

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

Date: Wednesday, June 2, 2010

Time: 7:00 PM

Place: #2 CV Drive, Castle Valley Community Center

Present: Lou Taggart, Mary Beth Fitzburgh, Eddie Morandi

Absent: Laura Cameron, Marie Hawkins

Others Present: Lesley Craig

CALL TO ORDER 7:00 P.M.

1. Open Public Comment.

None

APPROVAL OF MINUTES

2. Regular Meeting of May 5, 2010.

Lou motioned to approve the Minutes as amended. Eddie seconded the Motion. Lou, Mary Beth, and Eddie approved the Motion. The Motion passed unanimously.

REPORTS

3. Town Council Meeting – Chair.

Mary Beth reported that at its last regular meeting the Town Council approved the changes made by PLUC to Ordinance 2006-3: an Ordinance Establishing the Planning and Land Use Commission and Designating Land Use and Appeal Authorities. She reviewed the discussions that took place regarding the requirement for one member of the Board of Adjustments to have expertise in land use law and the use of the word “strive” to describe the effort of the Town Council to find a person with appropriate expertise. Mary Beth also reported that Jeff Johnston was named as an alternate member to the BOA. PLUC members discussed the plausibility of increasing the number of members on the BOA if more people were available to serve on the Board. Eddie commented that some known “land use experts” in the area rely heavily upon legal advice from others and suggested that Castle Valley's BOA could do the same to attain the level of “land use expertise” required in Ordinance 2006-3. Discussion followed of whether the word “strive” should be deleted from the Ordinance.

The amendments to Ordinance 85-3 regarding permitted and conditional uses and building area and height requirements were also submitted by PLUC to the Town Council at its last meeting. Mary Beth reported that council member Aaron Davies expressed skepticism about the proposed changes. He asked for a Workshop on the issue with the PLUC. It was held Monday, May 24, 2010. Mary Beth reviewed the document she had prepared for the workshop regarding the complexities of applying the current Ordinance. She will make the document available to PLUC members who were unable to attend the workshop. She further

reported that Aaron's concerns were that the proposed changes in building area and height restrictions allowed taller and larger buildings. He did not think the reasons for the change justified the taller, larger buildings. Mary Beth reported that she disagreed with his opinion. She expressed at the workshop her opinion that the two-height limit simplified the administration of the Ordinance while continuing to protect the viewshed.

Other decisions made by the Town Council at the Workshop were to retain the current treatment of calculating height of additions separately from the original building and to delete changes to items relating to animals from this amendment. The PLUC plans to make a more comprehensive review, with public input, of animal limits and how height is measured on sloped lots at a later date.

Other discussion at the Workshop included the addition of Temporary Accessory Dwellings as a Permitted Use. Mary Beth reported that TADs are not identified in the current Ordinance as Permitted Use or Conditional Use. She feels that Permitted Use is the proper classification for TADs. Aaron will further research this issue.

Another question raised at the Workshop was the decision by PLUC to allow roof height over a deck, as measured from the highest point of the roof to the lowest point of existing or finished grade, to be excluded from height measurement long as the area under the deck and roof were left open. Mary Beth reported to the Workshop that PLUC members did not want to discourage decks. She added that how height is measured on a hillside still needs to be addressed by the PLUC. She referred to Eddie's suggestion that separate requirements could govern building on slopes and Faylene suggested holding a Workshop with local builders and contractors, as well as others who are interested. He asked whether there is any record of the grade of the slope on hillside lots in Castle Valley. Faylene will ask Greg Halliday, Road Manager, if he knows and/or check with others who might know.

Mary Beth also reported that the definition for “detached building” is removed from the amendments.

The Town Council will hold a Public Hearing at their next meeting and then review the proposed changes.

#### 4. Open Public Meetings Training Report – Chair.

Mary Beth reminded PLUC members that each member is required to attend one Open Public Meetings Training each year. One item from the most recent training had to do with the recording of Minutes. Anytime the chair recognizes a member of the public who makes a comment, it should be recorded in the Minutes including the name of the person expressing the opinion. The Minutes should also show that deliberation has taken place in the form of a discussion amongst Commission members on any item they take action on. Another item covered was *ex parte* communication. Mary Beth felt that it was important to get input from the public and stated that PLUC members should report these conversations during the PLUC Meeting. Exchange of e-mail amongst Commission members was another topic covered in the OPM Training. E-mail exchanges between Commission members are part of the public record. Each e-mail should have a subject name and be saved by category. Mary Beth said that communication amongst PLUC members between meetings should be for purposes of

clarification and not group discussion. In addition, only one topic per e-mail correspondence should be addressed. Some types of records are protected; e.g., bids and legal issues. However, if a protected topic is discussed in the same correspondence as an unprotected topic, the entire correspondence is considered part of the public record. Discussion followed on backing up PLUC records. Faylene said that this was not currently being done. Mary Beth asked that she make this a priority project and begin backing up PLUC data once a week. Eddie suggested backing up files on a flash drive. Faylene reported that the Town Council uses an online site at Mike Baird's (County Tech expert) suggestion. Faylene will investigate both approaches and begin backing up computer files.

#### 5. Building Permit Agent.

No building permits or CUPs were issued during the month of May. Faylene reported that one Business License was issued to someone with a Conditional Use Permit. Mary Beth said that by state law anyone with a business should have a Castle Valley Business License if they don't already have one somewhere else. Faylene suggested including this information in the November mailing for CUP renewals. Mary Beth also asked Faylene to inform the PLUC about building permits or CUPS that may be coming up. Faylene reported on a request for a building permit on Lot 76 to build a utility/mechanical room as an accessory building. It will be less than 10 feet from the primary building, possibly less than one foot.

#### NEW BUSINESS

None

#### OLD BUSINESS

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

Lou motioned to untable Item 6. Eddie seconded the Motion. Lou, Mary Beth, and Eddie approved the Motion. The Motion passed unanimously.

Mary Beth presented information about an email addressed to the Town of Castle Valley from the Bureau of Land Management Field Office which was referred to her. The letter related to the Utah Recreational Land Exchange which exchanges SITLA land near Castle Valley with BLM land elsewhere. The BLM Field Officer was inquiring whether the Town prohibits mining within its boundary on federal land. Eddie said that the Bridger Jack development is currently in a lawsuit for a similar issue. He offered to get more information about the circumstances. Mary Beth has talked with both Damian Bollerman (previous Mayor) and Dave Erley (current Mayor) about this issue. She and Dave will talk further to determine what current policies apply. Dave has information from the Environmental Protection Agency about what can and cannot be done in a municipality. They both felt it was important that Castle Valley protect its sole source aquifer designation. Either Mary Beth or Dave will report back to the BLM Field Office request.

Mary Beth asked PLUC members to review the Watershed Ordinance information in their binders before the next meeting. PLUC's goal is to assemble all references to watershed in

one section of the Land Use Code. An earlier draft having to do with fuel issues in the Town will also be included. Currently, the Town's Watershed Protection Ordinance requires a permit for any mining within our recharge watershed area. It does not state whether this would require a conditional use permit or another type of permit. Also, we do not have anything in our ordinances detailing the process or application for such a permit. Several options were mentioned, such as making mining a prohibited use in the RAR-1 (rural agricultural residential) zone, a conditional use in the RG-15 (range and grazing) zone, and require a permit from the Town for mining anywhere else within our watershed recharge area.

Lou motioned to retable Item 6. Eddie seconded the Motion. Lou, Mary Beth, and Eddie approved the Motion. The Motion passed unanimously.

7. Discussion re: reviewing and amending town ordinances that limit the number of livestock which can be kept on five acres of land (tabled).

Eddie motioned to untable Item 7. Lou seconded the Motion. Lou, Mary Beth, and Eddie approved the Motion. The Motion passed unanimously.

Some documents were missing from some of the members' binders, so Faylene and Mary Beth will meet before the next meeting to ensure that everyone has all the documents from past meetings in their binders.

Mary Beth referred members to Ordinance 85-3 to review the section related to the number of livestock that can be kept on five acres of land. Things to consider in amending this Ordinance are: setting a limit for family use based on animal units, definition of commercial livestock use, limits on animal numbers, changes to related definitions for clarity and consistency, and standards for CUP mitigations for greater numbers of livestock that go over any set limits. Eddie asked about the PLUC's mission for this section. Mary Beth said that Castle Valley's zoning as RAR-1 means that this is a rural area that allows agricultural activity and residential homes. She felt that this section should balance personal use and business use of livestock with quality of life and protection of the Town's unconfined aquifer. Even though the Town has RAR-1 zoning, the Town can place a cap on the number of animals allowed per 5 acre lot. PLUC members felt it important to protect Castle Valley's aquifer, because it would be expensive for the Town to put in a water delivery system.

Ed motioned to retable Item 7. Lou seconded the Motion. Lou, Mary Beth, and Eddie approved the Motion. The Motion passed unanimously.

8. Discussion and possible action re: reorganization and revision of Zoning Ordinance 85-3 (tabled).

Lou motioned to untable Item 8. Eddie seconded the Motion. Lou, Mary Beth, and Eddie approved the Motion. The Motion passed unanimously.

Mary Beth reviewed changes in the Land Use Code document dated 2/26/10. Section 1.1 names the document and allows use of the acronym LUC. Section 1.5 explains the history of the document. Section 5 relates to the Board of Adjustments. Changes in this Section have been approved by the Town Council and will be incorporated into the next draft. Sections 6

and 7 relate to conditional use permits and building area and height limits. Changes in Section 7 are currently under consideration by the Town Council. This Section will be amended pending the outcome of the Town Council Meeting. Section 8.5 was reworded to conform with state law. PLUC members discussed the reasoning for allowing some CUPs to run with the land and others to not run with the land, especially where businesses are at stake. Mary Beth will check with David Church (Utah League of Cities and Towns) for clarification of the additions made to Section 8.5.

Section 9 relates to Ordinance 2006-3 and Section 10 corrects the reference to the required plumbing code.

Section 11 was added after a request to the Town Council from Jeff Whitney, Grand County Building Inspector. It outlines the Town's enforcement of violations to the Land Use Code. The Town Council suggested adding a preliminary step to Item 2, such as a phone call, to provide an opportunity to resolve the violation. There was a discussion of who would make this preliminary step. Mary Beth said the Mayor would make this contact. Suggestions were considered that the Mayor act on a Resolution of the Town Council to make phone contact and that this contact be documented. Lesley Craig asked how the Town would determine that a violation had occurred. Mary Beth said that the county building inspector would most likely make the determination but the Mayor could as well. It was also mentioned that our Land Use Code should detail a process to determine and investigate that a violation has occurred. Lesley asked by what right the Mayor would act as the enforcement agent. According to Mary Beth, the Mayor's duties include acting as enforcement agent. The Mayor can also act on a Resolution of the Town Council. Lesley wondered whether the Town might have more important issues to spend time on, especially with its limited resources. Mary Beth suggested that she let the Town Council know her opinion. She acknowledged Lesley's suggestion that the LUC designate the person who is responsible for enforcement and thought that a good idea. Section 11.1.D and 11.1.E describe the conditions in which a person may file a written complaint and outlines how the Town would proceed with the investigation. Eddie thought that "Town" should be defined so that it is clear who will investigate. Remaining changes were minor.

Changes to TADs were reviewed in Sections 6-10, page 31, of the longer version of the LUC dated January 2010. Item 2 was changed to allow the caregiver to live in the TAD with the infirm person while keeping the total limit of people in the TAD to three (3). Item 2.B reduces the requirement of two written statements from two Utah doctors to one statement from one doctor. This was done because, for a time, local doctors were not taking new patients. Alternatives to this solution were discussed, but no decision was made. Council members agreed that the requirement should be broad and not just include Utah and Grand Junction doctors.

In Section 3.A the abbreviation "MSO" was identified by Lou as meaning "Manufacturer's Statement of Origin" which identifies the date of manufacture. Castle Valley allows residents to live in old trailers if they are brought up to code. Commission members were unsure of the date (possibly 1985) that differentiates trailers that are not acceptable under current codes. No one knew what the term "afixture" meant. Lou will research the meaning of this term and the date of manufacture that identifies what trailers are allowed by code. She will report at the next meeting.

