

**MINUTES**  
**PLANNING & ZONING COMMISSION MEETING**  
**TOWN OF CASTLE VALLEY**  
**Wednesday, January 11, 2006**  
**Castle Valley Community Center**

**Commissioners present:** Rick Lamb, Pam Hackley, Valli Smouse.

**Absent:** Michael Peck.

**Others present:** Alison Kennedy, Greg Sayers, Damian Bollermann, Ed Derdarian.

**Clerk/Recorder:** Rebecca Martin

**1. Call to order:** Meeting called to order by Rick Lamb at 7:11 P.M.

**2. Approval of Minutes:** Minutes of the December 14, 2005 P&Z Meeting were **approved as presented.**

**3. Election of Officers:** Pam was asked if she would accept being nominated as Chairperson. She said she would. Valli nominated Pam Hackley to be chair. Pam nominated Valli as vice-chair. Valli accepted the nomination.

**Valli was elected as Vice Chair by unanimous vote. Pam was elected as Chair by unanimous vote.**

Pam expressed thanks for being elected as Chair, welcomed Valli to the commission, and thanked Rick for helping the commission to achieve quorum by attending.

Discussion ensued about whether discussion and possible action on the hearing topics could be added to Old Business. It was decided that this would not honor the intent for public notice and should not be done.

#### **PUBLIC HEARINGS**

**Rick moved and Valli seconded the motion to open the (item 4) hearing. Motion passed unanimously.**

**4. Hearing on Proposed Amendments to Ordinance 2003-3, “an ordinance encouraging the movement of deer within Castle Valley by limiting the use of exclusionary fencing.”**

Edward Derdarian expressed concern about Section 1, 1.1.3, i.e., saying he has irrigated land but does not want to have his land reassessed under the Utah Farmland Assessment Act.

Valli says this refers to becoming part of the greenbelt, for which a landowner must apply and have that granted by the county. Then the land must be used, producing at least 50% of what the land can produce, or leasing it to someone with cows, etc. Taxes are less, but then to put a house on it, back taxes must be paid.

Pam explained that this ordinance does not require land to be reassessed. Sections 1.1.1 and 1.1.2 are together as one alternative, while 1.1.3 is the other alternative. If someone does want exclusionary fencing around their whole property, however, they do need to get an agricultural designation from the Town.

Ed asked about redirecting deer, as opposed to fencing the entire property, specifically creating a double fence along the tree line. Discussion ensued about whether the percent of fenced land or the shape of the fenced area is used in defining exclusionary fencing. Pam noted that the ordinance allows for one acre being fenced. Ed commented that lots have unique features and people use their land for various things, and asked whether there needs to be a provision for people to come in to discuss their particular lot with the P&Z to determine what is best if they are planning exclusionary fencing.

The original intent was to avoid everyone fencing their whole lots, and thereby channeling the deer into the roads, and to preserve free deer movement up and down the Valley. Valli wondered if there are any blocks created by two such fences, and knows of only a few eight-foot deer fences. Pam noted that the TC asked P&Z to try and clarify the adopted ordinance because it contained circular reasoning and the diagram didn't match the numbers in the ordinance. Damian knows of a few properties with exclusionary fences, and one person who constructed one when they heard that an ordinance would be passed to prohibit them. He doesn't know how the new council will deal with this.

Greg asked if existing fences have to be removed. Rick explained that if the fence was up before (March 1, 2003) they do not have to remove it; however fence repairs and new fences may not use barbed wire.

Discussion ensued about the process for an exclusionary fence. Section 1 requires a specific designation for commercial agriculture uses, which would be obtained by going through the Town Council. Section 2.1.1 requires a conditional use permit so that would have to come through the Planning Commission.

Written comments were received from Jack Campbell. (comments attached)

**Rick moved to close the hearing since there was no further comment. Valli seconded. Motion passed unanimously. Rick moved and Valli seconded to open the (item #5) Hearing. Motion passed unanimously. 5. Hearing on Draft of an Ordinance re: “Aquifer Protection Ordinance: Fuel and Hazardous Materials Storage.”**

Damian noted that there is a typo in the 2<sup>nd</sup> whereas, i.e., “led” should replace “lead”. **Rebecca will make this change.**

Damian noted that this ordinance claims to be “Effective within the boundaries of the Castle Valley watershed,” and asks how he would be able to enforce it outside of the town. Pam explained that Town Attorney, Jerry Kinghorn, gave the opinion that the Town does have the authority for extraterritoriality. Damian questioned whether enforcement is really feasible even so.

Damian asked about the last sentence in Section 10, i.e., whether a town can pass a law and then retroactively bring people into compliance who have already been doing an activity. He suggests that a legal opinion might be needed about that.

He commented that there are some unpopular things in this ordinance that look difficult to enforce. He knows of conscientious above ground fuel tank owners, with thoughtful tank installations, who would have to post a \$1,000,000 bond under this ordinance and might chose to remove the tank instead. He said the Town may then create a situation where people have to rent a backhoe from town. The (Daystar Academy) currently has gas and diesel above ground tanks.

Discussion ensued. Alison, Damian and Ed agreed that this ordinance appears well-intended and that it is very important to protect the aquifer.

Damian suggested that going after large-scale herbicide use within the watershed may be as important or more important.

Pam suggested that the Town could ask Kinghorn to look at this ordinance for a “fatal flaw”.

Ed said that as a “downstream” person, he would like to see some sort of oversight on fuel storage.

Discussion ensued about the definition of “non-functional vehicle”.

A suggestion was made for the Town to have a dump station for toxic fluids on clean-up day. Pam is currently working with Grand County to address household hazardous waste disposal county-wide. Part of the options being considered would be to have a drop off station in CV at the clean-up day, or possibly on a permanent basis.

It was acknowledged that the P&Z was aware of trying to have a protective ordinance that is so restrictive that it keeps people from doing reasonable things on their lots.

**Valli moved and Rick seconded the motion to close the hearing. Motion passed unanimously.**

**Rick moved to suspend the order of business to entertain a CU permit under item 10. Valli seconded. Motion passed unanimously.**

#### **Lot 387:**

The Commission read Alison Kennedy’s request for a conditional use permit. Rick had no questions. Valli had no questions. Letters to adjacent land owners have not received responses yet. It was determined that the business was up and running before moving to Castle Valley, and has been running under a county permit.

Pam asked if there would be ups deliveries. Alison said she expects perhaps one per year; fewer than for their personal lives. Pam asked if there would be a sign. No sign. Storing of hazardous fuels or materials? No.

**Valli moved to table this question until the next P&Z meeting. Rick seconded the motion. Motion passed unanimously. Rebecca will contact Alison to inform her of the meeting date (since a date change is pending).**

**Rebecca will distribute copies of the CU permit documents to new P&Z members: FAQs, Steps in the Process, and Master List of all existing conditions placed on businesses.**

#### **REPORTS**

##### **6. Building Permit Update.**

Damian reported that the new building permits agent has not been hired yet but he can sign off on issues in the interim. Rebecca reported that (before Damian’s stepping in) the Town received two building permit requests, one for an addition to a garage and one to replace a shed with a 2-car garage. There has also been a request for a temporary dwelling permit. Prior to these requests, Ron Mengel had also stepped in to help by processing one permit. Ron has been willing to keep filling in when he is here if a time-sensitive request comes in.

Pam asked the status of the new B&B owners' request for a building permit. They are requesting to replace a shed with a two-car garage. Valli asked which shed, and that is unknown. They have been away, and intend to check in again when they return; no plans have been received. Valli pointed out that the rooms they are using now as rental spaces were originally the garage. This request may require careful scrutiny.

Valli asked whether the new owners have been given all of the B&B information from the Town. They do have a copy of the contract, but they may not have all of the history. Valli says this is important because they can't make it any bigger. It is a very specific situation. It has been mentioned to them that they may not exceed the current footprint. They know that they are a non-conforming use. The B&B may require further attention by a Council member throughout the process.

## **7. Town Council Information and Requests.**

### **Discussion & possible action re: Review of Planning Commission By-Laws, Enabling Legislation and Terms of Service**

Discussion ensued about the work that must be done. All municipalities are now required to have an ordinance enabling the P&Z. The by-laws that are on the books are not a good match with the way that the P&Z functions. Lengths of terms need to be set and decisions made about mid-term appointments to replace P&Z members who have to leave for various reasons. The TC said the P&Z should set up what they want to have happen, and the TC will look at it for approval.

Two statutes were presented that describe enabling and powers and duties. A third document, from Utah League of Cities and Towns, was also sent by Cris Coffey who found it amongst old minutes. It describes the particulars of the Town Council, P&Z and Board of Adjustments. Pam noted that some things have already changed from when it was written.

**Pam will do a draft from which to start the work. Rick would be willing to review it. Valli has zero extra time right now.** A work session may be possible. It was agreed that Email would be a good way to work/communicate on this.

## **OLD BUSINESS**

### **9. Discussion and possible action re: changes to land use sections of UT State Code in Senate Bill 60 "LUDMA" (tabled).**

**Rick moved to take (item 9) off the table for discussion.**

Valli asks to be brought up to speed. Pam explained that a lot of changes were made to Title 10 this past year. The changes were so many and so significant that the League gave communities a working document to give them direction. The document was divided up amongst four P&Z members plus Cris Coffey. Some things don't pertain to us. Not much progress has been made. The ULCT planning workshop in October was only a bit of help.

Pam is following Moab City's progress on this. Their new ordinance is 18 pages long or so, and they are about to pass it. We have to go over our ordinances to have them comply with these changes.

**The workload was re-divided up as follows:**

No action needed – item 1

Michael – items 2, 7, and 12

Pam – items 3,6,8,and 13

Cris – items 5, and 11

Valli – items 14

Everyone – item 10.

**Valli moved to table the discussion and possible action on LUDMA, to continue working on our individual assignments, and place it on the agenda for the March P&Z meeting. Rick seconded the motion. Motion passed unanimously.**

**Valli needs a set of current ordinances. Rebecca will get this to her.**

A correction was made to the new P&Z address list. **Rebecca will make the correction and re-distribute the lists.**

## **NEW BUSINESS**

### **10. Discussion & possible action re: Annual Review of Condition Use Permits.**

**Lot 77:** A request from Karen Nelson was discussed to split an existing business into two businesses, with no other changes listed. It was determined that the P&Z has to be able to review the request and ask questions about the change. **Rebecca will write a letter for the business owners to apply for the separate CU permit and to explain that they must come in for review to the next P&Z meeting.**

**Lot 87:** The renters on lot 87 contacted the Town for two business permits. The conditional use requirement was explained and Rebecca has continued to contact them without them ever applying for the permit. One of the businesses, an RV rental business moved to Moab, and a proof of moving was finally brought in. The second business is said to be moving out of Castle Valley by March of 2006. **Rebecca will write a letter to request proof of moving from the second business.**

Discussion ensued about businesses that exist without a CU permit and/or that are here for a short time. **Valli moved to add the following to the CU permit process: "If you are using your property or Castle Valley mailing address to earn money, you need a conditional use permit." Rebecca will post a notice explaining who needs a CU permit. This can stay up on the mailboxes notice board all year. Rebecca will ask Ron to publish a notice/reminder of this each November.**

**Rebecca will send people their business licenses who have paid their fee and been reviewed.**

**11. Discussion & possible action re: Annual P&Z Plan of Action**

Housekeeping. Presenters at the October Planner's workshop suggested that the P&Z commissions develop a work plan each year. It is recommended to conduct an annual review of the general plan and other planning issues and concerns in a public forum. The Castle Valley General Plan was written in 2001 so is due for review.

**12. Discussion & possible action re: Possible change of February 8 P&Z Meeting date.**

Pam cannot attend the February 8 meeting and suggests a change in the meeting time in the interest of achieving quorum and keeping the work moving. **Valli moved, and Rick seconded, the motion to change the next P&Z meeting date to Tuesday, January 31, at 7 PM. Motion passed unanimously.**

Discussion ensued about the P&Z applicant, Vicky Kress, who is very enthusiastic about contributing to the Town, but is not available during the scheduled P&Z meetings. She expressed interest in having the meetings changed to another schedule, but that has not been in the greater interest. **The P&Z recommends that the TC write a letter to Vicky Kress thanking her for her interest, and suggesting that she contact the P&Z to offer help outside of the regular P&Z meeting timeframe.**

The P&Z also received a letter of interest from Gil Gonzalez about becoming a P&Z member. (letter included).

**13. COMMUNICATIONS**

**14. ADJOURNMENT**

**Rick moved, and Valli seconded the motion, to adjourn. Meeting adjourned at 9:29 PM.**

**ATTEST:**

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**Clerk/Recorder**

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**Date**