

MINUTES OF THE
PLANNING COMMISSION MEETING
OF GARDEN CITY, UTAH

The Garden City Planning Commission held their regularly scheduled meeting on Wednesday, October 3, 2012 at the Garden City Lakeview Building located at 69 N. Paradise Parkway, Building C. Commission Chair Lance Bourne opened the meeting at 5:00 p.m.

Commission Members Present:

Lance Bourne, Chair
Jim Stone
DeWayne Gifford
Mike Schiess

Excused: Dallas Solum

Others Present:

Sharlene Millard
Anita Weston
John Spuhler
Brian Carver
George Peart

MINUTES

August 1, 2012

Commission Member Gifford made the motion to accept the minutes of two months ago. Commission Member Schiess seconded the motion. All in favor and the motion carried.

TRAINING, Brian Carver

Mr. Carver said he had previously talked about the role of the Planning Commission. He'll review a little of the role and then talk about Conditional Uses and Variances.

The purpose of a land use authority comes through the police power of the state constitution. The purpose is to protect the health, safety and welfare of the community. The state delegates that power to the local governments. The ultimate goal is to protect our citizens without unnecessarily impeding the rights of the property owners in our community.

The reason for having a Planning Commission, made up of volunteers, is because some of the decisions are too important to be left to the elected officials. They have a huge job and play an additional role that the Planning Commission can't do. In most cases, the Planning Commission doesn't have decision making authority unless it's been delegated to them through the Municipal Code. You do have the responsibility to make recommendations to the Town Council and Mayor who have that authority to make those decisions.

It's the job of the Planning Commission to prepare the General Plan. He knows that Danny White is putting together a proposal to raise some funds to go towards the General Plan and Water Master Plan. Mayor Spuhler said we're trying to get \$90,000 through the Urban Water Group and the Community Impact Board. It will allow us to update our plan. It will be more of an updated master plan and will talk about land use and water use. It will coincide with the Bear Lake Blueprint.

Mr. Carver said as the Planning Commission, you are an appointed representative for the community and should advocate from a public interest standpoint. It's important not to bring an extreme bias.

The Town Council gets to make a wide variety of decisions and rules as long as it's legal by state and federal law. But the Planning Commission has a lot smaller amount of flexibility in the kinds of decisions you get to make. The Town Council makes the rules; the Planning Commission enforces the rules. The purpose of decisions you make is to see how well projects fit with the rules the Town Council has established. An example is: The Town Council approves a new subdivision ordinance and as long as that ordinance can be rationally described as protecting the health, safety and welfare of the residents of the community, the city is legally allowed to establish that ordinance. However, if they make an ordinance that prohibits red paint on your house, but if there's no reason that red paint protects the health, safety and welfare of your community, then that decision won't hold up. Your job is to interpret the rules. You need to decide if a project meets the requirements of the ordinance. If it does, the proposal needs to be approved. If it doesn't meet the ordinances, then the decision falls where you can deny the project.

Mayor Spuhler said if the Planning Commission sees an ordinance that doesn't seem right, come to the Town Council and let them know. Commission Chair Bourne said the Planning Commission has created a zone to help things work better.

Mr. Carver suggested looking through our Master Plan and taking out the words "aesthetic" and put in "design or development standards". The visual quality in your community is important, but developers hate it when the committee says they don't like the look of their project.

A Conditional Use allows the city to consider special uses which may be desirable but not allowed through the zoning. It has to have a Public Hearing. The Conditional Use Permit can provide flexibility and allow a municipality to control such uses that could have a detrimental effect on the community. It has to be established through an ordinance, which Garden City has.

Conditions for different uses within a zone need to be set within the ordinance; i.e. Conditions on neighborhood character, transportation, access, parking and lighting. Those conditions need to be met in order to receive a Conditional Use Permit. If they can be met by the developer, you must provide them a permit. You will also need to make sure the conditions are being met. You cannot impose conditions not written in the ordinance. Denial of the permit must be provided with substantial evidence that they don't meet the ordinance.

Commission Member Stone asked if a condition comes up that's not written in the ordinance and it's not something they agree with, is it possible to table the decision until they can discuss and possibly revise the ordinance to come up with something that is better applicable to the community? Mr. Carver said that is really risky. The application point for the permit is where, in legal terms, they consider the developer to be vested in the application and the current ordinances are what he should be accountable to.

You can work with a developer to see if he would work with something not in the ordinances, but he wouldn't be legally liable to.

You want to keep a good dialog with developers and people bringing proposals, so you can give suggestions and work with them. But they are only legally obligated to work with what is in the ordinances at that time.

You can deny them if you can come up with enough substantial evidence to deny them initially and then quickly place a moratorium on your conditional use applications, and make changes to your ordinance at that point. It would only have to be 3 months, not enough to kill someone's project.

Commission Member Stone asked if it's okay to ask for help with a larger city to help us oversee some of the applications. Mr. Carver said many communities are always happy to share experiences and expertise. Mayor Spuhler said we're our own individual community. Some of the larger places aren't the same as we are. He said we're trying to get training to the Planning Commission that will help in our unique area. We have Danny White, who is educated and is helping with coordinating the master plan.

Commission Member Stone said he is concerned with our natural resources. He feels we all have a part of them. There's a lot of depth that goes into the fisheries, wetlands, mountain ranges and winter ranges. A lot of things are getting impacted that a lot of people don't even know. He wondered if he could find someone that could help and compare with what they know.

Mayor Spuhler said that \$90,000 for the master plan will give you the opportunity to help and also get experts to help with the master plan. Different people have different inputs.

George Peart said you need to give yourself more credit. People from Park City or Jackson don't know this area like you do.

Mr. Carver finished up by saying if you don't want a use in a zone, don't make it a condition, because someone will come in and apply for it.

Mr. Carver talked about and discussed variances.

Mr. Carver said as a Planning Commission, your thoughts and decisions are important. The Town Council may seem to ignore or deny your recommendations, but they're doing what they feel they need to do also.

If a developer comes in and promises things in a meeting, they can't be held to it unless they sign a development agreement. A final plat is binding. Mayor said we need to talk with our attorney and see if he has an agreement that could be used for the developer to sign.

Mayor Spuhler talked about developers now needing bonds when they start their projects. Bonds are for infrastructure, not landscaping.

Mayor Spuhler said the Planning Commission should know that when a project comes in for approval, their water system does need to be pre-approved with engineering from the state.

Mr. Carver said the Planning Commission fulfills its purpose best when it acts in support of community policies and those policy makers. You're not just a check and balance for the Town Council; you're a partner with them.

PARKING ORDINANCE #11C-300

There was discussion about hearsay that the speed limit within Garden City may go up and finding a formula per car occupancy for parking and number of patrons per business. It was stated that it would be a good idea to have the Fire Marshall determine the occupancy of a commercial building and then using that figure as the denominator for calculating the spaces. Commission Chair Bourne said that's already been done.

There was discussion that the state has delegated to us, as appointed officials, to make the rules for our area, but we can't control anything that goes on next to the highways, from signs to crosswalks. They have to make those decisions. So it doesn't mean a thing. We're supposed to make our town safe, but it isn't safe if someone needs to cross the street and they can't even have a crosswalk or have lower speed limits by the Post Office.

Commission Member Schiess said in 11C-302, it talks about having a parking space requirement of 9 x 20. He thinks it should be increased to 9 x 24. Average boats have swim decks on the back and a tongue on the front, which adds to the length and then the length of the truck also, is more than 40'.

Commission Chair Bourne said he understands that Darin Pugmire's business may not need the 10 parking spaces, but he feels if it would be better to have too much parking than not enough. He's totally against lowering the parking space length requirement. He also feels that getting Raspberry Days off the parking area is wrong. We're building a brand new restroom there and it should be used. We have parking all around there for Raspberry Days. It was agreed that it will be nice when our new park is finished, then we can move our Raspberry Days over there and have good parking also.

Commission Member Schiess made the motion that on 11C-303 we increase the parking space requirement from 9 x 20 to 9 x 24. Motion died for lack of second.

Commission Chair Bourne recommended not making any changes right now to this ordinance. He feels there's already been a lot of work and time into creating what is there and feels it's a good ordinance the way it is.

Commission Member Gifford wondered if we need to increase the size of the parking spaces for future developments. Commission Member Schiess wondered about looking at the parking on a case by case basis. If we can see that a project needs more parking, we could work with them and probably solve any problems.

Commission Member Schiess made the motion that the parking and loading spaces, as they are written in our ordinance right now, - #11C-300 - that they remain in force as we have them with no changes at this present time and that we continue to enforce the ordinance as it is. Commission Member Stone seconded the motion. All in favor and the motion carried.

Commission Member Schiess said we can't solve all the problems on the boulevard, but we can establish a very enticing city center in the commercial area.

MISCELLANEOUS

Commission Member Stone said he's talked to some people who are wondering how Garden City can spend so much money on bathrooms and a pond to accommodate the tourists, but we can't spend money on street lights for our local kids. He asked his scout troop what they thought would make Garden City better. Those little 11 year old kids said they were scared to walk to the bus in the mornings because it's so dark. He's also heard from several land owners that they're also concerned with it. He said that as a Planning Commission, our job is to protect those within this community. He feels that those who live here and spend time and money here can't even have street lights to help them feel safe.

He said it's a shame that our own town kids can't even feel safe in their own community. It was stated that we do have new solar street lights that will be up soon.

Commission Member Stone said it's so dark around his business that he can't even see if people are trying to steal his things that are outside that he makes his living from. He pays taxes and tries to do good for the community, but doesn't feel it's a safe place.

The Planning Commission would like to be on the agenda to talk with the Town Council about turning on more street lights.

ADJOURNMENT

Commission Member Schiess made the motion to adjourn the meeting at 7:20 p.m. Commission Member Gifford seconded the motion. All in favor and the meeting closed.

APPROVED:

ATTEST:

Lance Bourne, Chair

Sharlene Millard, Assistant Clerk