codes and amendments currently adopted by the State under Utah State Rules 156-56 of the Utah Uniform Building Standards Act to Order.

Campbell commented that adoption of this Ordinance as written would leave two separate building code standards in effect because there is no language repealing 2011-4.

Fitzburgh cited Section 4 of proposed Ordinance 2017-1 which states: All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Rau read a letter submitted by David Harris expressing concern about the cost of the 2015 IRC requirement to install fire sprinkler systems and cited the State of Utah amendment to the Code that removes the mandate for fire sprinkler systems in single-family homes in Utah. Harris asked that the Town "consider this information when choosing how to adopt the latest IRC 2015" and to keep "Castle Valley safe while also helping those of us without endless financial resources to live in such a beautiful place."

Fitzburgh replied that current construction would not be affected by the new ordinance. She also stated that this Ordinance is adopting the Utah Uniform Building Standards Act which does not require the installation of fire sprinkler systems in single-family homes.

Rau will respond to Harris to let him know how his current construction would be affected.

3. Adjournment.

Holland moved to adjourn the Public Hearing. Hawkins seconded the Motion. Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

Rau adjourned the Public Hearing at 6:40 P.M.



REGULAR MEETING

1. Rau called the Regular Meeting of the Planning and Land Use Commission (PLUC) to order at 6:40 P.M.
2. **Open Public Comment.**
Campbell suggested two proposals to deter illegal short-term rentals: (1) make it illegal for anyone to rent from a property owner for less than 25 days; (2) make it illegal for the property owner to rent property more than once during the minimum time period.
3. **Approval of minutes.**

Regular Meeting of April 5, 2017.

Fitzburgh relayed two corrections to the Town Council (TC) Meeting Report. The first correction is that the TC decided to retain the *ad hoc* Fiber Optics on an inactive basis. The second correction is that Rocky Mountain Power did not specifically state that they were open to the use of solar to augment power needs in Castle Valley.

Roth reported that the Town Clerk had submitted a correction from the Fiber Optics Committee that there has been no information from Frontier Communications regarding where there grant money for fiber optics would be used.

Fitzburgh moved to adopt the Minutes of April 5, 2017, as presented. Holland seconded the Motion. Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

4. **Reports.**

Correspondence – None.

Town Council Meeting – No report.

County Resource Management Plan Report – No Report

Permit Agent – Roth.

Roth submitted a report for building permit and temporary dwelling permit (TDP) activity during the month of April. She explained that Elizabeth Cate, Lot 153, who recently renewed her TDP, had voided her existing 2008 building permits for a residence and a garage and replaced them with a new residential building permit. Roth said that the TDP and Decommissioning Contract for the trailer are still valid for the new residential permit.

Fitzburgh questioned whether the PLUC must approve TDP renewals. She read from Ordinance 85-3 which states that “In granting a renewal, the Planning and Land Use Commission may stipulate additional conditions for the continued use of the temporary dwelling.”

PLUC Members agreed that TDPs are routine if the plan is to remove them but nonroutine if the plan is to keep them and change their use. Fitzburgh stated that the Building Permit Agent was the Land Use Agent for routine-TDPs according to Ordinance 85-3.

Rau stated he was not comfortable with long-standing TDPs. PLUC Members asked Roth to prepare a report on current TDPs for next month’s PLUC Meeting.

Procedural Matters.

Roth supplied a flyer for the upcoming Open and Public Meetings Training scheduled for June 22. Fitzburgh said it was important for new PLUC Members to attend. Rau said that he planned to attend. Roth will remind Members at the June PLUC Meeting.



NEW BUSINESS

5. Discussion and possible action re: amendments to Ordinance 85-3 to extend the minimum rental period and require a business license for renting residential property.

Rau said that this discussion began at the last PLUC Meeting as a way to address concerns about short-term rentals in Castle Valley where property owners are renting for shorter periods than allowed in Ordinance 85-3. He noted that suggestions had been made at that Meeting to extend the minimum period to 45 or 60, maybe 90, days.

Holland expressed concern that the recent change in State law to allow advertising of short-term rentals might embolden property owners to rent short-term even though it is not allowed.

Hawkins suggested retaining the 25-day minimum but restricting it to no more than one rental per period. Fitzburgh reported that a legal opinion given the Town previously had stated that the argument for re-rental would not hold up legally. The legal opinion, she said was that the current ordinance does not allow money to be refunded for a shorter period and then allow the property to be re-rented. Rau said that was implied by the language. Hawkins said it could be spelled out in the Ordinance. Fitzburgh agreed that would make it more clear.

PLUC Members discussed the difficulty of monitoring short-term rentals but agreed it is known that there have been continuous violations.

Rau reported that State Code defines rental dwelling as a building or portion of a building that is used or designed for use as a residence for one or more persons for one month or more. He said that, according to the Code, a legal municipal body may require the owner of rental property to obtain a business license.

Fitzburgh expressed concern about the inconsistency of requiring a business license for one situation and not requiring it for another, such as business licenses for home and premises occupations which are available but left to the business owner's discretion to obtain. Rau said that rentals were different from the above example because rentals are not a conditional use since the owner is not living there. PLUC Members discussed asking the TC to get a legal opinion, but no determination was made.

Hawkins suggested giving every CUP holder and renter a business license without charge. Rau suggested designating rentals as a commercial business license which would generate tax revenue for the Town.

Fitzburgh asked if enforced fees would force property owners to go underground with their rentals. Other PLUC Members questioned whether the Town can impose taxes. Rau said that in Grand County short-term rentals are charged a commercial tax rate. Fitzburgh said that long-term rentals are not considered commercial. She noted that a tax cannot be charged on something that is illegal. PLUC Members discussed the effect of reporting short-term renters to the County Assessor.

Final discussion focused on whether to change the minimum rental period and/or to change the language to specifically prohibit more than one rental per period. Holland objected saying that language condones the first short-term rental.

Rau will research language used by other municipalities and report back next month. Fitzburgh suggested he also review the language in the Moab ordinance regarding business licenses and what kinds of operations require a business license.



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

6. Discussion re inquiry from a group of potential buyers who would like to buy a lot and build a central bathhouse/possibly kitchen and use 2 or 3 multiple accessory structures (yurts) for each owner.

Rau reported that Roth had received a previous inquiry for a similar commercial venture. PLUC Members considered that the request would not be legal according to Ordinance 85-3, Section 5.5 plus the definitions for building, dwelling, family, and single-family. Fitzburgh said that the Town's Land Use Ordinance defines a dwelling as anything you are living in. They agreed that this request would create multiple dwellings.

Rau expressed his concern about future requests that might come to the Town and how to shape the ordinances to anticipate them.

Fitzburgh noted that this request would have a greater impact on septic systems than an accessory art studio because the art studio is being used by the same residents. Multiple yurts, she said, could create a greater possibility for abuse of the ordinance.

Roth will inform the caller of the relevant sections of Ordinance 85-3

UNFINISHED BUSINESS

7. 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. Holland seconded the Motion. Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

Fitzburgh moved to recommend to the Town Council the approval of the Draft presented as Castle Valley Ordinance 2017-1(2) changed to 2017-1(3). Holland seconded the Motion. Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

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

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

PLUC Members discussed the rationale behind using kilowatts as the basis for limiting routine requests and using square footage as the basis for limiting nonroutine requests. Fitzburgh said the 10 kilowatt limit for routine systems is based on average usage and the 1500 square footage limit for nonroutine ground systems is a reasonable area considering the potential coverage of a roof-mounted system.

Rau said he would like to move the discussion to a Public Hearing so that they can hear from the public. The final draft for the Public Hearing will correct line 3 of Section 4.15.2 to read: *The LUA shall ask applicants to demonstrate that a taller system is needed....* and to delete the final phrase in 4.15.2(3) beginning with "yard coverage" to the end of the sentence. The draft will also add a definition of solar energy system in Section 1.6 as well as update the definition of "HEIGHT, BUILDING," and correct a typographical error in Section



7, update Section 5.8 to comply with the adoption of 2017-1(3), and add solar energy systems as a permitted use.

Fitzburgh explained that adding solar energy systems as a permitted use would allow the property owner to put a solar array on a lot separate from the residence.

Fitzburgh and Roth will formulate the phrasing for the Public Hearing Notice and wording for a new Agenda item for next month's Public Hearing and Meeting.

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

10. Closed Meeting (if needed).

ADJOURNMENT

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

Rau adjourned the Meeting at 8:11 P.M.

APPROVED:

ATTESTED:

Bill Rau, Chairperson

Date

Faylene Roth, PLUC Clerk

Date

APPROVED