

Sterling Town Planning and Zoning

Minutes Monday September 12, 2022

7:00 PM

1. **Pledge of Allegiance:**

Planning & Zoning council and audience present, stand and recite the pledge of allegiance.

Community Present: Tami Prevett.

2. **Roll Call:** Zeb Wignall, here; Loretta Denton, here; Mayor Keenan Pearson, here; Judy Wadley, here; Gedeon Jarvis excused.

Meeting is called to order at 7:10 PM.

Zeb states that Lyle Young would like his name off the agenda due to he felt the town would not go for what he was going to propose.

Tami states that Lyle called her about the house across from her. There is still a dispute with the Allen's and this might be why Lyle wanted off the agenda. He is wanting a water connection and I told him, there is an ordinance that states you have to be within the town limits to obtain a water connection. He asked if they would let him annex it. I explained that could be up for debate but he would have to approach the planning and zoning committee first before coming to the town council.

Mayor Pearson brings up the training summit and explains it is for any public official and they provide dinner. Tami and I were the only ones able to attend the last one. I learned all about annexation and I know there are a lot of people interested in this topic in Sterling right now. They had state level experts. If you can make it, I would highly recommend that you come and the food is good. Each class is a question and answer setup. Zeb asks when the next meeting is. Mayor Pearson answers that it is on the 19th and it begins at 5:00 with dinner. Classes don't start until 6:00pm.

Loretta brings up concern about a hole in the ground that is in the Town of Sterling that is too close to the road. The committee asks for clarification. Loretta states it is a hole that was dug at the Sullivans and may not be safe. Tami explains that it is temporary and it will be buried. It is for worming/cooling for planter boxes and there is a fence around it.

3. **Read & Approve minutes from the previous meeting.**

Due to Gedeon Jarvis absence, the minutes will be approved at the next planning and zoning meeting.

4. **Discussion on Town Planning & Zoning draft from Jones & DeMille for Sterling Town.**

Council reads through each section pages 1-13 and discusses it.

GENERAL PROVISIONS

13-1-020 Purpose:

Tami brings up how we don't talk about the current inhabitants in the bullet points but future inhabitants are referenced. Is that a point to ponder? The encouragement is towards the growth and it seems like we are concentrating on the future. Mayor Pearson shares that when he went to the Six Counties meeting on open and public meetings, he asked if someone could get on the agenda without going through the mayor or council member. The gist of the answer is that the council is supposed to represent the constituents and if they are not, the constituent's will have

to wait until the next election. It is essential that the community be involved at all levels with the Town of Sterling especially with their concerns which can be voiced at Town Council or Planning and Zoning meetings. Mayor Pearson states that he thinks the council is already representing the town members. Zeb states that unfortunately the members of Sterling don't participate until it directly affects them. Mayor Pearson and Judy agreed.

13-1-060 Land Use Application Entitled to Approval:

Tami states that she was talking with Mike going over some code regarding concerns others voiced and he said that there was a broiler plate put in here and the size is for bigger cities and we are a town of less than 500. Where we defer a lot to the county, not to be afraid of changing a lot of stuff that is going to be through the county or whatever we want to pinpoint to our town.

Judy recognizes the broiler plate and asks for clarification on the term "land use authority" asking if that is the language we want to use because we are planning and zoning? Zeb and Tami answer by saying the planning and zoning are the land use Authority for Sterling. Judy asks if there is a fee associated with applying for land use. Jeb answers there is a \$20-25 fee with the application, but we will need to look back to make sure. Judy states we need clarification. Tami asks if the application fee can be higher for processing and Zeb states we will need to ask Mike because it may be a set fee. Tami shares that we can also ask Six Counties. Tami suggests at the next Summit meeting ask if we are limited in application fees and do they have to apply to something specific.

ADMINISTRATION & PROCEDURES

13-3-010 Land Use Authority:

Zeb asks if we have appeal authority? Tami states that currently the Town Council has appeal authority and we should specify this. Mayor Pearson states the town council can be the appeal authority and if it is left in this way, then we wouldn't have to change it later. Judy brings up a concern that if Mayor Pearson is also on the Planning and Zoning as mayor, he can't participate in anything in regards to an appeal. Mayor Pearson and Tami agree that this makes sense. Mayor Pearson explains that if there were a "tie breaker" he would not vote, but this is good to know. Tami asks if there is a number that should be on the appeal authority. Judy answers, it does not. Tami states that it has always been Sterling Code to have one Town Council Member on Planning and Zoning and we should continue with that

13-3-060 Development Applications Requirements:

Mayor refers to #2 that says, "applicants are encouraged to meet with town staff prior to submission to discuss development concerns, required materials, review time frames and development options." Instead I think we should put, "participating in planning and zoning meetings." I don't want to put anyone on this committee in a difficult situation, by town members. People might interpret this as, I'll call up Zeb and talk to him before the meeting, trying to get a hold of you outside the meeting. Maybe we could instead state, "Show up to a planning and Zoning meeting to ask questions." Tami suggested that instead of "Town Staff", change it to Town Planning and Zoning Commission." Mayor Pearson agrees, that would work. Loretta states that it is a whole Planning and Zoning responsibility. Tami states they shouldn't be

cornering Zeb or making agreements with him or any one person on the committee. They should be giving him the application and asking to be put on the agenda. Zeb states that this is how the website will help, people will be able to fill out paperwork and can request to be on the agenda. The ordinances are also available on the website.

Mayor Pearson would like to change it to, "Applicants are encouraged to meet with the Planning and Zoning Commission at a meeting prior to submission to discuss development concerns, required materials, review timeframes and development options." Side discussion on fees and impact fees being paid prior to reaching out to the Planning and Zoning committee where applicable.

13-3-070 Public Notice of Land Use Applications:

Judy brings up item **#2**, Local Requirements. "In addition to the state requirements listed above, the following land use applications are to be notified prior to the first public hearing on the application." So whoever wants to build something has to give notice to potential neighbors of any buildings or amendments or whatever....is that correct? Zeb states that yes if you were going to zone that land as something different, you have to get it approved by all adjoining landowners and the county. Tami states the public notice has to be 14 days prior to the public hearing.

Mayor Pearson brings up item **#5-e**, Notice Contents...a detailed description of the proposal, including copies of maps, plans or graphics; **5-f**, a description of the requirement for notification; **5-i**, contact information of the applicant and the planning commission. Mayor Pearson asks if these items would have to be posted with the agenda? Zeb states, No. Tami states this is for those who are noticed. Zeb explains that our application contains this information. Tami states all this information shouldn't go to the adjoining properties, but the information will be on the website if they wanted to go look at it. Mayor Pearson makes a note to contact Jones & DeMille to clarify what goes on the agenda concerning the part where it says, "Notice Contents." Zeb asks for clarification if the notice would give personal info of the people Building?

Loretta Denton brings up item **#5-h** i and ii. i-The hearing outlined in the notice is to be the only review of the proposal-OR-ii, the hearing outlined in the notice is a series of reviews of the proposal and no further direct notification will be directly mailed to the recipient. Tami clarifies that it says, this first notice is all that has to go out. Subsequent notices they are to watch for. It is the responsibility of the public to make themselves aware of future agendas.

Tami brings up **5-j**, "any objection has to be notified within 30 days" Mayor Pearson states this is good so people can't show up at the building site and object then. The residents need to take on some of the responsibility by attending the meetings to make objections. Tami states the residents shouldn't call council members to complain, it's essential that they put it in writing. Zeb states that this is another reason to get an appeal authority so that it is separate so if someone does bring a concern they don't feel like its going through the same channels. We can't please everyone but we can go through all the motions to be as equitable as possible. Mayor Pearson states this will be on the next city council meeting agenda; discussion on

Appeals Authority.

13-3-130 Nonconforming Uses and Noncomplying Structures:

Mayor Pearson states he went through it and everything looks good. Loretta states that you can put Solar on your house and not worry about it. Mayor Pearson states that if you have a non-conforming structure, you can't add anything onto it unless you bring everything else up to code.

13-3-130-3 Burden of Proof of Nonconforming Use or Nonconforming Structure:

Tami asks what would constitute a non-confirming structure? Mayor Pearson states anything that does not fit the current city building codes. Non-conforming structures is the legal term for "grandfathered in." He further states the burden to proof that it is non-conforming structure is on the individual. So a non-conforming structure that was up to code when it was built, does not have to conform to the city ordinances. It's the legal term for grandfathered in. There is a limit to the protection of the grandfathered in law especially when being annexed.

Motion is made by Mayor Pearson to table the rest of this discussion until the next Planning and Zoning meeting. Loretta seconds the motion. All in favor; Loretta eye, Zeb eye, Judy eye, motion passes.

5. Discuss code on location of building on properties and code on portable containers.

Mayor references the 2 storage facilities on main street at old Lily's store. Mayor states he has had several townspeople call him and complain about the portable storage units. He states one of the townspeople called the county to see if they gave permission and the county denied knowing about it and they wouldn't be surprised if the county inspector gave verbal consent without documenting it. Mayor Pearson explains we had it brought up in a council meeting that the structures in question are temporary and if we okayed it, the county would okay it. Zeb agrees that is his understanding as well and stresses that the structures are truly temporary. Tami disagrees that it is temporary since the county "red tagged" the structures because a roof constitutes a building. Tami states that Yvonne called the county and had the red tag taken off since we gave them permission. Tami states we did not give them permission, especially the roof and the structures are not 30 feet back from the road. Tami states originally she thought the county had given permission but the county states they don't have anything in writing. Tami states that Yvonne said we have something in writing that we were supposed to take to the county. Zeb states that the owners of the containers gave a letter. Mayor Pearson states that this is something that the town council needs to address. Zeb states that since the structures are temporary, it was not discussed how far back to put them and we should have classified what he was putting up and maybe that is where we dropped the ball in regards to location.

Tami states we should have gone before the Planning and Zoning commission to approve this and get input because we all presumed that it was as it was and then he has modified it by putting a roof over both units. I think the modification altered the agreement. Loretta states we did approve it but feels there were instructions on how far back to put the units. Mayor Pearson asks if they presented any plans and Zeb states no they did not. Tami asks if they got

permission before they placed the units on their property. Zeb states no, he sent this letter to us and he put in his letter Sterling City and Sanpete Building Department that "The storage roof building in front at 51 South Main, Thomas Grocery is only for temporary use until we get our remodel in the building in the back complete. This was due to situations out of our control and left us with nowhere to store weather sensitive belongings. Due to extreme cost increases and material shortages and delays and late time in year. This is what is represented by time needed and as agreed it will be removed as required on or before August 15, 2023."

Mayor Pearson states that the person in Sterling who called the County works with the County and the County Building inspector could have given permission and not recorded it. It could be a number of things. Maybe we did drop the ball a little bit. Obviously we are addressing it here in Planning and Zoning and we will address it in the council meeting. Whatever it is, we don't want to be held individually responsible for this. Loretta asks about the letter and Zeb states he gave them out at the last Council Meeting. Tami states she did not get a copy of the letter and voices concern over a potential lawsuit and the costs to the town. Tami has had two different members in Sterling say they will sue us if they don't move back the storage units because in the past we have required others to conform. Mayor Pearson reiterates that there has been some misunderstandings and again that is why it's being brought up at this meeting. We just can't sweep this under the rug. We need to establish what was done wrong and where it was done wrong so that we can address it.

Zeb states that it is his understanding the shipping containers are not considered a permanent structure because there is no way to affix them to the ground. Tami states that the county considers it a structure because now it has a roof. Mayor Pearson states he will side with Zeb on this because Norm White has a shed and it does not have a floor and it's not a permanent structure. Mayor Pearson asks if there are rules regarding temporary structures and how close they can be on the road. Tami states yes, they have to be greater than 30 feet from the front line. Tami states that she talked with her attorney and if you have one temporary structure, you could potentially get more and if they don't remove them, you have to sue to get them to remove it if they are non-compliant. Mayor Pearson states that he is wondering if the rule is in there currently. Zeb states he is all for putting the wording in there so we don't do this again, I'm great with that. Tami reiterates the risks in allowing this one and the potential backlash. Zeb states if we grant approval this time, we don't have to next time. Tami replies, not necessarily. Zeb states that he thought that was the case, but it is not. Tami asks when they got approval for the containers. Zeb states the letter and the containers came after August 16th. Tami states the containers came before August 16. Loretta agreed. Tami states they had to stop traffic to deliver them, and it was in July.

Mayor Pearson states hypothetically if we gave him permission when we should not have, there are quite a few people that are upset about this. It's not just about the law, but that it's applied consistently. We can't pick and choose when to enforce law. So if we made a mistake, that is fine as long as we are going to acknowledge it for what it is and address this at the town council and find out where the mistake was made. If it was at the county inspectors level, we need to get him to be held accountable. If it was us, we need to figure this out. We brought this up at a

couple of planning and zoning meetings ago that we should be the one handing the plans to the city council versus letting them do it. I don't think we have had any abuses of that but it does open up to many possibilities of abuse. We need to figure it out. If we did give him permission, it needs to be brought up with the city council and we need to acknowledge it, otherwise the next person that comes around could say, we gave them permission and if we have not corrected the mistake, they can claim discrimination by selectively enforcing. There are quite a few places where things could have gone wrong. I will get in contact with Tracy at the County and we will bring this up at the city council meeting. If we don't have a zoning ordinance on this, then we should. Mayor Pearson states that if we did something wrong, we need to publicly acknowledge it and figure it out. If it wasn't done wrong, it looks like we need to put some ordinances in place. Tami asks Zeb for a copy of the letter and he gets her a copy. She notes that the letter is not signed or notarized. Zeb states he can get that signed.

Mayor Pearson states his surprise that there is nobody present at the meeting considering all the people who have complained about this issue. We are doing what we can and we are trying to do it the right way.

Mayor Pearson verbalizes gratitude for what the commission does for the town. You guys are the ones who volunteer and as a result you get a lot of grief from other people. I appreciate what you do. Zeb agrees that it gets difficult when you tell people what they can and cannot do on their land. Mayor states we are doing what we can to get people engaged and we can only do so much. Thank you guys for what you do.

6. Committee Business

No further business discussed.

7. Adjournment

Meeting adjourned at 9:15 PM.