

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

Date: Wednesday, February 6, 2019  
Time: 6:30 PM  
Place: #2 CV Drive, Castle Valley Community Center

Present: Ryan Anderson, Pamela Gibson, Marie Hawkins, Bill Rau, Colleen Thompson.  
Absent: None.

Others Present: Jayne May, Ruth Brown, Dennis Brown, Lou Taggart, LaRetta Rhoads,  
Greg Halliday, Sherry Karp, Diane Ackerman, George Holling, Russ Cooper,  
Patty Jackson, Mike Souza, Jocelyn Buck, Jazmine Duncan, Trisha Rodgers,  
Chris Fukui, Laura Cameron, Leta Vaughn, Jeff Johnston, Bruce Keeler,  
Harry Holland, Andrea Martin and Mike Stock.

Clerk/Recorder: Faylene Roth.

**CALL TO ORDER**

Rau called the Regular Meeting of the Planning and Land Use Commission (PLUC) to Order on February 6, 2019, at 6:30 P.M.

**1. Open Public Comment** -None

**2. Approval of Minutes.**

**Regular Meeting of January 9, 2019.**

Anderson moved to approve the Minutes of the Regular Meeting of January 9, 2019, as presented. Gibson seconded the Motion. Anderson, Hawkins, Gibson, Rau, and Thompson approved the Motion. The Motion passed unanimously.

**3. Reports.**


**Correspondence.**

Roth said correspondence related to Agenda items have been included with their related Agenda items.

Rau requested that community members send correspondence several days in advance of the Meeting to allow adequate time for PLUC Members to review their concerns.

**Town Council Meeting - Thompson.**

Thompson reported that the Town Council (TC) met January 16, 2019. She relayed a decision by the TC to deny a request from the prospective buyer of the Castle Valley Inn to live in an RV on the lot during periodic visits to the Inn before moving here permanently. She said that the prospective buyer also requested reassurance that the Town would not attempt to limit the number of employees at the Inn. Since, as TC Member Hill pointed out, it would be economically unviable for the Inn to have too many employees, the TC agreed to add language to the current contract for this. According to Thompson, a possible split of



legal expenses between the Inn and the Town was discussed, but Mayor Duncan added that might not happen.

Thompson also reported that proposed revisions to Ordinance 95-6 were accepted by the TC. She said the details regarding septic permits are still to be worked out between the Town and the Health Department (SEUHD), after which the Ordinance can be amended again. Rau asked if any contact with SEUHD had been made. Mayor Duncan said, "Not yet."

In addition, Thompson said that the TC considered the value of Castle Valley getting certified as a Dark Sky Community, but the general reaction from the TC was that the guidelines were lengthy and stringent. The TC suggested including this as a survey question for the General Plan.

Thompson said that the TC also dropped the Temporary Land Use Regulation [moratorium] for permitted and conditional use permitted livestock in 85-3 from its Agenda.

**Permit Agent - Building Permit Agent - Thompson.**

- **Permit Activity** - Thompson reported that a residential building permit on Lot 152 was approved and a Certificate of Occupancy inspection was completed on Lot 178. In addition, she said, a routine Conditional Use Permit was granted for internet publishing on Lot 178.
- **Updates on Recent Applications** - Thompson said she is working on a routine solar permit application for Merrill Brady on Lot 447.

**Procedural Matters** - Rau informed PLUC Members of a land-use training opportunity in Moab on Saturday, February 23, at a cost of \$10.00. He encouraged PLUC Members to attend and said that attendees would have the fee reimbursed, although Thompson said she was not charged any fee when she signed up.


- **General Plan Survey Review** - Rau presented a draft including the changes made at the last PLUC Meeting. Additional edits, additions, and deletions were made, including: How to allow multiple owners to submit individual surveys, best way to assess attitudes toward current Castle Valley tax rate, community interest in strengthening the light ordinance as well as pursuing and International Dark Sky Community designation.

PLUC Members agreed to hold a Workshop Meeting on Wednesday, February 13, 2019, at 6:30 P.M. to devote two hours to the General Plan Survey. Roth will post the announcements for the Workshop which will be open to the public.

**NEW BUSINESS**

**4. Discussion and possible action re: amendments Ordinance 85-3 Sections 4.9, 4.9.1, 4.9.2, and 4.10.1.**

Rau explained that the intent of these amendments is to strengthen how Sections 4.9 and 4.10 of Ordinance 85-3 deal with livestock. The proposed amendments also prohibit animals from being herded on Town roads and clarify and strengthen the best management practices for livestock in Section 4.9. Thompson added that animal numbers are not being addressed with these amendments. These amendments, she said, are adapting the specific operating requirements for a conditional use permit for additional animals described in Section 4.10 to the permitted use for livestock allowed in Section 4.9. Major changes are described below.



Section 4.9 Introduction, paragr. 3: delete “without permission of...or upon the property of other persons without their permission.”

Section 4.9 Introduction, paragr. 4: added specific sources for determining “best management practices”: Utah State University Extension, federal Environmental Protection Agency, and “Other county, state, and federal authorities that address livestock best management practices.”

Section 4.9.1.D: added the phrase “as specified in Section 4.9.”

Section 4.9.1.E: deleted phrase regarding “overcrowding.”

Section 4.9.1.H & I: Thompson explained that the required space for medium and large animals needs more work. She said use of the word “exclusively” means that the required space for each animal must be calculated separately to determine the total amount of required space—whether or not the animals are maintained separately or within the same fenced area.

Deleted the italicized line in parentheses that precedes Item 4.10 Introduction.

Section 4.10.1.F: Thompson explained that the one-half (1/2) acre cited for the outside space requirement for large animals does not fit the size of Castle Valley lots. She will revisit the numbers.

Section 4.10.1.H: same problem as F in terms of total space, so this section will require more work. Additionally, the existing language in this section equating 1/10 acre with 2000 ft.<sup>2</sup> is incorrect. 1/10 acre is actually 4356 ft.<sup>2</sup>.


Public comments included uncertainty about whether property owners have the right to use their road easement for personal use, the unequal treatment of horses and cows, other scenarios such as horse or ox-drawn carriages as well as walking goats or other livestock on the roads. Another concern expressed was regarding whether compatible animals that herded together would require less total space than if they herded or were kept separately. Another concern was that usable acreage (not total acreage) should be used to determine the number of animal units on a lot. Thompson did say that the one-acre residential exemption for each lot was intended to cover the space for a house, outbuildings, and road easements.

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

## **5. Discussion and possible action re: recommendation to Town Council regarding nonpermanent conditional use permit applications for livestock exceeding the permitted animal units for Lots 54, 55, and 429.**

Rau explained that PLUC Members would first make their comments and submit their questions to the applicant(s) for clarification of their plans and intent after which comments and concerns from the public would be heard. He said each comment would be limited to three minutes until everyone had the opportunity to speak. Rau reminded the audience to speak directly to PLUC Members and to avoid inside conversations.

Rau stated that public comments were welcome and essential for the PLUC in learning what residents think but reminded everyone that the Town’s ordinances establish the legal basis for implementing them and that public concerns regarding nuisances or noncompliance with an ordinance must be supported with documented evidence such as a record of dates, times, photographs, and specific impacts. Anderson added that



documentation received at the last minute does not allow time for PLUC Members to properly assess the evidence before its Meeting.

Rau stated that the applicant(s) is requesting an increase in the number of animals beyond what is currently allowed without a conditional use permit. He said the [Town] ordinance allows the PLUC to recommend conditions for this permit. He also noted that this conditional use is nonpermanent and its permit must be reviewed and renewed annually.

Thompson asked for clarification of the total number of animals requested for all three lots. Rau added that the designated animal units for cows are not affected by the size of the breed.


Holling responded that the purpose of the application is to allow up to nine (9) animal units at a time on a single lot but said that the total number of animals on all three lots would never exceed the six (6) permitted animal units per lot. He said they are not requesting a permanent increase in the number of animals but want to have flexibility to increase the number of animals on a single lot for breeding purposes, such as bringing in a bull for a few months. Holling explained that if three (3) additional animals were moved to a lot that already had six (6) animal units, there would be three fewer animals on one of the other lots.

Anderson asked how Lot 429 would be used and indicated he was inclined to only permit animal use for Lots 54 and 55. Holling said they intend to use it as possible housing for some of the younger animals. He said they plan to fence the lot, irrigate it, plant it, and build a pig shed for the young pigs. Holling said there was already a small fenced area on the lot which could be used. Holling added that they do not intend to have so many animals that it would require employees and said that he did not envision ever having nine (9) animal units on Lot 429.

Holling stated that he feels that animal units should reflect the size of the animal. He noted that the Ordinance does reflect the lower impact of miniature horses. He said that Dexter cows consume a fraction of the feed of a standard breed and said that the Dexters browse more like goats. He added that this breed is very suitable for this location and said that they can raise sufficient hay and feed for them. He added that the Dexters are a heritage breed that needs protection. He said their purpose is to provide healthy, safe, organic, non-GMO food for their family through sustainable agriculture as Town Ordinances allow. They will sell extra animals, he said, as allowed by the Town Ordinance. In addition, he said their irrigation and weed control will provide healthy soil and watershed protection.

Holling acknowledged that the original application made it appear that each of the three lots would carry the same number of animal units. However, he said, the follow-up letter from his attorney clarified that only one "set" of animals would be spread over the three lots. He said that, because of the extra time for "natural weaning," they were concerned that some of the younger animals would not be sold within the allowed time period for animal unit designation.

Holling mentioned concern about their corporation, but he noted that an S corporation is a common family structure. He added that they are as concerned about the Town's aquifer as anyone else but noted that the overall concentration of animal units in Castle Valley is very low. He noted that Utah law states that as long as they abide by proper management, their farm cannot be considered a nuisance. He also added that they had



consulted “early on” with their neighbors but noted that new neighbors have since moved in, adding that Castle Valley was already designated as an agricultural area. He said that they, too, like others, had “their dreams to live.”

Gibson expressed appreciation for the Community Information summary provided by the Hollings and noted the importance of direct communication between the Town and applicants and hoped to continue this direct discussion without having to channel it through lawyers. She noted that the main concern from neighbors has been about the smells and the manure. Holling said they have one pile which will be spread out once it dries and then explained the approach they are experimenting with at the suggestion of Utah State University which is to remove the manure from the sheds and corrals and spread it directly over the fields where it will be absorbed. He also noted that once all three lots are established, the impact from the animals will be spread out. It was noted by others that horse owners within Castle Valley routinely spread their manure over their fields on a daily basis.

Gibson asked Holling if he was okay with only nine (9) animal units, temporarily, at any one time on a single lot. He said he would be and that probably that would only happen on Lot 54 or 55. Holling said he was willing to accept that condition—up to eighteen (18) animal units (six per lot) with the flexibility to have up to nine (9) animal units on a single lot for a limited period of time.

Thompson suggested a condition for the animal units and a condition that the manure pile be moved. She also questioned Holling about whether sufficient water rights were available for proper management. She noted that some of his water rights were set to expire in 2024 or 2026. Holling claimed the fixed time water right can be extended. Holling indicated he was well aware of the need for water. If it became a problem, he said, they could reduce the number of animals they kept.

Anderson asked about grazing plans for the animals and whether supplemental feed would be required. Holling responded that he hoped to be up and running in a few years with production of hay, grazing, and animal feed production. He indicated that Lot 429 would also be used for growing.

Hawkins queried Holling regarding the number of lots he owns within the Town, his plans for producing meat for his family, whether Castle Valley is a good choice for a family farm location, the size of his plan, the difference between the “letter of the law” and the “spirit of the law” regarding the desire of current residents for a basically residential community and who cherish the quiet atmosphere of Castle Valley and the fresh air it provides. She asked about the impact of noise, flies, and smells from his farm.

Holling said that he also owns Lot 50. He may decide to grow hay on it and perhaps, he said, his daughter would put a few beehives on the lot. Holling explained that there were many variables that determined the amount of meat a small farm would get each year but said 400 pounds per year was average. Holling said they are currently using fly control methods and that they will begin spreading their manure out.

Hawkins also asked Holling about the commercial aspect of the farm operation. Holling noted that commercial return would not be great and is not the intent. Their intent, he said, is to live a sustainable lifestyle. He noted the pigs they are raising are small and provide about 50-70 pounds of meat each.



Rau asked about the suggestion from Rhonda Miller, Utah State University (USU), in her letter of September 24, 2018, regarding construction of a berm around the composting manure pile and asked why that has not been done. Holling replied that Miller now suggests they do away with the manure pile. He said what is there now is composted. Rau asked how the manure would be managed when the animals are not grazing. Holling said it would be spread and watered.

Thompson asked about management in winter. Hollings said it would be spread as soon as it can be.

Rau suggested moving the manure pile—if ever needed—and adding a berm around it should be set as a condition. He also added Miller’s suggestion that a concrete base under the manure pile reduces seepage and hardening of the ground underneath and that tree planting around manure piles or composting piles were good management practices. Holling said if the new manure management practice of spreading does not work, he would consider Miller’s suggestions regarding a manure pile. He also said the tree planting they were planning around the perimeter fence was intended to reduce odors (by deflecting upward). He said they are willing to work with whatever Miller recommends. Rau said her recommendations would be taken seriously and applied to development of conditions that seem appropriate.

Rau asked Holling about the dip on Lot 54 that seems to be pooling and spreading. Holling said most of the runoff was coming from their driveway which they plan to fix with gravel and possibly some grass planting.


Rau requested that Holling ask his lawyer to grant permission in writing to allow direct communication between himself and the Town in order to resolve some of these issues.

Thompson asked Holling about providing shade for the Dexter cows for their eye protection, as they are prone to sunburn. Holling said they plan some tree planting and lean-to shade structures for this purpose. Thompson said she supported conditions that would clarify management of a manure pile. Holling said he wants to try the spreading method recommended by USU first. She said, she too, would like to see the manure pile moved away from Lazaris. Thompson also mentioned concerns from residents regarding the number of pigs and the smell from pigs. Holling said he has had pigs for several years and has had no complaints.

Thompson said she would like to tour the farm, especially the pig facility, and see the layout. Holling will consult his lawyer and arrange a site visit.

Anderson noted that he has been a resident of Castle Valley for 25 years. He said he is concerned that the number of animals and the amount of waste they produce will exceed the land’s capacity to handle it. He said this is a fragile zone. He asked: is the land you have going to accept the amount of waste you will put on it—through percolation, runoff, evaporation? Holling replied that the pigs are hay eaters. He said that Miller said that — because of this—the pig manure can be mixed with the cow manure, which will be recycled back into grass growth and will not percolate down beyond the six foot depth of root growth.

Public comment expressed concerns about impacts from manure piles on all three lots, whether commercial agriculture should require a business permit, whether slaughtering would take place on site, adequacy of the fence between Lots 429 and 428, confusion about numbers of animals, excess fly population, the carrying capacity of the land in its ability to



absorb spread manure, the effect of drought on the land's ability to handle the manure, whether the manure should be hauled away, the lack of maps and supporting evidence for review, the discomfort of neighbors having to be the monitors, whether an independent party should be responsible for follow-up inspections and who would pay for it, and the number of employees.

Mayor Duncan and others added that the current corral on Lot 54 is a nonconforming use because of its lack of setback which means that the extent of its use cannot be expanded beyond what is already allowed. There was some discussion about how conditions would address the nonconformity.

Holling repeated that they planned to spread manure over the hay fields rather than use manure piles. He said slaughtering would not be done on site. He added that they regularly apply ground treatment for fly control and suggested consulting with neighbors on Lot 428 about the current fence to protect both their interests. He said there would be no employees beyond family members. It would not be cost effective, he said. Holling stated that they want to be proactive and not do anything that will get them in trouble later.

PLUC Members generally discussed and heard ideas for conditions, including site visits, postponing the CUP until the pasture is there, granting the CUP for fewer animal units than requested and monitoring the management practices for the first year.

May asked that complete information regarding the application be provided to the public before approval.

Holling stated they are not trying to expand; they are asking for flexibility.

Rau summed up the sentiment that the PLUC was not yet ready to set conditions or make a recommendation to the Town Council. They will do additional research over the next month, including consulting an expert as suggested by Mayor Duncan, and continue the discussion at next month's Meeting. He asked that additional suggestions be submitted by the applicant and by the public in advance of the next Meeting to allow time for review and consideration.

Anderson said to Holling that the PLUC will want to communicate with him during the month and asked for a more direct way of communication.

Anderson moved to table Item 5. Gibson seconded the Motion. Anderson, Hawkins, Gibson, Rau, and Thompson approved the Motion. The Motion passed unanimously.


#### **UNFINISHED BUSINESS**

#### **6. Discussion and possible action re: solar permit applications for 48 kW on Lot 54 and 75 kW on lot 55.**

Anderson moved to untable Item 6. Thompson seconded the Motion. Anderson, Hawkins, Gibson, Rau, and Thompson approved the Motion. The Motion passed unanimously.

Rau reviewed the circumstance surrounding these applications. He said they were submitted about one and one-half years ago and have gone through much legal review with a final decision from the Utah State Ombudsman's Office that the Town accept the solar permit applications and review them based on the ordinance that was in effect at the time of the submission. Rau said that the Ordinance only regulated setbacks at that time.

Rau asked the applicant if the applications have changed. Holling said the applications are the same for size and location; only the individual items may change because of changes in technology. Holling said he would be willing to work with neighbors regarding location.



Hawkins questioned Holling regarding the number of panels and the size of the systems. Holling explained that the system is large so that they can be totally off grid. He noted that the number of panels might be reduced because of the increase in efficiency of newer panels. According to Holling, their electrical needs are very high due to electric appliances, irrigation pumps that may run 12-24 hours a day in summer, business computers that run 24 hours a day, etc.

Rau asked about the temporary dwelling currently located where the panels will be placed. Holling said the temporary dwelling will be removed.

Holling added that the current height of the ground-mounted panels is 13.4 feet and would be oriented in a similar direction to Bruce Keeler's panels. He repeated his willingness to work with neighbors.

Anderson suggested that Holling talk with Peter Lawson who produces around 140 kW of solar power and irrigates 110 acres. Holling added that they will be irrigating in summer and require twice the number of panels for winter sun.

Holling said he needs reliable power 24/7 and agreed to install as little as needed in order to meet his energy demands. He said he would like to have time to research the most efficient equipment and placements. He asked for an agreement with the Town to allow him to put up a panel for "say...six months" to determine efficiency without his permit expiring. He asked about a variance or an agreement to do away with the setbacks in order to move the panels farther back from Castle Valley Drive and to increase the efficiency of having the panels closer together.

Thompson said that the technical aspects of the application are judged by the Grand County Building Department. She stated that the PLUC does need to know about the need for storage buildings and whether they will require permits. Holling said he hoped to have that infrastructure underground. Rau added the need for fencing. Holling replied that fencing can surround one or several arrays and noted that grazing is allowed beneath the panels.

Roth explained the Castle Valley building permit process which has a six-month expiration date if Grand County approval has not been granted within that time period. She said the PLUC cannot reduce setbacks because one of the properties may be sold later. She said possibly a lot line adjustment or the combining of the two lots might provide a solution. Holling asked about the use of a variance.

Rau again asked Holling to provide a letter from his lawyer that would allow direct discussion between the Town and Holling. Rau will seek clarification about the variance process.

Thompson moved to retable Item 6. Anderson seconded the Motion. Anderson, Hawkins, Gibson, Rau, and Thompson approved the Motion. The Motion passed unanimously.

7. **Discussion and possible action re: proposed amendments to Ordinance 2003-3 (tabled)** – Left tabled.
8. **Closed Meeting** – None.



**ADJOURNMENT**

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

Rau adjourned the Meeting at 10:10 P.M.

**APPROVED:**

**ATTESTED:**

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

**UNAPPROVED**