

**West Point City
Planning Commission
3200 West 300 North
September 12, 2013**

Present: Korey Kap, Brad Lee, Curtis Seeds, John Detamore, Jeremy Strong, Jeff Macfarlane, Boyd Davis – City Engineer, Jeff Oyler – City Planner, Michelle Bailey – Planning Commission Secretary

Excused: Brian Vincent

Visitors: Farrell Cook, James McCarrery, Wynn Hall, Kyle Hamblin, Dan Sayers, David Brimhall, Jason Poulsen, Janet Hammons, Rex Brimhall, Nita Brimhall

WORK SESSION

Brad Lee stated for the record, that due to some personal reasons, Rawlee Wilson resigned his position on the commission. Brad expressed his appreciation to Rawlee for his diligent service saying Rawlee served with integrity and dignity. But due to the nature of his church calling, it took too much of his time. So for the benefit of him and his family, he needed to resign. With that, we have gained Jeff Macfarlane, our newest member of the Planning Commission. We welcome him and look forward to the expertise and insight that he can bring to the commission.

1. Discuss Farm Animal ordinance

Brad Lee welcomed the visitors to the meeting. Brad Lee reviewed the background information from the Staff Report dated September 3, 2013. It states, “The City has received a number of complaints from residents concerning crowing roosters in residential neighborhoods. The current ordinance allows chickens based on a point system. Chickens are allowed in the A-40, R-1, R-2 zones, and as a conditional use in the R-3 zone. The Code currently does not prohibit roosters. Most cities do not allow roosters in residential neighborhoods. This new ordinance, if adopted, would continue to allow chickens, but no roosters would be allowed in any residential zone.” Brad asked for discussion and thoughts about this. John Detamore asked Staff if there have been complaints made to the City by people other than the complaint heard at the last City Council meeting. Michelle Bailey said she has not personally taken any complaints but she knows that Staff has taken other complaints. Brad Lee said he has heard comments from residents stating there are people that have roosters that think they have to have a rooster in order for the hens to produce eggs, which isn’t the case. Brad also stated, “I feel that our first job is to always protect the interest of the City. Our second job, which plays a close second, is to protect the interest of the citizens, who we represent. I think if we keep those two things in balance, we will always error on the side of what’s right and that will be to the best interest of this body and to the members of the community that we represent.” Curtis Seeds asked, “If we change this ordinance, what happens to the existing roosters. How does the City approach that?” Jim McCarrey said he has talked to approximately 50 people in the residential areas of the city, and he hasn’t had one person

say they would like to have a rooster in their backyard. Jim played a recording of what he hears in his bedroom each morning from the rooster in the neighbor's yard. He stated that his family cannot sleep even with fans going on high speed and the windows shut. Brad Lee asked Jeff Oyler and/or Boyd Davis what will happen to the roosters that are currently within residential zones if this becomes part of our ordinance. Jeff Oyler stated that Staff would send a 14 day notice stating that they are violating City Code, but with animal issues, Animal Control will also be contacted and they will approach the people that are violating the Code. This will be done on a complaint basis. Jeremy Strong said we live in the country and there will be farm animals. If we start here, where do we go after roosters? Dogs? Donkeys? Jeff Oyler stated that within our City Code, farm animals are based on a point system. You have 100 points per acre, then you take part of that out for a home. So, if you had an acre of property, each chicken is five points. You could have approximately 15 chickens on an acre of property. Currently, we don't differentiate between hens and roosters. You could have 15 roosters. Staff doesn't want to tell residents that they can't have farm animals. Specifically, they are talking about residentially zoned neighborhoods. The proposed change would affect the R-1, R-2, R-3, R-4 and R-5 zones. If your property is zoned Agriculture, you can have these animals. If you are zoned Residential, you may still have hens, just not roosters. Boyd Davis said that Staff is recommending that they prohibit roosters. They receive more calls about roosters than they do noise from any other animal. Boyd Davis stated, "There are provisions about barking dogs, also. If it comes to a certain level, Animal Control can take care of those as well. Keep in mind that we have an Ag Protection Ordinance that states that someone that moves in next to agriculture cannot complain about the noise, smells and activities from that property. That is on ag properties, not residential properties." Jeremy Strong said, "People didn't move to West Point to live in Ogden or Clearfield. They moved out here to have the agricultural side of living; bigger homes, bigger properties, and animals. Once we start with one, it's not gonna stop." Korey Kap said he fears that this will start a snowball effect with other people. Farrell Cook said, "The comment about people moving here because we are in the country... We are not in the country, gentlemen. I've lived here in West Point my whole life. We're not in the country. If you go in the subdivision up there where I live, out in the middle of it, it's not in the country. It's not in the country where I live on 800 North either. West Point is a city and we are gonna have to learn to live with that. We are a city. If people want country living, they need to come out and buy an acre lot. If they are in a residential zone, they are in the city." Jeremy Strong asked Jim McCarrey how much property he has and if he has talked to his neighbor. Jim said he has 1/3 of an acre, and yes, he has spoken with his neighbor about this problem. Korey Kap asked if it would be possible to use a conditional use permit for this problem. Jeff Oyler said he had thought about the possibility of making chickens have a conditional use in the residential zones. Then he wondered what conditions could be put in place that would keep the rooster quiet. Jeff Oyler researched other cities to see what their position is regarding roosters. Most cities that he researched specifically have things in their ordinance that allows chickens but does not allow roosters in a residential neighborhood.

Jeremy Strong asked if there is any other way to resolve this problem rather than restrict all of the residential zones in the city. He wondered why it is necessary to make an

ordinance when Animal Control could take care of the problem if they receive complaints about it. Could this fall under the nuisance ordinance? Jeff Oyler said it could fall under the nuisance ordinance. He suspects it could work, but it would be much more difficult to get Animal Control to classify those things as nuisances. Jeff Oyler said he feels the strongest point is that so many cities don't allow roosters. He feels there is wisdom behind that. Wynn Hall said, "More and more, I've lived here 20 years now, and when I first moved here, all I had was fields out behind my place and there were no houses. But as the houses come in, and what not, then something probably needs to be done; it isn't Ogden, but it is high density residential. There are a lot of folks in there. It's not just the person with the rooster. He can't just say he isn't affecting anybody else so don't worry about it. I'm like you. I wonder what constitutes a nuisance." Farrell Cook stated, "That is another of my comments. You mentioned at the beginning of the meeting the importance of the community and making the community the best it can be and the next responsibility is to make our citizens happy and so forth. If we get down to where you have to complain before something is done, then you've probably made your neighbor mad at you and there might be a bad feeling between neighbors for a long time. Whereas if you have an ordinance that says you can't have it, then you don't cause a problem between neighbors. It's the same thing with barking dogs."

Jim McCarrey said, "I called 15 cities; every city in Davis County. Bountiful – no roosters or crowing hens, Centerville – no roosters and permit required for chickens, Clinton – no roosters you can't even have a chicken in residential in Clinton, Fruit Heights – no roosters, Layton – no roosters, North Salt Lake – no roosters, South Weber – not allowed, Sunset – no roosters, Woods Cross – no roosters chickens if Commission approved. I think we are a little bit behind the time. I think our Code is a little outdated." Jeff Oyler stated, "Jim asked me if he should go around and get 50 signatures on a paper and I said 'I feel like it is more effective if you come in and just describe to the Commission what your experience is.'"

Curtis Seeds asked if Davis County Animal Control has been contacted to see what they will do. Boyd Davis responded that we did contact them and that is why they stopped by and talked to the owner of the rooster. As far as the nuisance ordinance, we are speculating about whether it could be a nuisance or not. It is a gray area.

Jeff Macfarlane said that he feels for Jim because he had the same situation when he lived in Clinton. They are a terrible nuisance and make tons of noise.

Jeff Oyler told Brad Lee, "Process wise, this is where we are at. We have a letter from a citizen that has asked that we rewrite an ordinance to take care of a problem. Citizens are allowed to do that. They can ask for an ordinance to be changed or looked at. What we need to do is decide if this has merit and is something you want to vote on or against or is this something we need to have more discussion about or some more input on. We need to make a decision." Brad Lee asked the commission to give their feelings on the matter. Curtis Seeds said he feels very undecided about changing the ordinance. He is concerned about the snowball effect of what's next. He wouldn't mind further discussion on the topic and possibly more information. Korey Kap said that at first he didn't feel compelled

to change the ordinance but after the discussion he realized that this is a problem in a residential area. He wouldn't mind holding a public hearing to see what the citizens want. Brad Lee said he doesn't know how people live with the problem. He wouldn't want that in his backyard. He doesn't feel that there will be a huge snowball effect. This doesn't limit the people who live on acres of property from having roosters but they shouldn't be allowed in residential neighborhoods. He feels that is what the majority of the citizens would want. Jeremy Strong said he feels bad for these people, but with only having a small amount of input right now and not having the community's input, he is against changing the ordinance. Jeff Macfarlane said having been through the situation himself, also knowing very few people move out here for the country feel, they move out here because housing is affordable, he feels it would be good to change the ordinance in residential zones. John Detamore said he came to the meeting with mixed feelings towards this. After hearing the concerns of the citizens present at the meeting, as well as hearing how many other cities in the area have banned roosters, he feels the ordinance could be voted on and not tabled for more discussion. Brad Lee reiterated that even if a recommendation is made tonight, nothing is official until it is approved by the City Council. This body is simply making a recommendation to the City Council. The Council can send it back for the Commission to review more, they can approve it, or they can deny it. Jason Poulson said, "In Roy, we have fought this battle for the last two years. Like he said, it could be a long drawn out battle. We went through countless Council meetings and Planning Commission meetings and hearings and Public Hearings and it was declined by unanimous vote. Especially in a neighborhood setting, there is no use for roosters; all it does is cause hate and discontent between neighbors. It's not worth it. That is the fight that Roy had and they don't allow them either." Brad Lee said, "We have enough on the table to make a recommendation. We are all free to vote our conscience. We shouldn't be swayed. I think we have enough to make a recommendation to the City Council and move this on."

2. Discuss changes to the General Plan

Jeff Oyler briefly explained what has recently been discussed so as to bring Jeff Macfarlane up to date on the topic. The area being discussed is on 800 North 2000 West. This whole 20 acre parcel is Master Planned for Commercial development. We are looking at the possibility of taking some of the property out of commercial and master planning it for residential. At the last meeting, it was decided that Staff would come back with some drawings and recommendations. Jeff displayed the drawings of the options proposed. One option had approximately 10 acres on the east end being changed to residential zoning and that leaves approximately 10 acres for commercial zoning. Another option placed about 15 acres in residential zoning leaving approximately five acres for commercial zoning. The other proposed option put about eight acres in residential zoning and left 12 acres in commercial zoning. Tonight is the first step in making a change to the General Plan. We are holding a public hearing to get input from the public that are present.

REGULAR MEETING

1. Call to Order

2. Pledge of Allegiance

3. Prayer: given by Jeremy Strong

4. Approval of Minutes from August 22, 2013

Curtis Seeds made a motion to approve the minutes from August 22, 2013, as written. Jeremy Strong seconded the motion. All voted aye.

5. Public Comments: None given

6. Public Hearing on the General Plan

John Detamore made a motion to open the Public Hearing. Korey Kap seconded the motion. All voted aye. Jeff Oyler gave a brief overview of what is being discussed. There is roughly 20 acres of property at the corner of 800 North 2000 West that is Master Planned as Community Commercial (C-C). The issue that has come before the City is whether the City should consider taking a portion of that 20 acres that is master planned for commercial property and re-master plan a portion of that as residential property. The issue before the Planning Commission is whether the General Plan should be amended. There will not be discussion on any developments or development plans; they are just to discuss whether or not there is a reason to amend the General Plan to consider some property that is currently slated for commercial to go residential. Jeff Oyler presented maps illustrating three different options that were created based on discussions that the Planning Commission has had over the past few weeks. This property is currently owned by the Heslop family and the Barber family. Jeff Oyler mentioned that when talking about the General Plan, we are talking about the future land use of the property. The property is currently zoned agriculture. Some of the property along 2000 West has an R-1 or an R-2 designation. The discussion right now is not about rezoning the property, it is only about the General Plan and the future of what it might be. Option #1 shows about 10 acres of property, in an L-shape, that would potentially be rezoned residential leaving roughly 10 acres that would still be master planned as commercial. Option #2 is more aggressive. It shows approximately 15 acres that would potentially be rezoned residential leaving roughly five acres zoned as commercial. This option more closely lines up with where residential is along the back perimeter. Option #3 shows about eight acres that would potentially be rezoned residential leaving roughly 12 acres zoned as commercial. As this has been discussed in past meetings, these options were formed. The other option would be to do nothing and leave the General Plan as it is currently written. Also, in the Staff Report discussed in the meeting held on August 22, 2013, there is a chart showing popular commercial projects in the county and the number of acres those projects

currently sit on. This helps to visualize what could go on the amount of property left for commercial use.

Farrell Cook 2485 West 800 North, West Point - Mr. Cook stated that it is obvious that area is not big enough for a Walmart or a Home Depot or any of those types of things. He feels they should consider what type of commercial they are looking at; is it a little strip mall or something intermediate? That will weigh on the options considered; either more for residential or more for commercial use.

John Detamore made a motion to close the public hearing. Jeremy Strong seconded the motion. All voted aye.

7. Approve/Deny amendments to the General Plan

John Detamore made a motion to table the amendment to the General Plan for further review and discussion regarding the options given. Korey Kap seconded the motion. All voted aye.

8. Approve/Deny changes to Section 17.40, Farm Animals

James McCarrey 2455 West 800 North, West Point – Jim has been a resident of West Point for 8 ½ years. He moved here for the city-like atmosphere. Over the past three months, his enjoyment has been diminished significantly because of a neighbor's decision. About three months ago, his neighbor built a chicken coop. Shortly after building the coop, he got a rooster. For the past three months, neither Jim nor his family has had a full night's sleep. They have been sleeping with a fan on high and the windows closed and still it keeps them awake. This is an animal that cannot be trained not to crow. We need to make restrictions on certain animals within City limits. He urged the Planning Commission to allow this to go on to the City Council and let the process work.

Farrell Cook 2485 West 800 North, West Point – Farrell stated that he is for the change to eliminate roosters. He feels that most of the people in attendance at the meeting agree with that decision.

Jason Poulsen 775 North 2525 West, West Point – Jason stated that this isn't just a West Point problem. This has been a problem in multiple cities in several counties. Most cities don't allow roosters in the neighborhood settings because of this issue. There is no reason to create issues. I recommend that we get rid of the issue. Jason feels that people don't move to West Point now to enjoy acreages of land. We don't have many properties that are larger than one acre. If they want to, they can have all the roosters they want out west where there aren't close neighbors that would be affected.

Dan Sayers 607 North 2000 West, West Point – Dan stated that he is friends with Jim McCarrey and has been hearing the horror stories of what he has been dealing with. He doesn't want that to happen to him and doesn't want to have to go through that for

months and not be able to sleep. He would like to see this moved on to the next level as well.

Jeff Oyler stated that Staff recommends the change to Chapter 17.40.020 which states, "Roosters are not allowed in any residential zone".

John Detamore made a motion to change the ordinance, Chapter 17.40 to read as proposed stating, "Roosters are not allowed in any residential zone." Korey Kap seconded the motion. Jeff McFarlane, Korey Kap, John Detamore and Brad Lee voted aye. Jeremy Strong and Curtis Seeds voted nay. The motion carries.

9. Planning Commission Comments

Curtis Seeds told Brad Lee that he felt he is doing a great job stepping in as Planning Commission chairman. Curtis thanked the public for coming to the meeting. He said, "I'm confident that the City Council will do what is right for West Point City. I do feel for you, as a resident. I've got mixed feelings about this, but I do feel for you. I know where you are coming from. I've got some deeper thought and deeper root into West Point City and to the good ole country atmosphere. That's the good thing about democracy. We took a vote and I will support the rest of these Planning Commissioners on what took place here tonight."

Jeremy Strong said, "I'd like to second what Curtis had to say. I really feel for you in that, but it's hard for me to sit in one meeting and change everything for the whole city and not listen to the whole city. That is my major thing is just not having enough information. I think there are other avenues than changing the Code. That is the reason for my vote."

Jeff Macfarlane said, "I moved to West Point because I like the country atmosphere, but I understood also when I moved here, it was basically because there was a lot available and there was housing. So I moved here because the land was a little cheaper here than it was up in town. I've had a similar experience to what Jim described with having a rooster in my backyard. Luckily, the owner of the rooster took care of the problem in just a few days so I didn't have to deal with it for very long. I feel for what he is going through. I understand how that can be disruptive to family life. I generally agree with both Curtis and Jeremy. I don't like to see rules changed without a lot of thought. There are always unattended consequences whenever you set a law or make some change. However, on this particular issue, I really can't see where there is a benefit to having a rooster in a residential area. Chickens are great; they aren't nearly as noisy, but I don't see any reason why we should have a rooster. That is why I voted to make a change to the Code."

Korey Kap said, "I struggled with it at first. Then I put myself in the place of the resident that was having issues and then it was kinda a no-brainer. We all live in residential areas. As nice of a country atmosphere as West Point City has, it still is a residential area. If I had somebody causing a problem in my backyard, I would want to do something about it

too. It's too bad just a friendly conversation couldn't take care of it and we had to set a regulation on it. I appreciate the comments on this tonight."

John Detamore had no comments.

Brad Lee thanked Staff for putting together the information they needed to address these issues. Brad also thanked the public for their attendance at the meeting. Brad said, "Jim, I can appreciate your passion for what you are trying to do. I agree with what Korey said. It would have been a lot easier if a courtesy conversation with a neighbor could have resolved this. Unfortunately, sometimes that doesn't work so we have to rely on other forums to get the decision that we want. I'm confident in the process. I want to thank this body for their support. I also want to give a shout out, for the record, to Rawlee Wilson for his diligent service on the Commission. I know the decision that he had to make was gut-wrenching. But for the betterment of him and his family, I think he made the decision that was best for him. We will miss him. I told him that he is welcome at any of our meetings."

Jeff Oyler stated, "As you all know, Rawlee stepped down as a Planning Commissioner and as the chairman. We looked up the ordinance, and in the absence of the chairman, the vice chairman takes over those duties. I talked to Brad Lee and Brad, as vice-chairman, will step in and be the chairman through the end of the year. At that time, the ordinance calls for you to vote for a new chairman and vice-chairman at your first meeting in January."

10. Adjournment

Korey Kap made a motion to adjourn at 7:45 p.m. Curtis Seeds seconded the motion. All voted aye.


Chairperson – Rowland S. Wilson


Secretary – Michelle Bailey