



PLANNING COMMISSION AGENDA
Thursday, May 12, 2016
Morgan County Council Room
5:00 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
5. Public Comment

Joint Workshop with County Council:

6. Workshop: Brent Bateman, State of Utah Property Rights Ombudsman. (*Planning Commission agenda will reconvene following workshop.*)

Administrative:

7. Planning Commission Business/Questions for Staff/Ordinance Update
8. Approval of minutes from April 28, 2016
9. Adjourn

Members Present

Debbie Sessions
Roland Haslam
Larry Nance
Michael Newton
Steve Wilson
Tina Cannon – County Council
Austin Turner- County Council
Robert Kilmer – County Council

Staff Present

Bill Cobabe
Gina Grandpre
Mickaela Moser

Public Present

Tina Kelley
Carolyn Morrison
Bill O’Malley
Trevan Stapley
Van Stapley
Clifton Jenkins
Elise Cobabe

1. Call to order – prayer. Chair Haslam opened the meeting and he offered prayer.
2. Pledge of Allegiance
3. Approval of agenda –
Member Sessions moved to approve the agenda, adding approval of minutes from April 14, 2016. Second by Member Newton. The vote was unanimous. The motion carried.
4. Declaration of conflicts of interest
There was none.
5. Public Comment

Bill O’Malley: Resident of Enterprise, director for Morgan Valley Families for Healthy Environment and board member for the SunRidge Home Owners Association. He has returned to the Planning Commission meeting because he requested time on the County Council’s agenda to discuss the Geneva plant in Enterprise but has not been given the opportunity. He referred to a letter being circulated stating that to monitor. State regulations are the only ties to enforcement and Mr. O’Malley and other surrounding residents are left to police the facility themselves. He is frustrated because Geneva put up a the asphalt plant may continue into perpetuity without regulation as the County doesn’t have responsibility large tower without a permit and he feels they do whatever they want without any inspection or enforcement by the County or anyone. Surrounding residents are suffering from the increased traffic and pollution and he stated those residents are complaining through state regulations. He also said the blind berm has created a safety hazard. He noted that Geneva has increased their production and local residents are suffering from the change. He wants it noted for the record that there is a major safety hazard and he’s fearful a bad accident is waiting to happen. He further stated that those people who agree with him on these issues have no intention of suing the County.

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

Joint Workshop with County Council:

6. Workshop: Brent Bateman, State of Utah Property Rights Ombudsman. (*Planning Commission agenda will reconvene following workshop.*)

Chair Haslam asked Mr. Bateman about A-20 and its uses. He wondered about the consequences of rezoning A-20 to RR-1 or otherwise, and Brent replied there is no ordinance tying the General Plan to the law. As it sits now, the General Plan is an advisory plan. The discussion turned to the topic of gravel pits. Mr. Bateman suggested limiting or restricting gravel pits in certain areas, but his advice was to leave the General Plan as an advisory plan, not the law. He discussed some of the unexpected things that happen with growth: for example, one property owner is expecting to develop and doesn't, while another property owner who doesn't anticipate developing, does develop. Those are examples of things that would create problems with the law if the General Plan is made a law. He reiterated the power and purpose of the Planning Commission in general. Subdivisions, conditional use permits and such are important and necessary but often times the General Plan is not reviewed and visited as often as it should. There was also discussion about the various stages of approval and adoption of the map, standards and table for conditional uses. Member Sessions clarified that currently they're stuck on the standards. Brent responded that there is no hurry to get all three resolved at the same time. It's a process and there is a transition time. There can also be amendments to the new ordinances. Chair Haslam explained there is a conflict with the new ordinances and zone changes and was seeking a resolution. Brent said to change anything in the ordinances that don't lead to the desired end. "Eliminate the conflict." Everyone agreed they know what they want in the end. Chair believes the crematorium is vested and has the right to put in his business because he applied when it was an allowed use. The map designation can be changed to reflect the language (or vice versa), which will eliminate the conflict, and then the commissioners can proceed from there. Bill said that would be the fastest way to resolve the zoning map. Brent said if everyone involved cannot agree how to fix the zoning map situation, just resolve the conflict and then continue refining the table. Brent clarified that this should be a constant work in progress, making amendments as needed. Member Newton clarified that the current conflict is having 2 tables, not necessarily where to allocate the conditional uses.

Member Newton asked Brent about conditional uses. He wanted to understand property owner's rights (as it relates to longevity) and how long they get to keep the conditional uses. As it runs with the land, and there was no time limit when issued, nor conditions put on it, there are unanswered questions. Brent responded that once a right is given, they maintain that right. That is the enforcement of the grandfathering system. Example: If you move next to a mink farm and don't like the smell, you have to buy it to stop it. Otherwise, you can't control what others do on their property. County Councils can eliminate mink farms, but the existing mink farms are grandfathered and do not fall into the same set of rules. Expansion under the grandfathering system is different if the use is currently illegal.

A conditional use permit, unrestricted, was issued to an asphalt plant. There were no limits on productions, time, expansion, etc. There were subdivisions built around the asphalt plant. It is legal to have an asphalt plant in the current location. Brent asked if there are imminent health, safety and welfare for residents and Robert Kilmer responded that nothing from state regulators has been presented to the County Council stating such. Brent suggested looking at County ordinances. If the asphalt plant violates an ordinance, that can be mitigated, but the language must be there. In Geneva's conditional use permit, they have expansion rights. One question was, "If asphalt plants were to be eliminated in the County, would they still be able to expand?" Brent didn't know, as he's not aware that has ever happened. Gina referred to the plant's compliance with hours of operation.

Health, safety and welfare standards must be met and a business can be required to comply with safety if they're out of date. Being grandfathered doesn't make a business immune from conforming to safety regulations. Brent suggested that if there is evidence of being unsafe, a business can be restricted to using a certain road. He clarified that you can't eliminate but mitigate, as nothing is completely 100% safe.

Amortization is a way to get rid of grandfathered uses. Non-conforming uses can be amortized if it's legal, which it doesn't apply to this asphalt plant. Brent also commented that he feels that is unconstitutional.

Discussion about temporary uses with time limits.

Member Nance went back to the property rights of Mountain Green residents who are looking for changes. Brent said if it allows people to do with their property what they want, it may be appropriate to change zoning, for example from A-20 to a residential (RR-5). Consider what the people want and what's best for the community.

Tina Cannon asked about the legislative body, which the County Council is. Brent said the County Council can make administrative decisions, but he doesn't advise it as they are not policy decisions. He suggested the Council stay with legislative, policy-related decisions.

Brent said the best and strongest policies are made when people disagree and express opinions. His recommendation is to fix the current problem.

To summarize, if you don't want an allowed use, change the ordinance. If someone is currently doing that use, they are grandfathered in.

Brent clarified that the property owners cannot increase to impose a burden on their conditional use, ie. trading horses for pigs. Abandonment of use, change of use, and expansion are all things that cancel out a conditional use. Abandonment doesn't come into play if a use is still legal. Brent said if his advice conflicts with Jann Farris's (County Attorney) go with Jann's. They can converse if necessary. He left his office number as a resource.

There was a 5 minute recess at 7:05 pm.

The meeting resumed at 7:12 pm.

Chair Haslam put a time limit on the upcoming discussion to stop at 7:55 pm. He wants the meeting to adjourn at 8 pm.

Administrative:

7. Planning Commission Business/Questions for Staff/Ordinance Update

They discussed the changes made to the ordinances at the last meeting. Member Nance asked about 12. 10. B, (page 2). He suggested adding underground utilities as an alternative to consider. Bill will add "including placement of utility lines underground as an alternative". Utilities are required to go underground for new subdivisions. Member Sessions asked that the County Engineer review 12. 10.

(page 4) D.6. Member Sessions thought that specific item was attached to subdivisions, which doesn't apply here. She recommended striking it. Member Newton wondered if there was another use it could apply to. Bill will look into other possible uses.

(page 5) TIA. This needs review by the County Engineer before approval.

2. B. remove Planning Commission and add per state/County law.

Architectural Standards (G, page 8): Member Sessions expected something more general. She thought the wording provided was too specific. She prefers a general standard that keeps the area clear of steel buildings. Member Newton suggested adding wording at the beginning to say that these specific requirements may be used. Leaving the current wording gives a direction for design. Member Sessions wants to be able to review the designs. Chair Haslam said he doesn't think it's the County's place to require what the architecture looks like. Bill asked the Planning Commissioners to review G and come prepared to discuss next time.

(page 20) n. Member Wilson thought 20 cents per square foot wasn't enough of a requirement for the bond. It should say 110% of the cost. Bill will take out "whichever is greater". Chair would like to consider the last part of n on page 20.

Remove H.

Bill will be gone for the next meeting. A public hearing is on the schedule.

8. Approval of minutes from April 14, 2016 and April 28, 2016

Member Sessions moved to approve the amended minutes from April 14, 2016. Second by Member Wilson. The vote was unanimous. The motion carried. Member Newton abstained.

Member Newton moved to approve the amended minutes from April 28, 2016. Second by Member Sessions. The vote was unanimous. The motion carried.

9. Adjourn

Member Newton moved to adjourn. Second by Member Wilson. The vote was unanimous. The motion carried.

Approved: _____ Date: _____
Chairman, Roland Haslam

ATTEST: _____ Date: _____
Mickaela Moser, Transcriptionist
Planning and Development Services