

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

Date: Wednesday, August 7, 2013

Time: 7:00 PM

Place: #2 CV Drive, Castle Valley Community Center

Present: Chair Mary Beth Fitzburgh, Vice-Chair Marie Hawkins, Member Laura Cameron

Absent: None

Others Present: Mayor Dave Erley, Pamela Gibson, Bill Rau, Leta Vaughn

Clerk/Recorder: Faylene Roth

**CALL TO ORDER**

Fitzburgh called the Meeting to order at 7:20 P.M.

1. Open Public Comment.

None.

**APPROVAL OF MINUTES**

2. Regular Meeting July 10, 2013.

Cameron requested the following correction in Item 9: Discussion and possible action re: General Plan Review, paragraph 2, second sentence: “[Cameron] stated a town resident suggested the idea of the Town having its own solar power system as well as a municipal well.”

Hawkins motioned to approve the Minutes of July 10, 2013, as amended. Cameron seconded the Motion. Cameron, Fitzburgh, and Hawkins approved the Motion. The Motion passed unanimously.

**REPORTS**

3. Correspondence.

Fitzburgh read a letter submitted by Michael Peck to the Town Council and the Planning and Land Use Commission (PLUC) regarding “Changes to the Castle Valley Bed and Breakfast conditional use permit.”

Fitzburgh asked for discussion of the issues presented in the letter. Cameron reported that when Peck wrote the letter he was unaware that the Bed and Breakfast (B & B) operated under a Contract and not a Conditional Use Permit (CUP). She said that, even though the reference to a Conditional Use Permit is in error, she thought the points he made in the letter were very valid.

Fitzburgh said that Peck's concerns were shared by many in the Valley, including herself. She reported that the Town is currently going through a process to clear up ambiguities in the Contract in order to prevent misunderstandings and violations in the future. She said that the owners of the Inn had put in another unit without going through the building permit process and that the Town is currently determining the exact extent of the violation. The Town is reviewing the Contract to see how many units are allowed and whether other violations may have occurred in addition to not getting a building permit. According to Fitzburgh, the Town is working with the B & B owners (Jason and Jeanette Graham) to renegotiate the Contract in order to clear up ambiguities in the Contract and to clarify the issues around a manager living at the B & B in order to ensure that the property is a residence first and the guest rooms are secondary.

Fitzburgh reported that the Town Council will hold a Public Hearing at its next Meeting (August 21, 2013) for public input regarding proposed changes to the Contract. The Revised Contract is expected to be made available to the public by next Tuesday (August 13, 2013) so that the public can review it before the Public Hearing. After that, she said, the Town will determine what to do about the failure to get a building permit. The Contract states that the B & B must first apply to the PLUC for a building permit, which then makes a recommendation to the Town Council. The Town Council would then hold another Public Hearing before making a decision on the building permit.

Cameron expressed her belief that the intent of the Contract in its reference to a manager living on the premises was to allow a manager to cover for the owners if they were to leave the B & B for vacations, family matters, medical situations, etc.

Erley commented that what matters is how a Court of Law would interpret the Contract. He observed that he agrees with the concepts expressed in Peck's letter and requested that Peck rewrite it to correct the references to a CUP so that his concerns can be addressed directly. According to Erley, the goal of the Town is to correct ambiguous parts of the Contract in order to make it enforceable in the future. He reminded everyone that the Town Council will meet on August 21 to discuss the Contract. He hopes to have the Contract available to the public on Tuesday (August 13). It will be available in the Town Office, on the Town website, and in the Castle Valley Library. Other documents to be made available are a Memorandum of Understanding (MOU) (an agreement between the Town and the B & B owners about what parts of the Contract can be negotiated) and the original Contract.

Cameron expressed her thanks to Mayor Erley that the community was being given the opportunity to express their concerns to the Town Council.

Hawkins asked for clarification of the added rental unit. Fitzburgh reported that the new unit is in the building that was legally replaced after it burned. The Germaines rebuilt the building. The original building contained a rental unit and carport on the first story and another rental unit on the second story. When they rebuilt the building, they retained the footprint of the original building but moved the lower unit upstairs with the other unit and used the lower story for storage. However, according to the Grahams, when the Germaines sold the B & B, they told the new owners that they were allowed a ninth unit. The Contract states that the B & B can have "nine existing units" but does not define or identify the nine units. The Town insists that the

Contract restricts the B & B to the “existing” units. The B & B owners insist that it allows them “nine” units. PLUC Members debated whether the Contract’s original intent was that the B & B have “no more units”; but Erley responded that, if so, the poor wording of the Contract wouldn’t support that intent.

Fitzburgh noted that when the Town has discovered other structures that had been built without a building permit, the Town has allowed the owners to come into compliance by applying for and paying for a building permit. Since this case is more complex, Erley noted, he expects a fine to be imposed.

Gibson inquired about the Contract requirement that the B & B be owner occupied. She observed that the Town’s definition of a B & B did not allow a manager. Fitzburgh explained that the definition of a B & B was added to the Land-Use Ordinance several years after the B & B had been granted a Conditional Use Permit (CUP) for a Premises Occupation. The current B & B was “grandfathered” in (became a nonconforming use) as a Premises Occupation and is governed by a Contract (not the Ordinance) which states the rules for how it may continue as a nonconforming use. The Contract includes the conditions stated in the original CUP along with additional conditions, and states that it must always be a residence for the property owner or manager and that the rental units should always be a secondary use.

Gibson restated the B & B definition in the Land-Use Ordinance which requires that an owner (or lessee) be a resident on the property. She did not think that the Town should “just give away” this requirement. Cameron suggested that Gibson read the Contract. Erley said that he will make the MOU and the Contract available to anyone who requests them.

Rau asked whether written or spoken statements were preferred by the PLUC and the Town Council. Fitzburgh said both were welcome. She stated that written statements should include a notice of whether or not to read the statement aloud at the Meeting.

4. Town Council Meeting – Chair.

Nothing to report.

5. Permit Agent.

Roth submitted a Building Permit Report for July 2013 which included three building permits, one Certificate of Land Use Compliance, one Certificate of Occupancy, and an inspection at the Castle Valley Inn. Fitzburgh noted that Roth’s Report on the Inn inspection was available at the Town Office.

6. Procedural Matters.

Fitzburgh reported that Roth had suggested updating Ordinance 2006-3: An Ordinance Establishing the Planning and Land Use Commission and Designating Land Use and Appeal Authorities in order to meet new state legislation. She asked Roth to draft amendments for the September PLUC Meeting.

Cameron will attend the Open Public Meetings Act training on Thursday, August 8, 2013 Roth will get training updates from the Town Clerk, who will also be attending.

## NEW BUSINESS

### 7. Discussion regarding land use training meeting with ULCT.

Fitzburgh reported on last month's Utah League of Cities and Towns Training Meeting in Moab which was attended by several PLUC Members and the Clerk. She reviewed the following key points from the Meeting which may affect Castle Valley: federal laws state that cities and towns cannot prohibit residential facilities for seniors and/or people with disabilities nor can they prohibit cell phone towers. Cities and Towns are allowed to set regulations for these facilities. Another law requires that Commissions and Councils post rules and procedures for Meeting procedures and conduct. This requirement will be addressed later in the Agenda in Item 8. She also said that Motions made on administrative decisions like Conditional Use Permit approvals should include a reference to the Section of the Land-Use Ordinance which supports the decision being made. Putting the reference in the public record protects against future legal challenges. She noted that legislative decisions, such as amendments to the Ordinance, do not require this reference since they are creating law not following it.

Fitzburgh also said that she and Roth will look at situations that might warrant notification of adjacent land owners, such as additions to noncomplying structures. Another change, she mentioned, from the Training is to adjust our response time to permit requests to be in line with Utah State Law.

Roth announced that the Town Clerk had ordered and received two current Land Use Training Handbooks. They are available to PLUC Members.

Fitzburgh reported that she and Mayor Erley have discussed the potential for teleconference meetings with Castle Valley Town officials and the ULCT on training topics of our choice.

### 8. Discussion and possible action regarding rules of procedures for PLUC meetings.

Fitzburgh stated that Ordinance 2006-3: An Ordinance Establishing the Planning and Land Use Commission and Designating Land Use and Appeal Authorities gives rules of order for Meeting conduct. It says we will roughly follow Robert's Rules of Order and, at the discretion of the Chair, we can enforce a stricter following of Robert's Rules of Order. To comply with Utah State Law, we must post this information for the public. Fitzburgh will draft a user-friendly version for the next Meeting. She asked PLUC Members to review the two examples provided in the PLUC Binder. She wants to outline when people may speak, under what conditions, and to announce that we follow the Open Public Meetings Act which means that PLUC Members cannot discuss an item on the Agenda before the Meeting commences or after the Meeting adjourns when there is a quorum present.

Roth reported that the Land Use Training Handbook states that discussion regarding items not on the Agenda are not completely prohibited, but no decisions can be made on items not on the Agenda.

Rau suggested that the PLUC identify in greater detail what is included in “Commission business.” Fitzburgh will research the limits and boundaries around discussion of Commission business.

## UNFINISHED BUSINESS

### 9. Discussion and possible action re: General Plan Review (tabled).

Cameron motioned to untable Item 9: Discussion and possible action re: General Plan Review. Hawkins seconded the Motion. Cameron, Fitzburgh, and Hawkins approved the Motion. The Motion passed unanimously.

Fitzburgh presented an outline of what she would like to update in the General Plan. The names following different items indicate who is responsible for bringing up the topic or who has offered to follow up on the issue or whom she has asked for comment. She sent a draft to Erley and John Groo for the Water Section and to the Fire Commission and the Fire Chief for the Fire Section. She said she will also send a draft to Greg Halliday and Erley regarding the Roads and Transportation Section.

There was discussion of whether issues with minimal support, such as a valley-wide trail system, a commuter van, etc., should be included in the General Plan. Not all Members agreed that the current Survey showed minimal interest in these areas. Some thought that these issues needed more information supplied to the community in order to determine their support. Fitzburgh suggested that the General Plan could set goals to further explore some of these issues before considering their implementation. She also wondered how they could continue to poll the public on more specific questions. She is currently exploring use of the website for this purpose. Erley suggested that the General Plan could provide a community vision for some of these ideas, such as a trail plan for the Valley. He cautioned, however, against moving too fast because involvement with other agencies, such as the Bureau of Land Management and Trail Mix, who have recreational obligations to the greater public could be at odds with the vision for Castle Valley residents.

Cameron reported that she and the Town Clerk had reviewed the previous General Plans for the Town of Castle Valley but found no references to septic concerns. She did, however, find a comment in the Comprehensive Master Plan for the Town of Castle Valley which stated that all plumbing fixtures, dishwashers, and toilets will be connected to a septic tank or other sewage system approved by the Grand County Health Department. Cameron also reported contacting David Snyder with the Utah Division of Environmental Quality and Judy Sims. Snyder responded and suggested that she contact Sims who, he said, has access to a grant through his Department to do work on rural septics. Sims had not responded to her original email, but Snyder provided an additional email address for Sims. Cameron has sent another message and is waiting for a reply.

Fitzburgh said that she would like to use a format similar to Big Water, Utah's, General Plan, which the ULCT suggests as a model. It separates the Plan into: (1) existing conditions, (2) goals or visions, and (3) how to implement them. She stated that most other municipalities follow a similar format. She suggested that statements from the Introduction be moved into the Report Section and included under an "Existing Conditions" heading. Members generally agreed to follow this format.

Hawkins questioned whether creation of a water budget would be feasible since we have so little information about future conditions in Castle Valley. Fitzburgh reported that Groo had said that a water budget would not be appropriate for the Town because water rights create a *de facto* water budget. She stated that other municipalities create water budgets that take a long-range look at all the land uses within a municipality, how much water there is, projected use and how it will affect the future quantity of water for the municipality. She would like to hear from Groo about land-use policies that may be useful for our community to insure that our future water quantity is not decreased significantly.

Cameron asked whether changes to livestock limits and zoning designations in Castle Valley would be included in the General Plan. Fitzburgh responded that she had asked Jayne May to provide additional information about what changes she would suggest for Castle Valley. Fitzburgh also commented that other issues surrounding livestock have arisen, such as one person using noncontiguous properties to raise livestock as well as commercial versus family operations.

Fitzburgh will send a draft of proposed changes to PLUC Members, including Rau, before the next Meeting.

Hawkins motioned to retable Item 9. Cameron seconded the Motion. Cameron, Fitzburgh, and Hawkins approved the Motion. The Motion passed unanimously.

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

Cameron motioned to untable Item 10: Discussion and possible action re: regulations for solar panels, windmills, and other alternative energy structures. Hawkins seconded the Motion. Cameron, Fitzburgh, and Hawkins approved the Motion. The Motion passed unanimously.

Cameron reported a conversation with Bruce Keeler, Energy Information Officer for Castle Valley, about a resident's vision that Castle Valley become energy self-reliant with solar power. He told her of communities that were approaching energy self-reliance by installing small, centralized solar panels that provide power for several surrounding homes. He said these installations are typically owned by independent companies. Fitzburgh noted that the Surveys revealed a lot of diverse talent within the community that could be called upon for further information and education. Erley commented that there could be a possibility for Castle Valley to work with Rocky Mountain Power to improve our power situation in Castle Valley. Perhaps,

he said, solar panels could provide power during the day and Rocky Mountain Power could provide access to the grid for nighttime use.

Hawkins motioned to retable Item 10. Cameron seconded the Motion. Cameron, Fitzburgh, and Hawkins approved the Motion. The Motion passed unanimously.

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

Left tabled.

12. Closed Meeting (if needed).

#### ADJOURNMENT

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

Fitzburgh adjourned the Meeting at 8:55 P.M.

**APPROVED:**

**ATTESTED:**

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Mary Beth Fitzburgh, Chairperson	Date	Alison Fuller, Town Clerk	Date
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