



HERRIMAN CITY COUNCIL AND PLANNING COMMISSION SPECIAL WORK MEETING MINUTES

Thursday, September 28, 2017

Approved November 30, 2017

The following are the minutes of the City Council and Planning Commission Special Work Meeting held on **Thursday, September 28, 2017 at 6:00 p.m.** in the Herriman City Community Center, 5355 West Herriman Main Street, Herriman, Utah. Adequate notice of this meeting, as required by law, was posted in the Community Center, on the City's website, and delivered to members of the Commission and media.

Presiding: Chair Clint Smith

Commission Members Present: Chris Berbert, Andrea Bradford, Adam Jacobson, Robyn Shakespear, Wade Thompson

Council Members Present: Mayor Carmen Freeman, Jared Henderson, Nicole Martin, Craig B. Tischner, Coralee Wessman-Moser

City Staff Present: City Planner Bryn McCarty, City Manager Brett geo. Wood, Assistant City Manager Gordon Haight, Communications Specialist Destiny Skinner, City Recorder Jackie Nostrom, City Attorney John Brems

6:00 PM

1. WORK MEETING:

6:08 PM Chair Clint Smith welcomed those in attendance and called the meeting to order. Commissioners Jessica Morton and Curtis Noble were absent.

1.1 Approval of Minutes

Mayor Carmen Freeman MOVED to approve the minutes for July 13, 2017.

Council Member Nicole Martin SECONDED the motion.

The voting was unanimous.

1.2 Introduction of the Amended 2025 General Plan

Assistant City Manager Gordon Haight oriented the commission with the adopted amendment to the 2025 general plan and compared it to the previous general plan. Commissioner Chris Berbert wanted to better understand the City Council's vision and direction for the City. Assistant City Manager Haight reported that the biggest change in the general plan was with High Country, Kennecott property and the hill side overlay zone and additional commercial added in the Adalyn property. Commissioner Adam Jacobson requested clarification about the agricultural land throughout the Dansie annexation area and wondered why open space and agricultural zoning had been removed from that area. City Planner Bryn McCarty suggested that the change may have been due to the addition of the industrial and commercial. She pointed out the agricultural on both sides of Herriman Parkway and believed that extension acted as a good buffer between the two areas. Assistant City Manager Haight explained that as he started hearing of a plan from Salt Lake County and how they had obtained funding for a road over to Tooele the city felt they should plan for the road extension with funding received and continue to work towards additional funding. Council Member Craig B. Tischner asked about the timeframe for the road extension. Assistant City Manager Haight felt the road would be constructed faster than what was originally anticipated. He believed the road construction would commence during the 2019-2020 budget cycle. He pointed out that 12600 South had been constructed almost to the anticipated SR201. Council Member Nicole Martin asked about priorities for Corridor Preservation. Assistant City Manager Haight indicated that monies would be distributed by the County. Staff would meet with the County to determine criteria and importance. The city will redo the transportation, storm drain, water and road plans and outline a structure for getting money from political resources.

1.3 Development Agreement Process and Timing

- 1.3.1 Adalynn Development Agreement – located approximately at 6000 W Herriman Boulevard**
- 1.3.2 Dansie Development Agreement– located approximately at 7300 West Main Street**
- 1.3.3 Herriman Cross Roads Development Agreement – located approximately at 16750 S Camp Williams Road (Redwood Road)**
- 1.3.4 Last Holdout LLC Annexation Development Agreement – located approximately at 6901 W 11800 South**
- 1.3.5 Cunningham Development Agreement – located approximately at 5076 West Herriman Main Street**

Assistant City Manager Gordon Haight reported that developers had submitted documents and due to policy, the city was required to move forward with the process. The Planning Commission should look forward to seeing several projects; the Dansie Development, Adalynn Development, Last Holdout LLC Annexation Development, Herriman Crossroads Development Agreement, and the Cunningham Development Agreement. It had been in the annexation declaration to annex up to U-111. The developer was going to go through a process and take it to the county to get it approved. However, before they do, they are willing to bring it to the Planning Commission for input. The city felt that

would be of great benefit and would like the Planning Commission to review the plan and make recommendations to the City Council. Part of the next meeting would include those discussions.

6:26 PM Wade Thompson arrived

Council Member Nicole Martin asked if South Jordan included 900 acres in their declaration. It was confirmed that the 900 acres, as well as, High County and Copperton were included in their declaration. Assistant City Manager Haight indicated that there was a lot of work that still needed to be done. Staff would be going through the new process for five large projects. The City Council placed conditions with the General Plan amendment and the Adalyn project would revert back to the old General Plan unless they had a development agreement by the end of the year, senior housing, address annexation, etc. Further details would be provided to the commission. He briefly reported on the updated city code and the hope to review all of the chapters. He suggested they determine a timeframe to review the chapters and wondered if more meetings would be needed to review it in its entirety. Commissioner Chris Berbert asked for clarification on the process expected and wondered if an individual work meeting for each development agreement would be scheduled. He felt that they were pushing developments through too quickly. It seemed that developers were coming to meetings only half prepared which he believed was a disservice to the city and the community to rush through a project. Assistant City Manager Haight explained that in the adopted city standards there were certain timeframes that staff had to meet to bring back item to the Planning Commission and City Council. He wanted to ensure they did not get out of line legislatively, however, he did not want to rush the commission and wanted them to have as many meetings as they felt were necessary for the proper vetting time.

6:35 PM Jared Henderson arrived.

Commissioner Chris Berbert felt that the new ordinance was a much better plan. Regarding the role of the Planning Commission he noted that they were to prepare and recommend the General Plan and General Plan amendments to the City Council. He remembered providing recommendation in the past. However, with the most recent general plan amendment, there was not a lot of work or preparation done. He was concerned with how the process was taking place. Planning Commission had given recommendations to the council, however, the amended plan was drastically different than what was recommended and it had been a year and a half later when the approval finally took place. That made it difficult to understand what changes had been made. He suggested it could have been due to lack of communication or lack of meetings, however, he felt it often happened because it was hastily done. He wanted to ensure that things were not missed. City Planner Bryn McCarty believed that the new ordinance would help with his concerns. She explained that a couple of the developers had agreed to use the new ordinance even though it hadn't been adopted yet, to see whether or not it would work out well. Their hope was that with the new ordinance, neighborhood meetings, the requirement for more submittals up front, the DRC meetings, etcetera, that a lot of the work could be done through staff. She disclosed that there was nothing more frustrating than to bring an item to the commission and have it continued because it wasn't ready. She felt the more clearly it was outlined in the ordinance the easier it would be and not be done hastily, but efficiently. Commissioner Berbert agreed. He indicated that compromises made in development agreements different from what was outlined in the ordinance,

would change the whole game. He felt being involved in the process beforehand would make those decisions much easier. Council Member Coralee Wessman-Moser agreed. She had seen the process work better with the involvement of the Planning Commission up front. Commissioner Berbert agreed that when everyone was involved the process it went much smoother. He appreciated comments made by the Mayor that he felt having the Planning Commission involved was worthwhile. Commissioner Berbert felt the new ordinance would definitely streamline the process. Chair Clint Smith agreed and felt that the focus should be on following the process as outlined. He felt it would be very important to take time to review the ordinance and make sure the process makes sense.

City Planner McCarty explained that as Herriman City has grown they have needed to create new processes and it may not be easy to do, but it was necessary. Commissioner Berbert appreciated the review of the ordinance because it helped him remember his role as a commissioner, the role of staff and the role of City Council. He reported that the role of the Planning Commission was to establish a plan as developers come in that will meet the criteria of the ordinance and the general plan. The role of the City Council was to represent the citizens which include landowners. When the Planning Commission has reviewed and given their opinion of what that plan should be, the City Council makes changes to adapt the plan to better fit the needs of the citizens and landowners. That process creates a much better plan. City staff works with developers and builders which is just another resource in the process. However, if that process is rushed, each role would finish their part of the process without everything they needed. City Planner McCarty explained that she felt the ordinance would outline that process well and will help the process be better. It would require a lot more work up front for an applicant to go through but the hope was that they would bring a finished product to the meeting. Commissioner Berbert believed the City Council was doing their best to plan out and create a good city, however, he felt frustrated when recommendations were made and when it appeared that those recommendations were not even listened to or considered. He believed that might occur when a work meeting was not held to give everyone a full understanding of where the recommendations were coming from. He explained that often times the commission reviews an application for four to six weeks before a decision is reached and he wanted to ensure that the council understood that an application had gone through that process before it was presented to the council.

Chair Clint Smith asked about the referendum and what that would mean to the work that was moving forward. City Attorney John Brems explained that applicants had filed a referendum and were working towards obtaining necessary signatures. Until it was determined to be sufficient, the city would not have a choice but to follow the adopted plan. He was still formulating the procedure, however, the applicants were challenging the ordinance which would mean that the approved general plan was of no effect. That likely means the previous general plan would be the plan that would be applicable. He posed the question of what would happen if the two plans were in existence and vested, he was not sure yet. Chair Smith asked about development agreements and what would happen with those agreements. City Attorney Brems explained that they did not know. He further added that the Dansie plan submitted could qualify under both plans. Council Member Jared Henderson questioned that statement, adding that the old plan did not include the property. City Attorney Brems stated that it did not include their property but was still in the annexation area and again stated they were still trying to figure out all the possible issues.

Commissioner Chris Berbert understood there needed to be a timeline for the process and wondered if they should establish a timeline before they moved forward. Assistant City Manager Gordon Haight wanted more clarity and input to determine the process and felt concerned that they may need to stack meetings to take an application through the process. Additional meetings may be necessary other than what was proposed on the schedule. Mayor Carmen Freeman suggested rather than reviewing all 30 chapters of the ordinance at once, he believed they could provide input to City Planner McCarty and she could incorporate those comments together in one document that would then be distributed to everyone for review. All expressed support of the Mayor's suggestion. City Planner McCarty suggested that some of the chapters would definitely need input from everyone and some of the chapters just needed formatting. Commissioner Adam Jacobson commented of receiving packets on Friday and often changes were made to the information in the packet after it had been distributed. By Thursday he felt very confused as to what was being proposed. He was also frustrated that changes could be made to the proposals after a recommendation from the Planning Commission was made and before it was presented to the City Council at the next meeting. City Manager Brett Wood then explained that staff was available to help the commission through the process and move it along but would appreciate receiving direction from the Planning Commission and City Council of how to handle that issue and how they felt the process should be followed. He explained that they needed clear direction from the commission and council. City Planner McCarty agreed and reiterated that she needed clear direction of how to move forward. Commissioner Jacobson agreed with the suggestion from Mayor Freeman to provide comments from council and commission and allow them time to review the comments before they meet to review the chapter. He asked what amount of time they believed would be needed to compile all the comments from commission and council and set a realistic expectation and deadline. City Planner McCarty suggested going over the big substantive changes together and that the council and commission could make suggestions by email for the rest of the chapters. Mayor Freeman suggested choosing the chapters that needed to be addressed together and felt fine about providing input and changes by email for the other chapters.

1.4 Updated Land Use Ordinance

City Planner Bryn McCarty explained that the changes made were to comply with state statute. A lot of changes were cleanup ensuring that there was not repeated information and that processes had been included. There was very little changes to the zones. All uses were put into a use table. The substance did not change. She reported that chapters of the Land Use Ordinance would help with future city planning. Any new additional chapter would need to be discussed during a joint meeting. She outlined which sections she felt should be discussed together; the table of uses, existing conditions, the combining of zoning and subdivisions to the land development code and the infrastructure chapter. The commission and council could submit any comments for the other 20 chapters. She reported that they had been using the new ordinance, as a test drive, on recent applications and it was working out very well. Mayor Freeman indicated that it was very healthy to continually review processes and ordinances and alter as they deemed necessary. Chair Clint Smith agreed that it would be good to revisit chapters as time went along. City Attorney John Brems explained there was a philosophical shift at the city giving

more responsibility to developers requiring them to provide more and better information at the beginning of the process. The shift could be difficult to go through, and he warned them to be prepared for some verbal frustration from developers. City Planner Bryn McCarty felt the changes would impact small developments more. Commissioner Adam Jacobson believed that even though it may be difficult, the process would give the applicant a better, stronger project when requirements were met.

City Planner Bryn McCarty started with section 10-5-4, item C. City Initiated Application. She expressed her support of the section and of item D as well. She summarized that it would require that an applicant not submit an application if what they were proposing was not allowed in the zone, unless they submit an application for a rezone at the same time. City Attorney Brems suggested that they not make the General Plan mandatory, explaining that state statute stated it was only meant to be advisory. The text would state that it has to comply with the intent of the General Plan. Council Member Nicole Martin wanted to ensure the city was open to great opportunities and suggested they find a good middle ground. Commissioner Chris Berbert indicated that if an application does not follow the General Plan the Planning Commission would typically deny the request, he had concern with that suggestion. City Planner McCarty explained it would ultimately be determined by the council whether or not to grant the request. Chair Clint Smith spoke about the generalized terms and definitions section and noted the delegation of authority. He wondered if the correct terms were being used and whether or not it should be altered. He wanted it to be clear and understood. City Planner McCarty recommended leaving the terms more generic in case processes or titles change. The remedy of deficiencies was reviewed. It indicated that if an applicant failed to correct deficiencies within 30 days after notification the City shall deem the application to be withdrawn. The commission and council were in favor of the text and a discussion took place in regards to refunding the application fee if the applicant did not proceed within a certain time frame or if it the application had been denied. The commission and council consensus was that there should be no refund.

City Attorney John Brems suggested to change the section regarding counting of days and noted that it should state, commencing the day after. City Planner McCarty reported on section N, which would follow state statute regarding a pending ordinance. She felt it was very clearly described and was a great addition. She also liked that they were required to provide written notice for a pending application. Commissioner Berbert asked about the section regarding the 180 day notice. City Planner McCarty gave the example of a proposed text change for flag lots. Once it appears on an agenda staff would no longer be allowed to take an application for flag lots until the new text change had been approved or after 180 days. She also noted in section Q, that if nothing had been done in six months, the application would expire. City Attorney Brems asked to review the engineering standards section. City Planner McCarty explained that certain details would be put into the engineering standards and reminded them that those standards were also adopted by ordinance. Commissioner Berbert asked if the city could require some type of bond if an applicant abandons a project. City Attorney Brems explained that a bond could only be required for public infrastructure not for buildings.

Commissioner Jacobson brought up a few points in section 10-5-5 he felt it should state that if information was not received by staff within so many days that they wait until the next meeting and City Planner McCarty agreed. He also noted that whatever the Planning Commission recommended to the

council was all that should be relayed to the council for their meeting and not allow the applicant to present a change. City Planner McCarty agreed and expressed that had been a struggle for her, as well. She understood it was her job to relay to the council the recommendation of the commission. She also noted that if the applicant was still trying to change things after the recommendation of the commission that the council could send it back to the commission for review before proceeding. Council Member Coralee Wessman-Moser seemed surprised that was even an option.

City Planner Bryn McCarty reviewed the section about public hearings and meetings and explained that there were no timelines in the new ordinance. She expressed frustration with developers changing their plan after noticing and packets had been distributed. The Planning Commission and Council recommended tightening up the requirement and to not allow changes to the plan once it's been submitted. Chair Clint Smith recommended that if the plan changes after the submission of the application and after it was posted in the packet that it automatically be continued. City Planner McCarty explained that many times notices were mailed out on Monday for the meeting that would take place the next Thursday and then the applicant would come to staff with a different plan on Tuesday or Wednesday. At that point, she would not be able to continue the item because notices had already been mailed out with the original plan. That was why the Planning Commission often had a different plan in the packet distributed for the meeting than the one that was mailed out to the neighbors in the notice. Sometimes, even the day before the meeting an applicant will bring in a different plan. She expressed that it can cause issues and was very frustrating. Council Member Coralee Wessman-Moser suggested tightening down the process and not allow any changes once the packet had been posted. City Planner McCarty restated that the text could state once the notices were mailed out, no further changes would be allowed. Council Member Moser also suggested that whatever had been published in the packet was what should be discussed during the meeting. Commissioner Wade Thompson warned that the applicant would still make changes during the meeting and City Planner McCarty agreed explaining that the commission would then need to remind the applicant that they could bring requested changes back in two weeks. Council Member Jared Henderson reminded the group that when the item was on for a public hearing the hearing would still need to take place and discussions ensued. Commissioner Jacobson suggested that it be clearly stated during the meeting that the item was on for a public hearing and the applicant had changes they would like to submit, therefore, the item would need to be continued to the next available meeting. City Planner McCarty felt the new process would help the developers make changes prior to putting it on the agenda. Commissioner Berbert suggested that if the item was not on for a public hearing then the commission should not see the public comments received by staff. City Attorney Brems explained that if the city takes public comment by email they must also share it publically during the meeting. He said it didn't matter that the comment was received prior to the meeting. City Planner McCarty added usually the issue was for conditional use applications. The notice mailed requests that any concerns be emailed. However, the new ordinance states that notices are sent out following state statute which does not have requirements for mailing notices on a conditional use and a discussion ensued. She reminded the council and commission that a conditional use was a permitted use. The point was made that if there was relevant information that the city was not aware of, public comment should be allowed to have those points addressed during the meeting or prior to the meeting by email. City Attorney Brems suggested getting rid of conditional uses and to have only permitted uses. Commissioner Jacobson proposed that developers should not be allowed to present

during the work meeting. City Planner McCarty agreed and restated that during the work meeting there could be a review of agenda items, however, developers should not be allowed to make presentations. Assistant City Manager Haight asked for clarification that the commission did not want to discuss information about an item on the main meeting agenda during the work meeting and gave the example of the 900 acre parcel. Chair Smith explained that items that needed further discussion and details could be part of the work meeting it would just need to be listed on the work meeting agenda. A developer could be present during the work meeting to answer questions, not to present information. Council Member Henderson agreed and added that the developer should be allowed in the meeting only if staff was unable to answer questions.

Commissioner Berbert asked to discuss letter C, if something was mailed out to the public or posted notices were made that it should be noticed in the packet. City Attorney Brems was concerned in the case of the notice being stolen or vandalized. Council Member Moser suggested that providing failure of notice language would be fine but thought it should be clearly reported to the public. City Attorney Brems proposed that the notice be posted by the community development director. If for some reason it go lost or destroyed then they would not be able to challenge it. The response was that a picture should be shown showing the proof of notice posted on site.

City Planner Bryn McCarty referenced section 10-5-6 and noted that the section was a great addition due to legislative decision. City Attorney Brems noted letter H, which basically stated that the applicant cannot withdraw their application once the mailing goes out. Council Member Moser proposed removing the implication statement. Planner McCarty reported of times when an applicant had withdrawn their application three days before a meeting and after notices were mailed out. City Attorney Brems advised that they would still need to act on the item during the public meeting and that the applicant could only withdraw if the notices had not been distributed. Council Member Moser advised that there should not be a refund either. City Council Member Nicole Martin felt the section was a good education element.

Mayor Freeman commented that section 10-5-7(d)(2)(b)(7) should include impact on schools. Planner McCarty explained that state statute requires that the Planning Commission holds a public hearing on the general plan and the City Council holds a public meeting on the general plan and can then approve it. The city ordinance would require that both the Planning Commission and City Council hold public hearings. Mayor Freeman proposed that any application larger than five acres, that would change the general plan, should require an open house prior to meeting with the Planning Commission or City Council. Council and Commission agreed. Commissioner Berbert proposed that if drastic changes were made after the Planning Commission makes recommendation to the City Council that more work meetings would be necessary. Chair Smith suggested that having a desire for more meetings is great but scheduling them has been very difficult. City Planner McCarty proposed that they schedule a joint work meeting every fourth Thursday for next year so that everyone can plan for it. Commissioner Chris Berbert asked for clarification regarding development agreements and how they would affect the general plan. City Attorney Brems explained that unless there was an enabling ordinance that stated it was the zone, after negotiated, you would have to comply with the zoning ordinance. The development agreement fills in the gaps that the zoning ordinance does not and the two should never contradict. He

gave the example of the gas station and how the development agreement would outline where the tanks were supposed to be located, it had nothing to do with zoning or the general plan. Chair Smith suggested that sometimes development agreements act as the ordinance. City Attorney Brems said it should not contradict the ordinance it should only fill in the gaps. Commissioner Berbert reported that recent development agreements had such different guidelines that they contradict city guidelines. Planner McCarty stated that the way the city fixed that issue was by referring them to the city ordinance and standards. The development agreement would include timing for when the infrastructure gets built but it should not have anything to do with the plan. Council Member Moser suggested that the text should state that items that are in the code should not be addressed in development agreements. City Attorney Brems indicated he would contemplate a solution. Council Member Nicole Martin suggested that the development agreement was for mutual protection, a benefit for both parties.

Commissioner Jacobson suggested that the commission and council decide on a due date to submit comments to City Planner McCarty. Council Member Moser requested that if anyone submits typographical errors to have staff just fix those; comments should be made for substantive changes. City Planner McCarty reported that City Attorney Brems was also going to make legal changes. Chair Smith asked for confirmation that everyone would be comfortable moving forward with that format for review and approvals. The consensus from council and commission was that they were fine to make that process work and they decided that they would have their comments to Planner McCarty by October 13, 2017. She would combine all comments in a document and send it out to everyone in an email by November 3, 2017. Then the suggested changes could be discussed and reviewed during a joint meeting on November 30, 2017. Assistant City Manager Haight reminded them that they would like to have the ordinance on the Planning Commission agenda by December 7, 2017 for approval, that way City Council could approve it on December 13, 2017.

City Planner McCarty reviewed the table of uses and noted that there would be no uses listed in any of the chapters. The table would show whether or not the use was permitted or conditional. If a use was not listed, it would not be allowed. They then reviewed Chapter 16. Council Member Moser noticed that the definition for apiaries was lumped together under the definitions section for animals and fowl. She felt that it should be separated out and that apiary should be defined as well as bee keepers, etc. Chair Smith agreed. Council Member Moser asked that the ordinance define the accessory uses. City Planner McCarty agreed, she felt it was a lot of information for accessory uses and it may be better listed in a table format. Commissioner Jacobson revealed that he needed more time to review the table. Chair Smith suggested that the tables were reviewed first and any comments sent out to the group right away. Planner McCarty suggested that if they saw uses listed that they would never allow anywhere in the city, those uses should be taken out of the ordinance. She gave the example of the commercial zone and that there were several permitted uses, however, anything over an acre is automatically a conditional use. She thought that they could come up with similar language for other parts of that section. Council Member Moser felt there should be a discussion on what should be a conditional use and permitted use and whether or not they want to allow only permitted uses or keep the conditional use aspect. Chair Smith agreed it should be looked at closely. Planner McCarty reminded them that they were not reviewing the use, only the elements. Commissioner Jacobson felt it would be best to go through all the uses listed and make comments to Planner McCarty who would then provide those notes to the council and

commission to talk through at a future meeting. City Attorney Brems asked them to be sure to take time and look at short term rentals. A discussion regarding various home occupation types and restrictions in different zones ensued. Commissioner Berbert asked for staff to review the recreational vehicle park definition in the ordinance. Planner McCarty reported that she would like to remove junk yard and mineral extraction from the ordinance. Chair Smith reiterated the timeline decided on for the Land Use Ordinance. All comments would be due by Friday, October 13, 2017 and they were encouraged to submit the changes as they reviewed the document. Those changes would be provided to the commission and council by November 3, 2017 and then a joint meeting would be held to discuss the changes on November 30, 2017. City Planner McCarty reported that if she saw that the timeline needed to be adjusted she would inform them and update the dates. Assistant City Manager Haight reported that he would email the schedule out to the council and commission.

2. NEW ITEMS OF SUBSEQUENT CONSIDERATION (OTHER):

3. FUTURE MEETINGS:

3.1 Planning Commission Meeting – **Thursday, October 5, 2017 @ 7:00 PM**

3.2 City Council Meeting – **Wednesday, October 11, 2017 @ 7:00 PM**

4. ADJOURNMENT:

Chair Clint Smith called for a motion to adjourn.

Council Member Coralee Wessman-Moser MOVED to adjourn the meeting and Council Member Nicole Martin SECONDED the motion. All voted aye. The motion passed unanimously. The meeting adjourned at 8:50 PM .

I, Cindy Quick, Deputy Recorder of Herriman City, hereby certify that the foregoing minutes represent a true, accurate and complete record of the meeting held on September 28, 2017. This document constitutes the official minutes for the Herriman City Council and Planning Commission Special Work Meeting.



Cindy Quick, CMC
Deputy Recorder