



PLANNING COMMISSION AGENDA

Thursday, June 25, 2015

Morgan County Council Room

6:30 PM

PUBLIC NOTICE is hereby given that the Morgan County Planning Commission will meet at the above time and date at the Morgan County Courthouse, Council Chambers; 48 West Young St., Morgan, Utah. The agenda is as follows:

1. Call to order – prayer
2. Pledge of Allegiance
3. Approval of agenda
4. Declaration of conflicts of interest

Administrative:

5. Public Comment
6. Training by Brent Bateman, State of Utah Property Rights Ombudsman
7. Discussion on commercial use table text amendment.
8. Planning Commission Business/Questions for Staff
9. Approval of minutes from June 11, 2015
10. Adjourn

Members Present

Gary Ross
Debbie Sessions
Roland Haslam
Larry Nance
Steve Wilson

Staff Present

Bill Cobabe
Gina Grandpre
Mickaela Moser

Public Present

Tina Kelley

1. Call to order – prayer. Chair Haslam called the meeting to order. Prayer was offered by Member Ross.
2. Pledge of Allegiance
3. Approval of agenda
Member Sessions moved to approve the agenda. Second by Member Nance. Member Nance and Chair Haslam suggested tabling item #6 until Mr. Bateman arrives. The vote was unanimous. The motion carried.
4. Declaration of conflicts of interest
There was none.

Administrative:

5. Public Comment
Member Sessions moved to go into public comment. Second by Member Ross. The vote was unanimous. The motion carried.

Member Nance asked about a potential public comment period after any particular agenda item and Chair Haslam responded that there can be a motion made to go into public comment if someone present wanted to speak. Other than that, there was no public comment.

Member Ross moved to go out of public comment. Second by Member Sessions. The vote was unanimous. The motion carried.

It was decided to advance to item #7 and discuss the commercial use table while waiting for Brent Bateman to arrive.

6. Training by Brent Bateman, State of Utah Property Rights Ombudsman
Bill introduced Mr. Brent Bateman. He is training tonight on issues related to Land Use Law and Conditional Use Permits. He began by thanking the commission members for their public service. He asked for questions on current issues facing the Planning Commission. One question Member Sessions had from a previous training was concerning how the County could address standards for CUPs. Member Nance suggested beginning

with Property Rights. Mr. Bateman began speaking about:

-Private property rights and keeping the rules from going “too far”.

-Property owners being able to do what they want on their property while balancing public need

Member Nance asked how one of the most successful cities would survive without imposing on its infrastructure, referring to Houston, TX. Mr. Bateman stated that Houston has many Land Use Regulations, but no Zoning. Member Nance mentioned that there is a fair amount of self-regulating in that situation. Bill commented that Houston is the only city in the US that enforces through deed restrictions.

Chair Haslam asked who decides how far is too far. Mr. Bateman responded that ultimately, it is up to the court, however we are supposed to do our best and act in everyone’s best interest. The guidelines to keep this balance are not to regulate land to the point where the property owner cannot do anything. He suggested that if the property owner can still perform something beneficial on their property, then that would fall within acceptable bounds. Mr. Bateman stated that the exception may lie in wiping out the property owner’s economic expectation. He further stated that people do not have a right to get rich or maintain property value.

Mr. Bateman reviewed the roles of legislative, executive and judicial governments. He also clarified legislative vs. administrative decisions, where the Planning Commission advises on legislative decisions relating to rezoning and the Planning Commission often makes administrative decisions.

Quote of the night: “A land owner has the right to do whatever they want with their property if it is reasonably debatable, and there is not an ordinance against it.”

He stressed the importance of creating County ordinances. Mr. Bateman also commented that just because other similar applications were denied, doesn’t mean the next similar application must be denied. Chair Haslam expressed his desire to be consistent across the board, but Mr. Bateman stated that the Planning Commission does not have to follow prior actions. Mr. Bateman stated that liability comes into play if laws are broken; otherwise residents are angry and can vote the governing authorities out of office.

Bill added that while many organizations (PETA, etc.) may try to persuade the governing body, the elected officials are beholden to the constituents.

Administrative decisions need evidence on the record to support them. They are based on the rules already in place.

Chair Haslam asked about conditions placed on subdivisions or any other regular application that has not had all of its items completed. Mr. Bateman responded that it should be turned away at the counter as an incomplete application. There was some discussion about the possible flexibility of advancing applications with unfinished requirements.

Mr. Bateman commented that an incomplete application should have their requests resolved at Staff level. Bill stated that once an application is complete, they have 45 days

to get on the Planning Commission agenda.

Concerning CUPs:

Mr. Bateman stated that every zone ought to have 3 uses: conditional uses, permitted uses and prohibited uses. He clarified that a CUP (Conditional Use Permit) is for a situation that would be an acceptable use, providing the example of dog kennels in a residential area. The CUP allows for mitigation, not elimination; imposing conditions to mitigate noise and smell. Member Sessions asked if this was the appropriate place for standards. Mr. Bateman stated that if you don't have standards, you can't have conditions. He used an example of traffic. He said that specific standards lead to clear conditions, which in turn lead to easier-to-understand applications and expectations.

Chair asked about home occupations. Mr. Bateman recommended having standards for each zone (ie noise and traffic level). He related standards to goals for each zone. He also stated that many counties are only now creating standards for their ordinances. Bill mentioned that Morgan County does have general standards in place but they are very broad and generally applied. Mr. Bateman reviewed the current County conditional use standard of natural vegetation and ground cover and stated that that particular standard was good.

Member Sessions asked if Morgan County has a traffic or light standard. Mr. Bateman also reviewed other current County standards and offered suggestions. He recommended removing public comment from CUPs, although it may be beneficial to offer a public hearing if an item is controversial or there may be evidence to consider.

Mr. Bateman gave examples of clamor vs. evidence.

Member Sessions asked about building a home on ag-use land and Mr. Bateman offered his opinion.

Concluding his training, Mr. Bateman explained his Powerpoint tab "Jerks" by saying that someone with an annoying or overbearing personality has the same property rights as everyone else. Even though someone might be a jerk, they still should be treated and given the same rights as the nice guy.

Member Nance suggested to progress to agenda item #8, instead of continuing on with the discussion on commercial use table.

7. Discussion on commercial use table text amendment.

Bill clarified the Wholesale Trade sector. Bill defined a Wholesale Trade and mentioned that its definition was previously discussed.

Mr. Bateman arrived at 6:40 pm, and the meeting time was given to him for his training.

*training by Brent Bateman

8. Planning Commission Business/Questions for Staff

There was discussion on the slope, noise and deterioration of property in Peterson.

It was decided to cancel the Planning Commission meeting on July 23rd and not reschedule to the next week, as that is the week of the County Fair. There will be one meeting in July, with the following meeting in August.

Member Sessions asked Staff to re-word notices printed in the newspaper so that the public affected is not misled on the public comment section.

9. Approval of minutes from June 11, 2015

Member Sessions moved to approve amended the minutes. Second by Member Nance. The vote was unanimous. The motion carried.

10. Adjourn

Member Nance moved to adjourn. Second by Member Ross. The vote was unanimous. The motion carried.

Approved: _____ Date: _____

Chairman, Roland Haslam

ATTEST: _____ Date: _____

Mickaela Moser, Transcriptionist
Planning and Development Services