

**Castle Valley Planning Commission Special Meeting
April 18, 2006 Workshop Re: Complaint Resolution Process.**

Meeting convened at 6:15 PM.

Commissioners Present: Marie Hawkins, Valli Smouse, Michael Peck, Pam Hackley.

Absent: Vickie Kress.

Others present: Leta Vaughn.

Clerk/Recorder: Rebecca Martin.

It was decided that this meeting would focus on re-writing the draft Ordinance for the establishment of a Complaint Resolution Board (CRB).

Statute 10-8-60 gives the Town Council (TC) the power to declare a nuisance. There is no nuisance ordinance per se. There are things within the Permitted uses, Home/Premise Occupation, and Conditional Use sections of Ordinance 85-3 that are related to the question of nuisances. The lighting ordinance and that related to dogs are inherently nuisance ordinances.

Discussion ensued about the nature of enforcement difficulties, i.e., is the difficulty in the enforcement process, that someone has to complain, or that someone has to enforce? All were acknowledged to be problematic.

The origin of a complaint was discussed. Complaints may be written and signed, or a petition to TC or the Town observes a potential violation. Discussion ensued about anonymous complaints.

[Clerk's note: From this point on, the group was working from Bob Lippman's revised proposal for an Ordinance outlining a Complaint Resolution Board, hereafter referred to as "original draft" (copy included). Valli recorded changes to the original draft (notes included), and a new version of the draft Ordinance was produced, hereafter referred to as "new version" (copy included).]

It was decided that the product of this meeting would be a draft for a temporary ordinance with a time limit/expiration date. This ordinance would outline a process that can be used for the Town to work with in testing out the enforcement process, which would then expire in two years. It will replace Resolution 96-3, and some language will be brought forward into the new temporary ordinance.

The first "whereas" from the original draft will be retained in the new version. The First three "whereases" from Resolution 96-3 will be added in to the new version. A clause is needed to indicate that this Ordinance applies to all complaints and "supersedes all penalty clauses in all (Town) Ordinances".

Discussion ensued about the appropriate composition of the proposed Complaint Resolution Board (CRB). It was decided there should be five members, to include the Building Permit Agent, one TC member, one P&Z Member, and two citizens who are not on other Boards/Commissions.

The process was structured into the following steps:

1. A written complaint arrives at the Town.
2. Clerk would circulate the complaint to the CRB and a certified letter must go to the complaine within 7 days of receipt of the complaint.
(Step 3 is to validate the complaint and includes visiting both lots.)
3. CRB arranges for a timely inspection. All 5 CRB members must verify that the complaint is valid.
 - 3a. A minimum of two representatives of the CRB would go to the complainant's lot to learn what the complaint is about and to determine if it is a legitimate complaint.
 - 3b. A minimum of two representatives of the CRB go to the complaine's lot for an on-site inspection, investigate the complaint directly and interview the complaine.

[step 3 is early in the tapes, with revisions 4/5 of the way through tape 1, side B and also on tape 2 side A]

4. Leave this clause as per original copy. A report will be registered with the Town Clerk/Recorder within 48 hours of the inspection. An open meeting will be planned and posted to include and the whole CRB.
5. Within 72 hours of inspection, a certified letter must go out to complainee from the Mayor that this is a valid complaint, naming the level of violation (“misdemeanor”, etc.) and listing the penalty(s), and including a synopsis of the CRB findings.

This Ordinance will supersede Town Resolution 96-3.
If necessary, a lien would be filed with the County Recorder.

Discussion on topics other than the steps of the process included:

- Pam felt it should be OK to receive anonymous complaints.
- A key point in the design of this process is to try to resolve everything amicably.
- Notifying the complainee may be advisable, as a point of fairness to the complainee, regardless of whether a complaint is valid. People in CV are concerned with rights to privacy. It is a unique community. People may not like it that people are talking about them.
- The step to have the CRB serve as an option to resolve before litigating is important.
- The Town is not actively looking for violations, but regardless of how a complaint comes in, the Town will follow it up.
- Emergency complaints will be handled as a separate issue.
- Periodically, reminder notices about common ordinances should be put in public notices.

Discussion ensued about enforcement and penalties. A fine/penalty must be included in order to have the benefit of ordinances being enforced by the County sheriff. A misdemeanor classification must be included, i.e., “Class A” or “Class B”, “C” etc. The law dictates parameters, e.g., up to \$1,000 and/or a jail term up to 6 months for a Class B; up to \$750 for a Class C, etc. A jail term was not thought to be necessary, but a classification and fine amount will be added. \$250 fine for the first 30 days, then it doubles to \$500 on the second stage. If they don’t do something after 60 days, the fine doubles again. Then after ten days, a court summons will be issued, and matters will be in the hands of the Sheriff and the court. The court deals with the non-payment of fines; a judge says they must pay.

Discussion ensued about how to collect back the costs of enforcement. In the past, the County Treasurer has refused to back up the collection of taxes by the County Assessor by placing the amount due on the county taxes county despite the provisions in Utah Code, title 76.

Marie and Valli will craft a letter to the citizens about lighting. The CV Comments (in the Times Independent) and the CV Grapevine may be assets in getting reminders out.

Meeting adjourned at 8:30 PM.

ATTEST:

Rebecca Martin, Clerk/Recorder