



**MEETING MINUTES
REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION
TOWN OF CASTLE VALLEY**

Date: Wednesday, November 1, 2023

Time: 6:30 PM

Anchor Site: CASTLE VALLEY TOWN BUILDING - 2 CASTLE VALLEY DRIVE

Public Information Session on the National Flood Insurance Program and the regular meeting of the Planning and Land Use Commission of the Town of Castle Valley.

Hybrid meeting (Zoom and in person at the Town Building anchor site) was called to order by chairman Ryan Anderson at 6:30 PM. Roll call: in person Ryan Anderson, Colleen Thompson, Jeff Whitney, Adrian Washington, and Town Clerk, Jocelyn Buck; On Zoom Tracie Harrison [FEMA/NFIP rep], Jazmine Duncan, Ron Drake, Les Bolton, Dorje Honer, Marie Hawkins, Bob Lippman and Julie Baird.

Ryan introduced Tracie Harrison, the State Flood Plain Program Manager in the Division of Emergency Management, and mentioned that printed brochures about the National Flood Insurance Program are available at the Town office for anyone who is interested.

Tracie explained that her department works with our community emergency managers to help prepare for, mitigate, and recover from disasters, primarily when it comes to floodplain management and flood risk. The NFIP is a voluntary program, a mutual agreement between the community itself and the federal government (FEMA, the Federal Emergency Management Agency). The state department acts as go-between. She said joining the NFIP is a simple process: we adopt an ordinance, we pass a resolution, and submit an application.

Then the NFIP has a three-step approach:

1. Map the risk. They use scientific information, they do modeling, and then they map the risk in the area. Jamie Huff is the risk map coordinator who works with Tracie. She's secured a grant through FEMA to map Grand County, Emery County, and Carbon County. In the next year she'll be reaching out to communities in those counties and start establishing mapping meetings. If we decide to participate this is the opportunity to get some flood mapping done in our area, which we currently do not have. The community is expected to participate in the mapping meetings, providing feedback on development plans, growth, areas where we experience flooding, or other areas of concern.

2. Tie the risk map into regulations, based on the Federal Code of Regulations for Floodplain Management; this needs to be integrated into our ordinance. These regulations protect property and also protect floodplains as a natural resource.

3. ?

NFIP works by allowing insurance through federally-backed insurance products. If you have a federally-backed mortgage and you are in a special flood hazard area, it will require you to purchase flood insurance. NFIP participants also have access to federal grants and disaster funding in large disaster events. There is a five-year audit to examine our permits and ordinances to make sure we're still in compliance.

Ryan asked if we join, and then find out that we don't need it or want it, can we withdraw? Answer: Yes, that's not a problem, there's no penalty.

Jeff Whitney mentioned that the County mapped Spanish Valley at considerable expense and wanted to confirm the mapping would not cost Castle Valley anything. Tracie confirmed that, and added that Utah mapping is lagging in many areas, and that we should've been offered mapping years ago. She reiterated community participation in the mapping process. We can appeal if we don't like the map, but it must be backed up by engineering or historical data. The appeal itself costs nothing, but collecting the technical information probably would.

Tracie described more detail about the mapping process: first they fly LiDAR to determine the topography. They look for high water marks, use stream gauges, and historical data. After a question from Adrian, she said whether or not we participate in the NFIP, we're going to get mapped, and it's up to us if we want to use the maps in our regulations. The mapping will be public information. If the community joins and then decides not to adopt the maps, we would be sanctioned and lose things like insurance for federally backed mortgages and grant funding.

Tracie: Floods are the costliest natural disaster in Utah and in the United States. Bob Lippman asked about the rationale behind the requirement to buy flood insurance if you're in a flood zone. Tracie explained that it was to save disaster relief dollars and treat the program as more of an insurance program.

Jeff told the history of the mapping in Spanish Valley and Grand County joining the program. He said all the rest of the County with slight exceptions have no maps. They're like Castle Valley, not considered a flood hazard area. But once the map is done, then we are a flood hazard area. Anybody with a mortgage is going to be affected because if they fall within a floodplain, which in Castle Valley could be extensive, the mortgage is going to require flood insurance.

Tracie described several scenarios. 1. If we don't join, and the mortgage company tells a homeowner they must get flood insurance, the homeowner would have to go to private Insurance industry. 2. For a pre-existing home that's in a special flood hazard area and now has a requirement to pay for flood insurance but they don't want to, there is a mechanism for the homeowner to, if they are on natural ground and they're above a

base flood elevation level, they can submit a letter of map amendment, that says this parcel, this homeowner is elevated high enough that they are actually out of the special flood hazard area and therefore FEMA is saying they shouldn't be required to have flood insurance. This is possible because they don't map on a parcel-by-parcel scale. The mortgage company would make the decision whether they would still require insurance.

Les asked if we join, you're not forced to have federal flood insurance unless you have a federal loan, correct? Tracie: if you are mapped in a special flood hazard area AND you have a federally backed mortgage. Les asked about second homeowners. Answer: same requirements for insurance, but if it's a second home there might be some lower coverages or exclusions. Les asked how does the Castle Valley hazard mitigation plan affect the NFIP? Answer: nothing about the NFIP, but a mitigation plan might be required for grant funding. Tracie said she would send a document that will list which FEMA grants require participation and which do not.

Jeff asked if we must have a C of M [what's that?] on staff. Answer: you don't, but you must have a designee, like the mayor, public works director, city engineer, or a consultant engineer.

Jocelyn asked for a synopsis of how we must amend our land-use ordinance in order to join. Answer: we don't need a standalone ordinance, but a separate chapter specific to floodplain management is recommended. There is a draft ordinance that we can utilize that has all the requirements from the Code of Federal Regulations. It specifies where and how you can develop. Tracie gave the example of new (not pre-existing) mobile homes in the special flood hazard area which would require elevating 36 inches above the base flood elevation, and would require anchoring to prevent flotation; propane tank requires anchoring also. They do not require retrofitting pre-existing homes, except in the case of substantial improvements (50% over the value of their structure).

Les asked if there are additional state requirements on top of the NFIP? Answer: not for a development per se, but the state requires permits for stream alterations and the like. Wetlands permits involve the Army Corps of Engineers.

Les asked: other than people who have federal loans, are there any additional requirements that are made for existing structures? Answer: substantial improvements (50% over the value of existing structure) require bringing up to compliance; or rebuilding after a fire that damage more than 50% of the home, and that could include rebuilding the whole house because now they would have to elevate the home and may be adding flood vents or other requirements.

Jocelyn asked about flash floods from slickrock that doesn't always happen in low lying areas. Answer: for it to be considered a flood and covered by flood insurance, it needs to be two or more properties, and it must be overland flooding. Ground water bubbling up is not covered under flood insurance, but mudflows are, for example flooding off of a burn scar, and flash floods are covered, as are backed-up storm drains (or culverts in our case). The LiDAR mapping is not going to take into consideration things like blocked culverts, of course. It won't guarantee your house is safe if you're outside the special flood risk area. It's kind of an estimate, an approximation.

Dorje asked if they consider, or know, the precipitation amount that they usually design for in these maps? Answer: no. She can get the question over to Jamie Huff who does the risk map; she would definitely have that information for us. They use modeling to determine things like that.

Tracie said we can have further conversations if we decide to hold off until the mapping project goes through—we can talk again then. She wants our community to be prepared because there are pros and cons and she doesn't want to sugarcoat anything. There are mechanisms for that homeowner that may be on natural high ground, where they can do the letter of map amendment and maybe get out of having that forced insurance. But that's not a guarantee. So, she's happy to answer questions.

Adrian asked: Phase 1 and Phase 2 mapping, are you doing both phases currently? Answer: each phase has to be funded. The first phase is the LiDAR collection; that one has been funded, as explained. After that Phase 2 would be the hydraulics and hydrology modeling. And then they will produce a preliminary map that they present to the community, show you where we are anticipating seeing flows, and get community input on areas where we want additional study or a more refined look at [Phase 3?] Phase 1 is the one that's funded right now. Adrian: is the timeframe still about 2 to 3 years for all phases? Answer: the LiDAR is probably going to be flown next year. Probably in the spring, because snow on the ground interferes. And then they'll probably start compiling the information. So, the first draft maps, probably within about a year. Then there's a timeframe, because there will be three counties doing this who all have commenting periods and appeal periods. That large of a project, you probably won't see actual physical maps that go effective for maybe 5 to 7 years. However, you can have the best available data to be used in the interim to regulate and do development. But an official map, where your homeowners have to have insurance, probably not for another 5 to 7 years.

Tracie summed up: in the insurance industry we have lots and lots of flood disasters; they're always isolated. We don't get those disaster-area declarations where FEMA comes in and helps our homeowners. And that's why we have the flood insurance policies, because that's where our homeowners are going to be able to be made whole. Federally-backed could be a little bit cheaper than private, sometimes private is better. Planning for risk is important. She will send that additional information for us to distribute to interested parties.

Regular meeting of the Castle Valley Planning and Land Use Commission

Item 1: Julie moved to adopt the agenda as printed. Colleen seconded. All voted Aye.

Item 2: Open public comment. There was none.

Item 3: Approval of the minutes from the public hearing and regular meeting on July 12, 2023. Notes for the two public hearings are verbatim as required. Other subjects were the Dark Sky Lighting Ordinance and the Combined Square Footage amendment, no changes offered. Jeff moved to approve the minutes, seconded by Julie. Marie

abstained; all others voted Aye.

Item 4, Reports. No public correspondence that we are aware of.

- Colleen presented the Town Council report from their October 18 meeting, included in the packet. Discussion about the report: There was a question about the recent emergency alert text messaging test, which apparently does not work over Wi-Fi Calling, even though regular SMS messaging does. The County is looking into that. A comment from Jeff regarding the Community Renewable Energy Program: "I am curious in that we have a resolution that the Town made that we be energy neutral by 2030, and yet the PLUC decided and the Town Council agreed that we would limit solar panels to 10,000 W. We can't do both." Colleen replied (not representing the Town Council) that the technology has come along and we should probably revisit that; some people have mentioned it. There was some cross discussion with people agreeing. Jeff added that you can do a rooftop solar installation with very little visual impact that is far greater than 10 KW, yet we limit it to 10 KW. Colleen pointed out that you can do more, but it's nonroutine. Ryan agreed that it's worth revisiting, and including in the upcoming survey. On the subject of the low water crossings in the Upper 80, Adrian mentioned that the FEMA LiDAR mapping will identify those areas and there may be grants available, if you wait for the mapping. Colleen: but she said 5 to 7 years for the final maps. Adrian: you might be able to use the Phase 1 or Phase 2 mapping but he knows the low water crossings will be identified in the first two phases. Colleen encouraged him to write a letter to the Town Council about that.

- BPA Reports (included in the packet)

- Procedural Matters: Ryan reminded everybody that we are looking for a PLUC Clerk, and the job description is posted on the Town website. Adrian asked if that job could be done remotely. Answer: maybe some, but a physical presence is required a lot of the time.

Item 5, new business. None.

6. Discussion and Possible Action re: Large scale earth moving permitting.

Introduced by Colleen: The Town Council tasked the PLUC with addressing the possible need for a permit for doing earth moving, because there's been at least two recent examples where in one case, vegetation removal, and then another case, actual earthmoving, caused flooding problems for the lot directly below, which is a violation of both state and local ordinance. Dorje and Colleen got the delegated responsibility to try to put this together, trying not to burden people too much. One important part is figuring out a threshold for where a permit would be needed.

Jeff (former building inspector and floodplain administrator) explained that the State Division of Air Quality requires notification when you disturb more than an acre. The County ordinance kicks in at yardage, and is an example of what we could use. Jeff doesn't think that just because there's an issue means that we must have a regulation. But there is a danger on any property that's upstream to somebody else, if you change the drainage, obviously. It can leave your property, or it shouldn't leave your property, at a different location or at a different volume. The County requires mitigation such as a retention basin so the water will leave your property the same way it did before. We might want to design something to ensure that, or to at least have a tool that says if you

affected your neighbor you have to fix it. Jeff gave an example where he was accused of flooding his neighbor's house, but the Division of Water Rights determined that it was just a natural flood and was not preventable. Sometimes we get hit with a storm that, regardless of what you did, is going to flood that adjacent property, so we have to be really careful that we don't create a situation where we're accusing somebody of causing floods. However, we do kind of have an obligation if we issue a permit to make sure that they don't [unintelligible].

Colleen said we already have a drainage review in relation to a building permit, and apparently these older instances happened outside of the building permit process from the start. Jeff agreed that recreational grading happens all the time. We could create an ordinance that ruled on that, or requires a permit at a certain yardage, say 100-200 yards of material would require a permit. Jocelyn commented that this came up because a lot of the lots that are left to develop are topographically challenging, and people can make more usable land by doing massive dirt moving. It may not affect the drainage—it better not because we already have an ordinance. Jeff replied if you move a lot of earth and you create a lot of ground, and it doesn't affect anybody downstream, why do we want to regulate it? Just because we can?

Jazmine said we don't necessarily need to have a permit per se for what we're talking about but we do need some language in there that requires mitigation. Like if you're going to be doing vegetation removal, earth work, you are going to have to mitigate the consequences of that. Whatever that wording necessarily needs to be, such as what the County says about building retention, to slow the water down. Because it's pretty apparent what happens after vegetation removal.

Julie suggested combining these ideas by requiring before-and-after videos or photos if you're going to move a certain amount of dirt, so there's documentation and a requirement to remediate if you've impacted downstream property owners. Maybe there's a way to determine the yardage of dirt that requires this documentation but maybe not rising to the level of a permit.

Dorje said the state has a regulation when you disturb more than an acre of soil, especially regarding stormwater retention and things like that. So some of this might involve the State. Personally Dorje thinks three potential thresholds that make sense are: an acreage of disturbance threshold, a yardage or volume threshold, and proximity to drainages. It's much more of a concern if the soil is getting disturbed in the middle of a drainage versus far away from it.

Colleen said as BPA, she's not in favor of administering even more permits. The thing is, a lot of people just go out there and do recreational grading or vegetation removal without even thinking about what it might do. As a result, when somebody is applying for a building permit, she spends time explaining the Drainage Review, that you can't change the water and how it exits your lot. But if you're not getting a building permit, people just do it. She often wonders about the berms she sees getting put up, which are not regulated aside from the state and local regulations about not changing drainage from your lot.

Colleen said we need to pin the concepts down before we can write actual language, and that's what we're trying to do here. When she was new to the PLUC this same thing came up and nobody wanted to do a permit or regulation for it, so we put language in the ordinance recommending a consultation if you were planning on doing an amount of earth moving—but to her knowledge, not a single person has ever done that. Jazmine said there must be standards that people are going to have to adhere to. Whether we all decide that a permit process is necessary or not, you have to give people some direction.

Dorje thinks that's absolutely necessary; we should probably do some form of two-stage process where there is some regulation just regarding any kind of dirt work that you do and how to deal with it, best management practices, things like that. And then some form of permitting for large-scale projects, say greater than 1-2 acres, because that's almost 50% of your lot getting torn up. He thinks that would be a logical point to have an actual permitting process with potentially some engineering involved to make sure water's not going somewhere else, or it's done stage-wise so not more than a single acre at a time is exposed, or some other thing along those lines.

It's not a good idea to have the permit at such a low threshold that anyone who just wants to fix their driveway has to go through a huge engineering process. It is a good idea to have some regulations saying if you do disturb soil this is how to approach it. We also need some form of kind of retroactive enforcement for things that have happened previously, and we need to be able to come back and remediate them. Because knowing the way things go around here somebody's going to miss the memo and we're going to have to deal with problems after the fact.

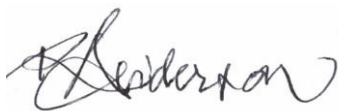
Ryan proposed a task force of himself, Dorje, Jeff, and Colleen, to come up with something to present to the Town Council. Jazmine reminded that if we're going to add or change ordinance language it has to go through a public hearing and the PLUC, and asked if we are proposing to come up with some language to run by the Council before holding the public hearing? Ryan confirmed that, with hopes that it could be ready before the next Town Council meeting.

Closed meeting: not needed.

Jeff moved to adjourn the meeting, Colleen seconded, all voted in favor. Ryan adjourned the meeting at 7:56 PM.

Minutes submitted by Colleen Thompson

APPROVED:



Ryan Anderson, Chairperson

12.6.2023

Date

ATTESTED:



Jocelyn Buck, Town Clerk Date 12.6.2023