

TOQUERVILLE CITY
SPECIAL PLANNING COMMISSION MEETING MINUTES
Wednesday, August 29, 2018

Work Meeting 6:30 p.m. - Business Meeting 7:00 p.m.
Held at 212 N. Toquerville Blvd, Toquerville Utah



Present: Planning Chair Pro Tem-Manning Butterworth; Planning Commissioners: Jake Peart, Rebecca Hansen, Greg Turner, Chuck Williams; Support Staff: Recorder Dana McKim, Planning Commission Liaison Alex Chamberlain, Zoning Official Mike Vercimak, Mayor Lynn Chamberlain, Blair Gubler; Public: Wayne Olsen, Gary Chaves, Joey Campbell, Emily Lowe, Bruce Wallace.

6:30 PM WORK MEETING:

1. Discussion on Short-Term Rentals-Bed and Breakfast and Nightly/Short-Term Rentals:

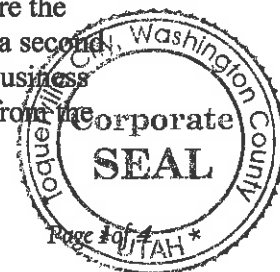
Chair Pro Tem Manning Butterworth gave a brief report to the commission on what items were discussed at a meeting held on August 24th with Attorney Heath Snow concerning nightly rentals. It was not a public meeting because a quorum was not present for any of the boards. The purpose of the meeting was to give clarification of the proposed ordinance to legal counsel for codification purposes. Councilmembers Keen Ellsworth and Paul Heideman, and Commissioner Jake Peart were in attendance of the meeting. Butterworth wanted to discuss the proposed changes to the notification requirement, as it was discussed in length during the meeting. Property owners within a 300-foot radius of the proposed use will still be notified of the application, but to base the granting of an application upon a 75% majority vote would be legally indefensible. Snow suggested requiring a vote based on public opinions and percentages would invoke a decision based on public clamor.

Turner asked about the requirement of no overnight on-street parking. The ordinance originally stated it would only apply to guests and not residents of the home. Peart stated on-street parking is permissible in a residential neighborhood, but when a business is added to the home it changes the environment and should have different requirements than that of a single family residential home. Guests may park for loading and unloading during the day, but the location of the establishment should provide off-street parking for guests and residents.

Turner also asked about the definition of a nightly rental and if the leasing period should be shortened to a consecutive period of 30 calendar days to co-inside with the state tax commission laws. Butterworth stated that Snow agreed with changing the leasing period from 90 days to 30 days.

Commissioner Turner inquired about ownership requirements. As the ordinance read it would require someone to possess 51% of the controlling interest. He suggested the principal owner should own the controlling interest of the property since there may be various trusts and corporations owned by more than two individuals. Mayor Chamberlain suggested it could be worded as such, "If the person is a permit holder and who owns 2/3 of the controlling interest of the residence by percentage, or by legal designation," it would clear up any confusion. One of the main requirements would still entail the owner of a short-term rental to reside in Toquerville as their primary residence and own the majority of the residence.

Butterworth presented a scenario to the commission. He inquired about the possibility of a commercial company approaching Toquerville residents to apply for a nightly rental where the resident would be compensated by the company to provide the service to renters through a second party agreement. He wondered if the ordinance would protect the city from this type of business venture. He asked if the ordinance would shield these types of companies from liability from the



rental agreement, nor bear any accountability to the City of Toquerville. He suggested the applicant should sign an affidavit swearing they are not acting as an agent for another entity or person. Hansen believed it would seem problematic to turn a profit if a vacation rental is run through a secondary party or franchise business. Mayor Chamberlain pointed out that websites like VRBO and Air BnB are already franchising these establishments. Short-term rental owners sign an agreement called a Terms of Service contract where these businesses provide website domains, rental advertising, and availabilities for a fee. Hansen replied by stating the owner of the residence has the controlling interest of the business and thought those sites described are different than the scenario described by Butterworth.

Peart was under the impression the applicant of the permit would bear the responsibility or hold accountability for the rental. He asked about how they should manage multiple owners of a proposed rental. The commission discussed what a principal holder would include. Peart asked how and what the city would require from a trust ownership. Hansen believed the principal holder assumes responsibility and liability and it shouldn't make a difference to the city how many owners are involved. Peart brought up a valid point stating trusts change and asked how would the city stay on top of knowing who had controlling interest of the business. No finite decision was officially made on the requirement.

Butterworth brought to light there was a proposed revision to the first violation fee. It was suggested during the meeting to lower the first offense from \$500.00 to \$250.00. The commission was in agreement with the adjustment.

Gary Chaves inquired how the violations would be enumerated or determined. He asked if violations run consecutively for the same infractions or for different offenses. Butterworth stated the violations would run consecutively for any violation. Chaves asked if the city would be willing to allow the business to obtain a grace period of 30-60 days of continued business, rather than an immediate revocation. The commission did not agree to add a grace period. Any dispute with a civil contract between the renter and the business owner will not include the city.

Wayne Olsen asked about the application fee of a future short-term rental. The fee will be determined by the city council who will evaluate the administrative costs to process and maintain short-term rental applications and the time involved to maintain the records. Pros and cons of a different rate were discussed. Olsen did not believe the original fee for vacation rentals was ever substantiated with a cost analysis.

7:00 PM REGULAR MEETING:

Chairman Pro Tem, Manning Butterworth called the meeting to order at 7:00 p.m. The Pledge of Allegiance was led by Greg Turner. Commissioners Jake Peart and Chuck Williams declared a conflict of interest regarding the lot line adjustment applications, items B3 and B4 on the agenda. Both commissioners will abstain from voting on the items.

A. REVIEW OF MINUTES:

1. Review and Possible Approval of the Planning Commission Meeting Work and Regular Business Meeting Minutes from July 18, 2018:

Commissioner Greg Turner made a motion to approve the meeting minutes from July 18, 2018.

Motion was seconded by Commissioner Hansen. Motion unanimously carried 4-0. Vote: Jake Peart-aye, Rebecca Hansen-aye, Manning Butterworth-aye, GregTurner-aye.



B. REPORTS:

1. Zoning Official Mike Vercimak:
No report was given.
2. City Council/Planning Commission Liaison, Alex Chamberlain:
No report was given.

C. BUSINESS/ACTION ITEM(S):

1. Oath of office for newly appointed Planning Commissioner John C. "Chuck" Williams:
Commissioner John C. "Chuck" Williams was sworn in as a Toquerville Planning Commissioner to fulfill the vacancy with an ending term of 2018. He will be available for reappointment in December of 2018.

2. Discussion and possible election of Planning Chairperson and Pro Tem:

Commissioner Rebecca Hansen suggested she would like to nominate Commissioner Manning Butterworth as the Planning Chair and asked if he was interested in the appointment. Butterworth accepted the nomination. There was no further discussion.

Commissioner Rebecca Hansen made a motion to elect Manning Butterworth as the Planning Chairperson. Motion was seconded by Commissioner Jake Peart. Motion unanimously carried 5-0. Vote: Greg Turner-aye, Rebecca Hansen-aye, Manning Butterworth-aye, Jake Peart-aye, Chuck Williams-aye.

Commissioner Rebecca Hansen asked Chuck Williams if he would be willing to take the Pro Tem position. Williams accepted her nomination.

Commissioner Rebecca Hansen made a motion to elect Chuck Williams as the Toquerville Commission Pro Tem. Motion was seconded by Commissioner Jake Peart. Motion unanimously carried 5-0. Vote: Rebecca Hansen-aye, Jake Peart-aye, Manning Butterworth-aye, Chuck Williams-aye, Greg Turner-aye.

3. Discussion and possible action on a lot line adjustment application for property tax ID #'s T-139 and T-138-K-1; Applicants David Hawkins and Jake Peart.

Blair Gubler the Assistant Superintendent with the Ash Creek Special Service District spoke about the application. The district had a concern there would be no way to service the lot line adjustment to Tax ID# T-139, because it creates a landlocked property. If the lot is sold it cannot be serviced. Mr. Hawkins will own two lots, T-138-M and T-139. Peart will take a portion of the land and it will be combined on his lot, T-138-K-1.

Commissioner Rebecca Hansen made a motion to approve the lot line adjustment application with staff recommendations. Motion was seconded by Commissioner Greg Turner. Vote carried 4-1 abstention. Vote: Greg Turner-aye, Rebecca Hansen-aye, Manning Butterworth-aye, Williams-aye, Peart-abstained

4. Discussion and possible action on a lot line adjustment application for property tax ID #'s T-128-A-2 and T-128-A-11; Applicants John Williams and Gary Chaves.



Blair Gubler drew on the map for the commission where the sewer line was under the current blanket easement. He let them know when the lot is split, a new easement will need to be given. Ash Creek Special Service District will survey the new easement and record on the lot for recording keeping purposes. The easement provides access to the line and the right to service the area.

Gubler spoke about the yearly maintenance the district does every year and how the manholes are cleaned. The lines are camera scoped approximately every 5 years. The lines are cleaned to prevent line blockages and breaks. The district also suggests to not plant trees over the sewer lines.

Vercimak suggested the motion to approve the lot line application should be made with one additional staff recommendation that the applicant will include the updated sewer easement be collected and recorded with the lot split.

Commissioner Jake Peart made a motion to approve item C4 with the staff recommendation and the Ash Special Special Service district has the obtained the new easement. Motion was seconded by Commissioner Greg Turner. Motion carried 4-1 abstention. Vote: GregTurner-aye, Rebecca Hansen-aye, Manning Butterworth-aye, Jake Peart-aye, Chuck Williams-abstained.

D. HO/CUP REVIEW & POSSIBLE RECOMMENDATION:

1. Home Occupation Business~A to Z, LLC at 942 S Peachtree Drive for Vanessa Haines.
2. Bed and Breakfast Conditional Use Permit~Lundell Family Farm at 149 Sunset Ave for Christer Lundell.
3. Short-Term / Nightly Rental Permit~Ollie's Rentals at 203 N Ash Creek Drive for Wayne and Kaleen Olsen.
4. Short-Term / Nightly Rental Permit~Mountain Charm Retreat at 216 West Mountain Charm Road for Gary Chaves.

Peart made a comment about the Lundell Property. He believed there was a lot of business type related events occurring at the property. He assumed there may be the construction of tiny homes being built at the property for resale.

Commissioner Greg Turner made a motion to approve the listed permits on the agenda for renewal. Motion was seconded by Commissioner Chuck Williams. Motion unanimously carried 5-0. Vote: Chuck Williams-aye, Jake Peart-aye, Rebecca Hansen-aye, Manning Butterworth-aye, Greg Turner-aye.

The next meeting will need to be rescheduled for September 26, 2018. The alternate planning commissioners will be sworn in prior to the meeting by City Recorder, Dana McKim.

E. ADJOURN:

Chairperson Manning Butterworth adjourned the meeting at 7:35 p.m.



Planning Chairperson –Manning Butterworth

9/26/2018

Date

Attest:


Toquerville City Recorder – Dana M. McKim

