

Parowan City Planning and Zoning Minutes
August 18, 2021 – 5:30 P.M.
35 East 100 North – City Office

MEMBERS PRESENT: Susan Sepe (Chairperson), Sharon Downey, Ken Orton, Larry Zajac, Jake Hulet, Mark Burris (Alternate), Lily Shurtleff (Alternate), David Burton (Council Member), Cleve Matheson (City Manager – Zoning), Judy Schiers (Secretary)

MEMBERS ABSENT: Christian Jones, Attorney

PUBLIC PRESENT: Bob Platt (Platt and Platt Engineers), Ryan Robinson – via zoom (Rural Associates), Doug Fox came into the meeting at 6:58 P.M.

CALL TO ORDER: Susan Sepe called the meeting to order at 5:31 P.M.

ANY CONFLICTS WITH ITEMS ON THE AGENDA: David Burton declared a conflict with the Minor Lot Split – David Burton 491 E. 200 N.

APPROVAL OF MINUTES (AUGUST 4, 2021): Ken Orton made a motion to approve the minutes of August 4, 2021, with a change to members present. Jake Hulet seconded the motion. All members voted in favor of this motion.

MINOR LOT SPLIT – DAVID BURTON 491 E. 200 N.: Susan said before we start discussion on this item, I have a couple of questions. When someone puts in for a lot split, is there any documentation that needs to accompany that application and is there a time period. Cleve said yes, the application is submitted and then he (Cleve) is sent a digital copy, that is given to our City Surveyor (Rosenberg) and they review the lot split.

Susan said that on August 9, 2021 David Burton put in an application for a lot split and then you contacted the City Surveyor to review the plat. Cleve said that he received the application on August 9, 2021. Susan said that last week Callie sent her the Resolution from the Council regarding the moratorium on lot splits. She said this doesn't sit well with me at the moment. This is not against David, just in general, people who serve the public, be it the Planning and Zoning or the City Council and appearances. She said as a caveat to all this, in February we had a discussion in regards to being open between the City Council and the Planning and Zoning. This is something that directly affects the Planning and Zoning. Cleve said yes, this is a short-term fix, 90 days, to fix our water rights ordinance. Justin was supposed to be working on this in June or July and it should have been done because of the concern of our water. The moratorium is to give the Council enough time to look at the water rights ordinance.

Susan said I'm not questioning the Council's moratorium at all. She said it is her understanding that the Planning and Zoning should not be entertaining an application for a lot split until the 90 days are up. Cleve said that people can still put in a request, but the City Council will not be approving any lot splits for at least 90 days. Susan said then we should not be recommending any lot splits to the City Council until that time period is up. Cleve said you can do what you want in regards to approval but the City Council will not be approving lot splits.

Susan asked David, if there was a reason why, as our City Council representative, this was not brought to our attention as something that could be coming about. She said this is something that hasn't been just thought of a week ago because of our water situation, it apparently had been talked about before. Cleve said I will answer that. He said this was put together after the last Planning and Zoning Meeting of August 4th, and would have been discussed in member reports at this meeting. The Mayor approved for this to be on the August 12th City Council agenda. Susan said, you are telling me that the first the Council heard of this resolution was August 12th. Cleve said the first time the Council saw the Resolution was in their packets. David Burton said the first he heard of this was August 11th. Cleve said excuse me, what does that have to do with this lot split? Susan said I will tell you. I am not comfortable with this. Cleve said then take it up with the City Council, don't take it up with me if you are not comfortable. Susan said then we can vote on this and I will abstain. She said this application was put in on the 9th of August and Cleve said yes. If you have issues with this talk with Justin. This would be the same situation if anybody put in an application. If an application is in, and then your ordinance changes, the application is governed under the old rules.

Susan said the Resolution number says 2021-08-02. Is that a date? Cleve said no. Susan again asked David, the first you saw the Resolution on the lot split moratorium was on August 12th? He said that when the agenda came out, that was the first he saw this and it was actually that same day. Susan asked David, so there was no discussion between the council in closed chambers about this previously. Cleve said he can't answer that, and I can't answer that, and you can't ask that. Susan said my next question, we had a council member that knew what was coming down the pike as regards to Conex boxes and she ordered a Conex box that wouldn't adhere to the ordinance. Cleve said stop. Susan said she didn't order a Conex box? Cleve said please proceed carefully with what you want put on the record. Susan said the point is, she knew what was coming down the pike in regards to the ordinances. Susan said as members of this committee we need to understand that we have a fiduciary duty to the community to be honest and I don't want anyone to go ahead and gain from it one way or another. It is an honesty and integrity issue. She said David and I have had a lengthy conversation on appearance and how it looks to the public. Cleve said I talked with David and Justin has also talked with David regarding this exact thing.

David asked if she watched the City Council meeting. Susan said no. David said before I voted I made a statement about this. That was the first time I saw this was on the agenda. I could see what was going on, but this was already in the works. The City Attorney made a comment right after and said this will not affect anything that is in the works. If you remember I tried to get this on the agenda for August 4th. This has gone on for a long time. I'm not doing this to sell anything, it is to do estate planning. He said everything he has been doing with the attorneys, the surveyors, it all just came to fruition at once. It was bad timing, but I had no control over it. I have been trying to do this for a long time. Cleve said I

know that you asked Susan, you asked me, you asked Judy to be on the agenda for August 4th, but you didn't have a complete application at that time. It has to be through the review process before it can be on the agenda.

Susan said try and follow along with my train of thought. In my mind, on the 12th of August, that was not the first time the Council knew of the coming down of this moratorium. I find it hard to believe that a Resolution was drafted that same day as the Council meeting, which is fine, the Council knew before, but I am unsettled that a Council member knew what was coming and wanted to get his application in before the moratorium was approved. Susan said David, you just explained that you can wait, that this is just bad timing, so if you can wait, why don't we wait 90 days? If you are not going to sell it and it is going to be your property anyway, why can't you wait? Is there a personal reason why you want it done now? David said, I told you I am trying to get my estate finished and we are in the process. I don't want to back up and yes, I need to get it done.

Sharon said it's not backing up. It's so that the citizens don't think something is being done unethically. David said, I guarantee you it is not and it was not.

Mark Burriss said, also there is something that David is probably not voicing, but 90-day moratoriums turn into 100-day moratoriums, turn into moratoriums that require extra water rights. Things morph and things are always fluid. So, I think if he feels he was in the process legitimately prior and wants to get this done and not worry about what things are going to be like 100 days from now, I see that as being a very legitimate concern. Because who knows what is going to be said or discussed in the 90 days before the current one elapses.

Cleve said if I am not mistaken, there are at least four places where our ordinances need to be amended for the water concerns. When you go through every water ordinance, the subdivision ordinance, utilities ordinance, there are a lot of places that need to be amended, so that it will correlate together. The moratorium will allow the Council time to make everything fit. Mark said that is my point, the rules will most likely be different afterwards than they are, as of tonight. Cleve said something has to happen because of the water issue. David said that is why the moratorium was put in place. Susan asked if the moratorium is to find out how much water we have. Cleve said no, the moratorium gives us time to make sure our ordinances are corrected and amended. Susan said if someone comes before us and because this is a Resolution and not an Ordinance, we still can't make a recommendation to the council, correct. Cleve said you can make a recommendation, but the City Council will not approve it. Susan said even if we make a recommendation, the City Council can still reject it, because the buck stops with them? Cleve said correct. If someone wants to put an application in for a lot split, they certainly can, but the City Council would likely reject it because of the moratorium.

Larry said listening to all this, it would be prudent that this body get some kind of briefing or write up, or a paragraph that says, FYI we have this moratorium and this is why we are doing it. Cleve said that he was prepared to give that in staff comments at this meeting as to what happened in the City Council meeting. Susan said I will admit that I am very bad about remembering City Council meetings. She said she asked Callie to email the members of the Planning and Zoning a Council agenda because when she has the agenda she knows when Council meetings are. I think the point that Larry is making is that we

were not given a heads-up. Susan asked, the first this was ever spoke about, regarding the water and moratorium was when they got their agendas? Cleve said they were expecting to see some type of ordinance about water.

Larry said had we all gone to the City Council meeting we would all be on the same page, but that can't be the only way we can communicate. Larry said but now we have a moratorium that affects us and it is six days after the council meeting. Cleve said and you would have heard about this moratorium in the staff comments. Susan said, we are back to the same issue we had in February where there is no communication. All it takes is an email saying hey, this is what we are discussing and we wanted you to be aware. Susan said the Judy emails the Council our agenda and minutes. Cleve said Sharon gets a copy of the agenda. Sharon said I get it the day before the meeting. Susan said she wasn't aware that she could get the agenda emailed to her. No one else on the Planning and Zoning were aware they could get the agenda emailed to them. Susan said she has remedied that and Callie will be emailing the Planning and Zoning the agenda.

Sharon said that we are not trying to attack anyone, please don't take it that way. I went to City Council, I heard the conversation, David did bring up his conflict. David said he also made a comment about it before he voted and expounded on it. Sharon said I don't know about Larry and Ken, but we know how Susan feels. I myself feel there had to be some conversation before David put his application in. Cleve said that water conversations have been a topic at other City Council meetings. David said that water is a conversation of topic at council. Sharon said at almost every Planning and Zoning meeting, David lets us know how he feels about the water. We are not farmers, but we have houses and we are just as concerned as you are about the water. Cleve said the conversation has been had, and the Council was expecting an Ordinance, but since it wasn't prepared, this was the steps they took.

Susan asked if there were any other comments. Larry said he has one. Where is the definition of a subdivision? Cleve said that is in Section 14, under the Subdivision Ordinance. Mark said I think everyone is on the same page that communication could be better. It would be better if some of us show up to council meetings. He said, the old saying the appearance of impropriety being almost as bad as the real thing in law and politics could apply. In this case however, I think that there is nothing wrong to get an application in to beat an ordinance. I understand you think there was some fore knowledge, but I think David could produce documents that showed he had been working with surveyors prior to the discussion. David is my friend and I am not standing up for him because of that, in fact we are going to have a discussion that he is not going to want to hear, but I think that this was just a matter of bad timing. I think everyone could take David's word that it was proceeding to turn this application in for months and the fact that he had an application in and an ordinance concerning the application pops up at the same time is bad timing. Susan said it is a real tight coincidence.

Ken asked if there is water that comes with these lots? David said no. Susan asked if we needed to hear from Bob Platt, the surveyor. David said the application is what it is. Sharon asked about the PUE's. Bob said that Cleve talked with him about that, and he will have the correct plat to the council with the front PUE listed. Sharon said she was told that all lots needed to have 10-foot easements on the side. Cleve said that is not correct. Some lots do not require this. Sharon said, good then my lot probably doesn't have those even though I was told all lots in the City would have those. Cleve said

some lots in the City will require those 10-foot PUE's on the side and back. Sharon said Von Mellor told her that every lot had 10-foot easements along the sides and back. Bob said that he knows that is not correct on the old part of town. Bob said that happens all the time, that people think this.

Sharon asked about the street dedication. Bob said that these lots do not require street dedication. These parcels front on 200 North and there is not street dedication required. When you make a regular subdivision, you have to make the streets public. That is one difference. The street shown on the plat is already existing. Susan asked David if he had all utilities to these properties. David said yes. My property has a transformer on the east side. The power is completely in front.

Larry would like the definition of a minor lot subdivision. (Cleve had stepped out to take a phone call and the committee wanted to wait until he was back to have an explanation). David told Bob Platt that he is sorry he got involved with this and he can be excused.

Jake said he wanted to know more about the moratorium. Susan handed him the Resolution. Ken said for the last 15 years the state has tried to recover water rights to keep them in line with the allotted rights. For those water rights that are in limbo, the State wants to know if at some point someone will use those or if the City can sell the rights. David said that the City can not sell water rights. Jake said for example, if he has land with no rights, I could go purchase them from Cedar City. David said no, the City is not supposed to sell rights. Mark said if you wanted to purchase water, you would have to purchase them from an individual not a municipality. David said you may be dealing with a water conservancy district in Cedar that allows the sale of water rights.

David said we are getting a little off the topic. We are getting into water rights. David told Cleve that Larry wants to know the requirements for a minor lot subdivision. Cleve said he would have to find it in the ordinance, but it is the same one we have been following for the last several years.

Susan asked Cleve if he saw any issues with these lot splits. Cleve with the exception of the 10-foot utility easement and description that will be put on the plat prior to going to the City Council, everything else meets code.

Ken made a motion to table this lot split for 90 days and see what happens with the moratorium and if there is no issue, we put it back on the table after the 90 days.

David Burton said point of order, the City Attorney has already said that anything that is already in the process is not affected by the moratorium. Ken said I made a motion. If it is not seconded, someone else can make a motion. There were no seconds. The motion died.

Jake made a motion to approve the lot split for David Burton at 491 East 200 North with the corrections as stated regarding the PUE and description. Larry Zajac seconded the motion. Susan abstained and Sharon and Ken voted not in favor of this motion. There was not a majority to approve. The motion was not approved. David declared a conflict, but he is not a voting member.

Cleve said he had to step out and take a call from the City Attorney regarding a sewer issue. He again talked with Justin and he said please be assured that this is a legitimate application. Cleve said that both he and the attorney had talked to Dave about the appearance and timing, but the application was legal and this was Dave's cross to bear regarding the appearance. He said we are not trying to circumvent the ordinances in any way. Susan said she doesn't feel that the application is illegal, but there was prior knowledge. Susan asked why the alternates can not vote. Cleve said they only vote when there is not a full quorum. Cleve said this item can go to the Council without a recommendation, but they are the ones that have the authority to determine the outcome of this application.

GENERAL PLAN DISCUSSION: Ryan Robinson presented changes and updates to the section "Parks, Trails, Recreation". There was a discussion on what items should be in this section and which items may not fit or be appropriate to include. *(Ken Orton left the meeting at 6:35 P.M.)*

Judy was asked to find out if we have the Recreation Master Plan that was presented to the Council by the TARP committee in the fall of 2014. City staff will look for other relevant maps to be included in 6.9. If there are any other maps we would like in this section

Ryan said he will take this chapter and clean it up and then put all the documents into a single document and have it ready for review by the 25th of August. The Planning and Zoning will have the document for review on September 1st and then we can advertise for a public hearing on September 15th. Susan said that they will watch for the document by August 25th, and then the committee could discuss amongst ourselves on September 1st and then include you on the 15th. Ryan said the State Code says you would have to have a public hearing in the Planning Commission. If your code says the City Council then you would need to have that at the Council level. Ryan said so you think that this would be ready by the 15th for the public hearing? Susan said yes. Ryan said he would let the committee know if there are any problems, but we will plan on August 25th to have the single document.

MEMBER REPORTS:

Cleve said he talked with Justin and the lot split will move onto the City Council for their vote, even without a favorable recommendation. Jake asked Cleve to explain the moratorium. Cleve said the moratorium would halt lot splits until ordinances could be prepared to require the new split lots bringing in water. New demand on our resources would require the appropriate amount of water with the appropriate date be brought in with the new lot being split.

Jake asked if the state can take that water. Cleve said it is not a simple explanation, but there has been some discussion regarding that. Jake asked about time of development and the water rights. Cleve said at the time of annexation they would be required to bring in water rights.

ADJOURN: Larry Zajac made a motion to adjourn the meeting at 7:08 P.M.: Sharon Downey seconded the motion. The meeting was adjourned.