



**COALVILLE CITY COUNCIL
AND PLANNING COMMISSION
SPECIAL JOINT MEETING**

Notice is hereby given that the Coalville City Council and Planning Commission will hold a Special scheduled Meeting on **Monday, May 7, 2018**, at the Coalville City Hall located at 10 North Main Street. The meeting will start at **6:30 P.M.** The agenda will be as follows:

1. Roll Call
2. Pledge Of Allegiance
3. **City Council and Planning Commission Joint Agenda Items:**
 - A. Roles, Responsibilities, And Public Due Process Training
 - B. Mayor's Updates
4. Adjournment

Coalville City reserves the right to change the order of the meeting agenda as needed.


Nachele D. Sargent, City Recorder

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during these hearings should notify the City Hall at least three days prior to the hearing to be attended.

Posted: May 5, 2018 City Hall, Utah State Website

Mayor
Trever Johnson

Council
Adrienne Anson
Cody Blonquist
Arlin Judd
Rodney Robbins
Tyler Rowser

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Coalville City Council
Special Joint Meeting
with the Planning Commission
HELD ON
May 7, 2018
IN THE
CITY HALL

Mayor Trever Johnson called the meeting to order at 6:30 P.M.

MAYOR AND COUNCILMEMBERS PRESENT: Mayor Trever Johnson
Councilmembers: Cody Blonquist,
Rodney Robbins, Adrienne Anson
Arlin Judd (Excused)
Tyler Rowser (Excused)

PLANNING COMMISSION MEMBERS PRESENT: Chair: Brice Lucas
Vice Chair: Isaac Rackliffe
Commissioners: Linda Vernon,
Nathanael Davenport, Jason Moore

CITY STAFF PRESENT:

Sheldon Smith, City Attorney
Shane McFarland, Community Director
Derek Moss, Planner
Zane DeWeese, Public Works Director
Nachele Sargent, City Recorder
RaeShel Hortin, City Treasurer

PUBLIC IN ATTENDANCE:

Don Sargent, Jim Robinson, Debbie
Robinson

Item 1 – Roll Call:

A quorum for Council and Planning was present.

Item 2 – Pledge of Allegiance:

Mayor Trever Johnson led the Council, Staff, and Public in the Pledge of Allegiance.

Item A – Roles, Responsibilities, And Public Due Process Training:

Mayor Trever Johnson stated he appreciated everyone attending tonight. He stated with all of the interest in development the City was facing he felt this meeting was needed. He stated as they had been going through the process with some of the development, they

had recognized some gaps in the Code and some things that needed to be revised to help protect Coalville. He stated there were some legal liabilities where the City could be sticking their neck out during some of the meetings. Mayor Johnson stated Don Sargent was offering his services to give some guidelines for the City to follow. He stated Mr. Sargent was donating his time to do this for the City and expressed how much he appreciated him being here tonight.

Don Sargent gave a brief history and introduction of his qualifications and past work history and stated he was currently on the Eastern Summit County Planning Commission. He stated he had worked both in the private sector and the public sector and had a working knowledge of both sides of the spectrum. He stated he had worked with the City Staff and the City had great people to work with. Don handed out a training outline (Exhibit A) and stated he felt the five items listed on the outline were the key points that seemed to cause problems both personally and for the community. Mr. Sargent touched briefly on the items listed on the handout and gave the Planning Commission and City Council suggestions and ideas of the best practices for conduct during meetings and out in the public. He stated the City Council was the legislative body of the City and made the ordinances or laws. The Planning Commission was the recommending body for these items, but was mostly the administrative Body for following the law.

Ex Parte Communication:

Don Sargent stated on the Planning Commission side, they didn't have the ability and authority to be speaking to anyone outside of the quorum about any project. He gave the example of a Developer calling and asking for their opinion and support and stated the best practice was to inform them they couldn't speak about it outside of the quorum, but would be happy to hear their comments at a public hearing. He stated the Council Members were elected officials and they could talk to their constituents, but they should disclose any conversations to keep the integrity of the City intact. Sheldon Smith agreed and stated they should always be very careful when dealing with an applicant coming before them for a decision. Don Sargent stated they needed to be careful with cross over communication. He gave the example of when a controversial item passed the Planning Commission on a split vote and then the Commissioners, for or against, showed up at the Council meeting and voiced their opinion. He stated this could cause confusion and problems especially for the public. He suggested for them not to attend the Council meetings to voice their opinion. He stated they could attend to stay informed, but it could create an issue when the public heard them voicing their opinion. Don Sargent stated it went both ways as the Council shouldn't attend the Planning meeting for the same reason. He stated it was good practice to not have the cross over communications and for either group to participate in the business of the other Body. Sheldon Smith agreed and stated each of them would have their opportunity to voice their comments at their own meeting.

Complete Applications:

Don Sargent stated the City should require applicants to submit a complete application and allow the proper time frame for review. He gave the example of Promontory Ranch where the Developer had paid a substantial fee which gave them vested rights and it ended up costing the County a lot of money because the application was incomplete. Mr. Sargent stated the City had a good outline for review and it was a good idea to make sure the information from the applicant was in a clear form. Sheldon Smith stated the Planning Commission had a primary role to make sure the application had everything needed and they weren't making decisions without having the information needed to make their recommendations.

Public Hearings:

Don Sargent stated public hearings were the basic foundation for the development review process and it was critical to have them managed in the right way. He suggested having a table for the applicant to come to and to have the clear distinction from staff, applicant, and public. Don stated there had been times when the public wanted to keep the public portion open, but this could become very tricky. He stated it was an option to keep the public hearing open while they deliberated, but if they could avoid it he would advise them to do so. It would help to keep a clean and clear intent of where they were in the meeting and the control of how the meeting went forward. Mr. Sargent advised them to be careful of how they described how they felt about a project. He stated they should avoid using personal words that attorneys and applicants could pick up on and instead of saying things like "I think, feel, or believe, etc. they should say "I find". He stated that would take the emotional side and personal preference side out of the decision. He stated their role wasn't their personal preference. It was about whether or not it met the Code standard. He stated they could ask the applicant to define how they were complying with the Code instead of saying "I don't think you have complied with the Code". Sheldon Smith stated because of the level of sophistication the City may start to see with development, it was extremely important to choose their words carefully and keep their personal feelings out of the decision. He stated there had been a lot of lawsuits in Utah because of issues like this. Don Sargent stated it was important to keep public hearings very open by not whispering amongst themselves and staying transparent. He stated it was difficult not to bark back at the public when they didn't like something in the Code, but they should keep their cool and remember it wasn't directed at them personally. He stated they should keep their emotions under control.

Recommendation and Approval Decisions:

Don Sargent stated the State statutes had changed drastically over the years and the way the State handled land use. He stated jurisdictions could not make any approvals on any project other than the requirements stated in the Code. He stated a Conditional Use Permit used to allow conditions to be placed on almost anything, but now conditions had

to be verified that they were in the Code and they couldn't reach beyond that. Sheldon Smith stated they could look at it as it was really a Permitted Use unless there were conditions in the Code that could be imposed on the Use. He stated the Staff had the responsibility to make sure the Code had the provisions required to impose conditions when needed. He stated that was one of the reasons the Code needed to be updated. Don Sargent stated they should always have findings from the Code for their actions and decisions. He stated the Staff would be able to advise them on the items for consideration. Don Sargent stated the General Plan was an advisory document and could be used to guide the general application direction. He stated he felt the General Plan should be updated at the same time as the Code so they complemented each other and provided the guidance needed. Sheldon Smith agreed and stated if there was any ambiguity, the Code was the law and the General Plan was an advisory document. Don Sargent advised them when voting nay on a project; it was helpful if they gave a reason why. He stated they were not required to give a reason, but it was helpful to understand the reason behind it. He stated they should be able to back up their vote based on the Code and not just personal preference. He stated he would recommend if there was a split vote from the Planning Commission, for the Staff to state that on their report to the Council. Derek Moss stated they also included any concerns the Planning Commission may have had. Don Sargent suggested the City may want to provide a copy of the Staff report for the public when they walked into the meeting so they could understand the requirements and how the project complied. Sheldon Smith stated the State allowed for a more discretionary authority for the Staff to make the decision and not as much on the Planning Commission. He stated some things require a public hearing, but under State law we hold more Public Hearings than necessary. He stated a lot of what was said at a Public Hearing was emotion and couldn't have an impact on interpreting the Code.

Undue Perceptions:

Don Sargent stated many times the public didn't understand the process and the responsibilities the City had when acting on an application. He stated the Staff shouldn't present an applicant's project, but he suggested for them to explain where the project was in the process and what was required to make the application complete at this point. He stated the applicant and Staff roles should be separate and defined so the public understood who was doing what. Mr. Sargent reiterated they should avoid discussing the project prior to the meeting. He stated they should keep in mind the public's perception of how the City was handling a project. Sheldon Smith stated one thing they needed to be cautious of was engaging with the public during a public hearing. He stated as soon as someone responded to the public, the meeting lost its integrity and opened it up to chaos. Sheldon stated the public was here to say what they thought about a project to help the Commissioners or Council make a decision. The Commissioners and Council wasn't here to convince the public why they were doing what they were doing. He stated that information would be given during the deliberation. He stated any time there were people going back and forth, emotions usually came in to play and then control of the meeting

would be lost. Mayor Trever Johnson stated the City wanted public input, but there was a need for leadership to keep the meetings civil and respectful. Don Sargent reminded everyone to disclose any conflict of interest to keep the record clean of any criticism and anything that could taint the public process. He stated work sessions were a good tool to be prepared for any applications that were coming in for approval.

Mayor Trever Johnson thanked Don Sargent for his time and expertise and thanked the Planning Commission and Council for taking time to attend the training tonight.

Item B – Mayor’s Updates:

The Mayor didn’t have any updates tonight.

Item 4 – Adjournment:

A motion was made by Council Member Adrienne Anson to adjourn the meeting. Council Member Rodney Robbins seconded the motion. All ayes. Motion Carried.

The meeting adjourned at 7:57 P.M.

Mayor Trever Johnson

Chair Brice Lucas

Attest:

Nachele D. Sargent, City Recorder

COALVILLE CITY

CITY COUNCIL and PLANNING COMMISSION

TRAINING HANDOUT

1. Ex Parte Communication

- a. An ex parte communication is one which occurs between an applicant or a third party outside of an official meeting and without a quorum of members present.
- b. Procedural due process claims are generally triggered by ex parte communications.
- c. Avoid communication regarding project applications with applicants, members of the public and each other.

2. Complete Applications

- a. Require complete and timely information materials.
- b. Request clear, accurate and understandable presentation plans and information.

3. Public Hearings

- a. Maintain structure and organization.
- b. Maintain consistency.
- c. Open – Close – Continue.
- d. Use word "I find" rather than "I feel, think, believe, etc."
- e. Ask question to applicants: "How are you complying with code standard..."
- f. Apply open and transparent procedural due process with all actions.

4. Recommendation and Approval Decisions

- a. Should be based on code standards and requirements ONLY.
- b. Include Findings of Fact, Conclusions of Law, and Conditions of Approval with all actions (staff to recommend).
- c. When voting "nay" explain why for the record.

5. Undue Perceptions

- a. Conflict of Interest (disclosure and recusal).
- b. Applicant and Staff roles should be clear and differentiated.
- c. Avoid any pre-decision position prior to the public hearing.
- d. Caution with cross-over meeting attendance.
- e. Review and adhere to Utah Open & Public Meetings Act:
<http://www.utah.gov/pmn/files/77611.docx>