



**MINUTES OF THE SPRINGDALE PLANNING COMMISSION ELECTRONIC REGULAR MEETING
ON WEDNESDAY APRIL 15, 2020 AT 5:00PM**

This Planning Commission meeting did not have an anchor location and was conducted entirely via electronic means. Commission members connected remotely. The meeting was available to the public for live viewing/listening and included a public hearing wherein public comments were monitored electronically by the meeting host.

Meeting convened at 5:00 PM

MEMBERS PRESENT: Chair Jack Burns, Commissioners Tyler Young, Barbara Bruno, Joe Pitti, Mike Marriott, Ric Rioux; J. Treacy Stone, representing Zion National Park

ABSENT: Dawn McComb

ALSO PRESENT: Town Manager Rick Wixom, Director of Community Development Tom Dansie, Town Clerk Darci Carlson, Associate Planner Sophie Frankenburg, and Deputy Clerk Katy Brown recording. See attached sheet for attendees known to have signed into the electronic meeting.

Approval of the Agenda: Motion made by Tyler Young to approve the agenda. Seconded by Mike Marriott.

Young: Aye

Marriott: Aye

Pitti: Aye

Bruno: Aye

Burns: Aye

Motion passed unanimously.

Commission discussion and announcements: Ms. Brown reminded the Commissioners to complete their required annual training online for the Open and Public Meetings Act. The Clerk's office requested completion certificates no later than Monday, April 20th.

Staff asked the Commissioners how they would like to proceed with their meeting schedule given the confines placed on public meetings amidst the COVID-19 pandemic. The Commission would have discussed strategy for the General Plan and Accessory Dwelling Unit regulation in the April work meeting but it was cancelled. They could opt to continue holding both the work meetings and regular meetings each month as normal, or the Commission could focus solely on the regular meetings and moving recommendations forward to the Council.

- Mr. Burns was in favor of continuing work meetings and didn't mind the electronic format. He did not want a backlog of work items to grow for the unforeseeable future. Mr. Marriott also felt it was a workable format.
- Ms. Bruno wanted to continue with the regular meeting schedule but felt some aspects of gathering feedback for the General Plan would be difficult.
- Mr. Pitti had been negatively impacted by the COVID-19 closures and felt that he would be unable to commit to the work meetings for the time being.
- Mr. Young echoed Mr. Pitti's concerns with the local economy and would attempt to be at all the meetings he could. He was conflicted on how effective the Commission could be with General Plan progress in the virtual meeting format.

Mr. Burns noted that the electronic meeting format could potentially be a great tool for public feedback for the General Plan as they had seen public engagement levels increase with the virtual platform.

A. Action Items

1. Public Hearing – Ordinance Revision: Changes to Chapter 10-4 of the Town Code regarding the Town's process for enforcement of code violations, including clarifications allowing for civil penalties for code violations: The Town currently used a criminal process to enforce violations of the Town Code. Criminal citations were administratively complex and came with a lengthy process which prolonged resolution of violations. The current process also carried the potential of being overly onerous for more minor code violations such as overgrown weeds. Coincidentally, the Utah State legislature recently mandated that municipalities use a civil rather than criminal enforcement process for land use issues. The Commission had received two public comment letters prior to the meeting (Attachment #1).

Commission questions to staff: Mr. Young asked what template the staff had used to create the draft proposal.

- Staff had consulted similar ordinances from Salt Lake City and Salt Lake County as a guide but ultimately relied heavily on the Town Attorney for draft language.

Ms. Bruno asked if the Commission was charged with reviewing the specific language or if they were making a general recommendation to the Council about the concept.

- The state had mandated that each municipality adopt a civil enforcement process. It would be up to the individual municipality to craft an ordinance under that direction, but no specific language had been mandated by the State. The Commission could recommend the draft ordinance to the Council as-is or they could choose to revise language in the draft.

Mr. Burns asked how staff had arrived at the penalty amounts.

- Staff had tried to strike a balance between penalty amounts large enough to be a deterrent for violations, but not punitive enough to be excessive or heavy-handed.

Mr. Marriott asked how many criminal proceedings had occurred over the last five years and if the State provided a due date for the change in enforcement process.

- Staff said there had been less than fifteen criminal proceedings in the last five years. The State law wouldn't be effective until May, but there was no official timeline for compliance. If the Town chose not to switch to a civil enforcement process they would be out of compliance as soon as the State passed the law.

Mr. Marriott asked what precipitated staff to bring a draft ordinance forward, given they had been working on it prior to the State mandate.

- The Town's enforcement policy had long been to seek resolution of code violations without having to issue citations or penalties. That approach had, for the most part, been successful. In the handful of instances when penalties and criminal citations were issued, the process had been very lengthy and administratively burdensome.

Mr. Pitti asked if more citations would have been issued if the process had not been overly onerous.

- Staff hoped that the civil process would be more efficient and the possibility of facing swifter enforcement strategies would be a deterrent to infractions.

Mr. Marriott asked if new positions would have to be created if the ordinance was passed.

- The Town's current Code Enforcement Officer could serve as the 'nuisance inspector' referred to in the draft. The Civil Hearing Officer would not be a full-time staff position, but rather a contracted position for use on an as-needed basis. Ideally that person would be someone with a legal background, such as an attorney or judge, who also had experience with municipal operations.

Questions to staff by members of the public: No Questions.

Motion made by Joe Pitti to open Public Hearing. Seconded by Mike Marriott.

Young: Aye

Marriott: Aye

Pitti: Aye

Burns: Aye

Bruno: Aye

Motion passed unanimously.

Public Comments: None were made.

Motion made by Joe Pitti to close Public Hearing. Seconded by Mike Marriott.

Young: Aye

Bruno: Aye

Pitti: Aye

Marriott: Aye

Burns: Aye

Motion passed unanimously.

Commission deliberation: Mr. Marriott's initial reaction was that the amendments would only make it easier for citations to be issued more liberally than before. He took issue with the daily penalty accrual schedule and how quickly they could add up for minor violations, such as weeds.

Mr. Burns asked for clarification on how long a resident would have to correct a violation before citations and penalties were issued.

- State law required municipalities to allow for a 'reasonable amount of time' to correct code violations, according to the nature of the violation. For instance, a reasonable amount of time for someone to remove an A-frame sign might be much shorter than the time it might take to rectify a grading violation. Because of the varying nature of violations, the draft ordinance did not set specific time frames.

Mr. Dansie clarified with the Commission that the draft ordinance before them provided the technical framework for how citations would be processed. The policy in place that was not included in the ordinance language, but which was intrinsically upheld in every enforcement scenario, was that compliance without a citation was always the goal. This policy would be in effect whether the enforcement process was civil or criminal. If mitigation efforts proved unsuccessful, the person committing the violation would receive an official notice of violation designating the length of the 'warning period'. If the warning period expired and the violation was still in place, only then would a citation be issued and penalties start to accrue.

Mr. Pitti asked about the language in the penalty tables and felt that the language "general penalty for violations not otherwise specified" seemed too vague. He also asked what protections were in place to guard against over-zealous enforcement strategies.

- Staff felt violations involving grading/construction and short-term rentals in residential zones were of special concern and unique enough to warrant a special penalty. Penalties would start at the end of the warning period established in the official notice given to the resident. The warning period could be of different durations depending on the nature of the violation. The ultimate check and balance of the Town's enforcement style came through the Council as they were in charge of directing enforcement strategies.

Mr. Young received overwhelming negative feedback from the residents he had spoken to regarding the proposed ordinance. From his conversations, the perception that the Town was trying to 'pad their coffers' was prevalent. The ordinance seemed vague and arbitrary in terms allowing enforcement personnel to set the duration of the warning period based on the nature of the violation. He felt that inherent Town policy on seeking compliance prior to enforcement should be addressed plainly in the ordinance. As drafted, there would not be protection for the resident in the future if Town policy shifted. He also had

concerns that the accrual of penalties could be arduous for some. He saw the need for revisions and offered to send staff his recommendations. He would not support forwarding the ordinance as written.

Ms. Bruno asked why none of the people who provided Mr. Young with feedback were present to submit comment for the public hearing. She felt the easiest way to avoid citations and penalties was to not violate Town code in the first place. She saw the threat of daily penalty accrual as an effective deterrent for violations such as illegal nightly rentals.

Mr. Burns was in favor of the concept in general to change from a criminal to a civil enforcement process, but he was concerned about the penalty amounts. He worried that accrued fees could potentially create financial ruin for some. He was curious if there were other models the Commission could consider, perhaps even a tiered penalty model. He also expressed a desire for more clarity in the language as it related to specifics on warning periods and qualifications for the Hearing Officer.

- Earlier ordinance drafts addressed qualifications and standards of selection for the Hearing Officer. The Town attorney cautioned that providing specific selection standards in the ordinance language could create an avenue for a person in violation to challenge the citation. It was recommended to adopt standards in policy but not in the ordinance. In regard to the waiting period, the Town attorney had concerns that defining a waiting period would be limiting in certain circumstances. An example would be a property owner utilizing their residential property as a temporary parking area on a busy holiday weekend. The use would represent a land use violation. If the property owner was given 10 days after the notice of violation to comply, any mitigation after the holiday weekend would be irrelevant since the temporary increase in visitation was the impetus for the violation.

Mr. Rioux had experience with enforcement serving on an HOA board and he rarely saw successful enforcement processes happen unless a fine was actually issued.

Mr. Marriott didn't feel the need to rush the ordinance through to the Council. He felt the switch to a civil process made sense but felt the topic could be put on hold to gather more feedback.

Mr. Burns had concerns about the penalty amounts being too high, specifically \$1000 per day for nightly rentals in prohibited zones.

- Under the current criminal code, most violations carried the threat of a Class C misdemeanor. The penalty for an individual was \$750, and for a Corporation it was several thousand dollars.
- Mr. Pitti suggested changing the \$1000 for illegal nightly rentals to \$750 so the draft ordinance could match the current penalty amount.
- Mr. Burns felt more comfortable with the draft ordinance after understanding the penalty amounts under the criminal versus the civil process.

Motion made by Tyler Young to table the ordinance until the next regular meeting and in the meantime direct Town staff to take some of the changes that have been the consensus of the Commission, especially converting some of the fee structure that there is a consensus on and bring that to the Commission to vote on next time, as well as instruct the staff to bring forward a draft that includes qualifications for Hearing Officers and some other options that the Commission can vote on at that time as well. Seconded by Mike Marriott.

Young: Aye

Bruno: No.

Marriott: Aye.

Pitti: No.

Burns: No

Motion failed.

Motion made by Barbara Bruno that the Planning Commission recommends approval of the proposed ordinance amendment establishing a civil process for enforcement of land use code violations with a change in the penalty for nightly rentals from \$1000 per day to \$750 per day. This motion is based on the fact that the State of Utah recently amended State law concerning code

enforcement and that it would give the Town a better instrument in which to enforce the Town code that is in place at this time; Seconded by Joe Pitti.

Bruno: Aye

Pitti: Aye

Marriott: No

Young: No

Burns: Aye

Motion Passed.

B. Information/Discussion/Non-Action Items

1. General discussion of the possible allowance of pedicab businesses in Springdale. The Town Council had recently discussed the possibility of making an allowance for pedicab businesses which were not allowed in Springdale under the current code. Some Commission members felt that a general discussion on potential impacts of pedicabs on their streetscape improvement initiatives could be useful. Because it was not a land use ordinance the Commission would not be making any official recommendations, rather they would provide general feedback to the Council on how pedicabs could affect other Planning Commission initiatives.

Mr. Pitti was curious why pedicabs were not a land use issue.

- Much like the streetscape initiative the Commission was working on, the Pedicab concept before them would not be regulated by Title 10 which dealt with land use regulation on private property. They would be operated in the public right of way.
- Mr. Pitti felt the lines were blurred since they could be utilizing a mix of public and private sidewalks and parking lots, moving throughout the community and potentially private property locations.

Ms. Bruno had recently moved from SLC where she worked downtown. She saw pedicab operations as a great way to reduce emissions and had never encountered a negative impact from them during her time there.

Mr. Marriott asked where pedicabs would be stored or if they would be trailered in each day.

- Staff said the initial draft outlines of an ordinance did not address temporary or permanent storage of pedicabs but that would be an important consideration to add.

Mr. Rioux was worried that a pedicab ordinance would unintentionally allow for other peddler-type vendors in town. He was concerned about conflicts between pedicabs and other cyclists in the same lane of traffic.

- If the Council wanted to move forward with a draft ordinance for pedicabs, it could be crafted to regulate only pedicabs and not open the door to other temporary vendor types of businesses.

Mr. Pitti was concerned about the safety issues as well, particularly left turn navigations. He was concerned about bike lane traffic moving at faster speeds than a pedicab and being forced to enter the roadway to pass. He felt the shuttle system was a sufficient option for in-town transport.

Mr. Burns had never heard a desire for pedicabs in past discussions. He was resistant to create an ordinance solely to accommodate a business proposal. He did not feel the Town should pursue the ordinance any further.

Mr. Young saw some benefits to alternative transportation, but felt the Council should rely heavily on the Town's Public Safety department when considering the concept any further.

Mr. Young excused himself at 7:08 pm.

The Commission was unified in their concern that the pedicab business concept presented numerous safety issues that would be difficult to mitigate in Springdale and didn't feel there was a driving need for the services.

C. Adjourn

Motion to adjourn at 7:12 pm made by Joe Pitti. Seconded by Mike Marriott.

Marriott: Aye

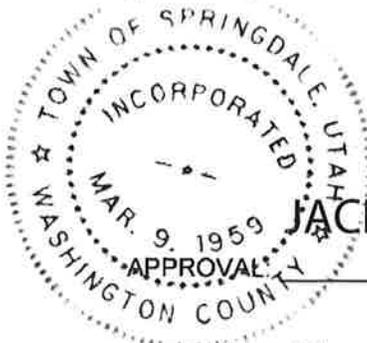
Pitti: Aye

Bruno: Aye

Burns: Aye

Rioux: Aye

Motion passed unanimously.



Katy Brown, Deputy Clerk

JACK BURNS

Digitally signed by JACK BURNS
Date: 2020.05.21 09:01:22
-06'00'

DATE: 5/21/2020

A recording of the public meeting is available by contacting the Town Clerk's Office. Please call 435-772-3434 or via email at springdale@infowest.com for more information.



PO Box 187 118 Lion Blvd Springdale UT 84767

REMOTE MEETING ATTENDANCE RECORD

Planning Commission Regular Meeting 4/15/2020

Vicki Bell
Michele VanHise
Rick Praetzel
Nancy Goodell
Lizette Byer
jtlv iPhone
Dean Elger