

MINUTES
PUBLIC HEARING
regarding proposed amendments to Ordinance 85-3, Section 4.9
to include the specific operating requirements described in Section 4.10.1 (A-L)
REGULAR MEETING
OF THE PLANNING AND LAND USE COMMISSION

Date: Wednesday, October 3, 2018
Time: 6:30 PM
Place: #2 CV Drive, Castle Valley Community Center

Present: Marie Hawkins, Bill Rau, Colleen Thompson
Absent: Ryan Anderson, Pamela Gibson
Others Present: Tom Wood, Donna Kramer, Jack Campbell, Diane Ackerman, Janie Tuft, Jayne May, Deb Holling, George Holling, Jazmine Duncan, Laura Cameron
Clerk/Recorder: Faylene Roth

CALL TO ORDER PUBLIC HEARING

Rau called to order the Public Hearing regarding proposed amendments to Ordinance 85-3, Section 4.9 to include the specific operating requirements described in Section 4.10.1 (A-L) and the Regular Meeting of the Planning and Land Use Commission (PLUC) at 6:31 P.M. on Thursday, October 3, 2018.

1. Open Public Comment.

Jack Campbell stated that the General Plan emphasizes protecting our watershed and the quality of life and expressed his support for any move the PLUC may make to that end.

Donna Kramer thanked the PLUC for clarifying the original intent of Section 4.9. She was curious, though, about why no mention is made that requires an indoor area for large animals. She said she thinks all animals should have an indoor area which increases their productivity. She expressed uncertainty about the requirement for sufficient water rights to support the livestock use. She said the ordinance seemed to indicate that water rights be obtained once the livestock were present rather than having them in place before animals were acquired.


Jayne May said she appreciated the PLUC's efforts and thanked them for responding to concerns from the public. She suggested that the Town impose a moratorium and suspend further applications until after the upcoming General Plan Survey in order to ascertain the depth of thoughts from the community on whether it wants more than "gentlemen farmers." She said she thinks it is time for the Town to change its zoning from RAR-1 to RA-1 or RR-1. She said the Town needs a zoning officer before it can enforce any of these proposed changes. She said that the "perfect situation" of neighbor to neighbor agreements was breaking down. She said she did not think that residents should have to close windows or use earplugs to avoid the impact of livestock on neighboring lots. She felt that limits up to 100 chickens and 30 goats were too high.

Janie Tuft said she was a member of the original Planning Commission for the Town of Castle Valley and recalled that the intent for livestock was livestock for low "volume" of animals for personal consumption. She said she supports that level of use but nothing above and beyond personal consumption in order to consider its impact on neighbors and their environmental concerns.

Laura Cameron said she, too, thinks it is a good idea to suspend new livestock applications but noted that it could take several years before a zoning change could be accomplished. Because of that, she sees these proposed amendments as important to implement now. She suggested that annual inspections for livestock uses might be appropriate.

Tom Wood said he does not want to take away from the comments made but supports this specific change and thinks it is appropriate to do it now.

Rau stated that the purpose of this amendment is not to deal with numbers, noise, or other issues with livestock but is intended to introduce clarifying language into the ordinance. He thanked everyone for their



input, said that the PLUC takes their comments seriously and appreciates their attendance. He said that these items will be discussed later in the Agenda.

2. Adjourn Public Hearing.

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

Thompson moved to change the order of business to consider Items 6 and 7. Hawkins seconded the Motion. Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

6. Discussion and possible action re: recommendation to Town Council regarding request for commercial agriculture designation on Lots 54 and 55 (tabled).

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

Rau noted the difficulty and importance of this issue for the applicants and for others in the community. He read into the record a document that summarizes the research and analysis done by the PLUC (see attachment). He said the document will be available to the public after the Meeting.

Holling stated that he had presented a letter before the Meeting from his attorney to the Town's attorney that takes exception to the Town's definition and draws attention to discussion in 2007 when the PLUC made a recommendation to the Town Council (TC) which the TC rejected because it was too restrictive.

Rau stated that it is well known by the applicant that documents for review are to be delivered a week before the Meeting. Deb Holling replied that the Town's letter of September 18, 2018, did not allow sufficient time to meet that deadline.

Thompson moved based on the analysis heard to recommend to the Town Council that the request for commercial agriculture designation on Lots 54 and 55 be denied. Hawkins seconded the Motion. Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

7. Discussion and possible action re: recommendation to Town Council regarding request for installation of exclusionary fencing on Lots 54 and 55 for commercial agricultural purposes (tabled).

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

Rau stated that the recommendation to deny the commercial agriculture designation makes this request moot. He asked for a formal Motion.

Thompson moved to recommend to the Town Council that the request for installation of exclusionary fencing on Lots 54 and 55 be denied on the basis that the commercial agriculture designation has not been approved. Hawkins seconded the Motion. Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.


Rau resumed the Meeting with Item 1.

1. Open Public Comment.

Jack Campbell submitted a document into the record detailing his opinion that the Town has been misinterpreting Ordinance 85-3 in its failure to treat commercial agriculture as a premise occupation and to require a conditional use permit which would allow conditions to be attached. He requested the Town to reconsider its interpretation and implementation of the Ordinance and to correct it through use of a conditional use permit or to inform him if there is an error in his interpretation.

Donna Kramer seconded Campbell's comments. She added that if the Ordinance has been misinterpreted and then corrected, it should not mean that everything that came before should be grandfathered. She stated the importance of civil discourse and civil behavior and reported an incident with a neighbor who drove by, stopped the vehicle and yelled at her although she was unable to hear the words.

Jayne May thanked the PLUC for the analysis of the commercial agriculture designation read into the record and said she supported the PLUC ruling. She repeated her concern that the Town does not have an independent zoning enforcement officer. She expressed her concern about the height of the fence going up around Lot 55.



Mayor Duncan replied that the height of the wire determines the fence height. She said that Holling informed her that he is putting up a temporary fence until the application is determined. She added that legal review may lie ahead.

Janie Tuft asked if the onus is on the applicants to provide information requested by the PLUC.

Rau replied that the PLUC has recommended denying the commercial agriculture designation and exclusionary fence application, but the applicants can submit additional information to the TC and the TC can deliver an opinion or send the application back to the PLUC.

Thompson said that the Town still needs to know who can sign for HF Holdings and that the applicants have had three months to respond.

Mayor Duncan said the problem right now may be that the Ordinance has no criteria. Thompson replied that the PLUC knew the Ordinance did not say how to determine commercial agriculture, so they researched old Minutes, interviewed the previous Mayor who worked on it and described their intention.

Tuft said that she has seen court cases where intent has made a difference.

Tom Wood commented that the analysis was intelligently written, cogent and thorough and was part of getting business done. He expressed his appreciation that the giant manure pile has been moved and spread over the field and hoped that was a sign of mitigation.

Thompson stated that the only setback for a fence is the 50 foot setback for an exclusionary fence that encloses one acre or less.

Campbell added that corral fences have a setback of 70 feet from the property line. Mayor Duncan stated that a fence cannot be within the road easement.

Diane Ackerman added that the Hollings have consulted with Utah State University representatives who had provided a document to them describing spread of manure on fields in the fall.

2. Approval of Minutes.

Regular Meeting of September 5, 2018.

Hawkins moved to approve the Minutes of September 5, 2018. Thompson seconded the Motion. Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

3. Reports.

Correspondence – None.

Town Council Meeting – Thompson.

Thompson reported that Mayor Duncan had asked about the PLUC review of Ordinance 95-6 which triggered a long discussion regarding the septic setback issue with the Local Health Department. She said that Mayor Duncan had reviewed Utah State Code and learned that regulation of septic systems is the only area where local government cannot be more restrictive than the State. She said the TC decided to get a legal opinion rather than ask the PLUC to do the research. She added that the TC decided to remove the requirement that the Local Health Department sign the Castle Valley Septic Permit. Rau interjected that he and Roth are scheduling a Meeting with Orion Rogers which probably will not occur before mid-November.

Thompson reported that the TC accepted the proposed amendments to Ordinance 2013-1 with the deletion of the requirement for Rogers's signature on the Castle Valley permit since he still signs the Grand County Building Permit. Thompson was uncertain whether the TC approved and adopted the proposed changes or was waiting to adopt the changes when they adopt the accepted amendments to Ordinance 85-3. Mayor Duncan said that the TC would renegotiate fees with Zaccaria Levine after Ordinance 85-3 is adopted.

According to Thompson, the TC also accepted proposed amendments to Chapter 4 in Ordinance 85-3 with one minor correction to the definition of accessory building. She said staff will create a clean version of the accepted amendments for adoption at its next Meeting.

Thompson said the temporary land use moratorium was left tabled. Mayor Duncan said there had been no further advice from the Town's attorney. She said that the Hollings have another conditional use application with the Town. Rau clarified that the application is not complete so is not under consideration.

Permit Agent – Interim Permit Agent - Roth

- Permit Activity.

Roth reported that two Certificates of Occupancy and one building permit for a manufactured home were issued during September.

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- **Updates on Recent Applications** – none.

Procedural Matters.

- **Non-Permanent Conditional Use Permit Application for Exclusionary Fencing**

Roth explained that this permit form, along with other permit application updates that were reviewed by the PLUC at a previous Meeting, was designed specifically for exclusionary fencing. She said PLUC Members had discussed adding language referring to decommission of the fence if commercial agriculture was no longer a use. She pointed out a sentence added to the end of the first paragraph which refers to the definition of nonpermanent conditional use permits in Ordinance 85-3 which states that they do not run with the land, must be renewed each year and would have to be removed or decommissioned once the commercial agriculture use was ended. She added that the last paragraph on page 4 has always contained this information for nonpermanent conditional use permit applications. She asked PLUC Members if they wanted to add details of decommissioning to the permit form.

PLUC Members discussed requiring a decommissioning contract or posting a bond for fence removal or suggesting fence construction techniques that could easily be lowered. PLUC Members discussed delaying implementation of this form because it was considered likely that they would be requested by the TC to review the current fence ordinance. There was further discussion regarding verification of who can sign as lot owner when the lot is owned by a corporation. Janie Tuft will send a copy of the wording used on real estate contracts to ensure the person signing has the authority to do so.

Thompson suggested going ahead and using the form as presented. PLUC Members agreed and stated that decommission details could be added as conditions.

NEW BUSINESS

4. **Discussion and possible action re: amendments to Ordinance 95-6: An Ordinance regarding the Building Permit and Other Land Use Permit Processes to align it with proposed amendments proposed to Ordinance 85-3.**

Roth explained that the PLUC needs to hold a public hearing on amendments to Ordinance 95-6 before recommending adoption to the TC. She referred to several areas regarding septic system permits and septic system setbacks that need to agree with State requirements.

Thompson moved to table Item 4. Hawkins seconded the Motion. Hawkins, Rau, and Thompson approved the Motion. The Motion passed unanimously.

UNFINISHED BUSINESS

5. **Discussion and possible action re: amendments to Ordinance 85-3, Section 4.9 to include the specific operating requirements described in Section 4.10.1 (A - L) (tabled).**

Hawkins moved to untable Item 5. The Motion failed due to lack of a second.

6. **Discussion and possible action re: recommendation to Town Council regarding request for commercial agriculture designation on Lots 54 and 55 (tabled).**

See above for discussion.

7. **Discussion and possible action re: recommendation to Town Council regarding request for installation of exclusionary fencing on Lots 54 and 55 for commercial agricultural purposes (tabled).**

See above for discussion.

8. **Discussion re: topics, themes, and process for the General Plan Survey (tabled).**

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

PLUC Members edited Sections A and B of the working draft of the General Plan Survey. Jayne May submitted additional suggestions to Bill Rau.

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



9. Discussion re: storage of fuels and hazardous materials within the Town (tabled).

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

11. Closed Meeting - None.

ADJOURNMENT

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

APPROVED:

ATTESTED:

Bill Rau, Chairperson

Date

Faylene Roth, PLUC Clerk

Date

APPROVED