

Town of Empire
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Planning Commission Minutes
March 29, 2023

1. Call to Order and Roll Call

Chairperson Sally Rush called the meeting to order at 6:30 PM.

The meeting was held in person and through Zoom.

Chief Lorenz reviewed 18-9-108 Disrupting lawful assembly and 18-9-106 Disorderly conduct.

Present: Chairperson Sally Rush, Mayor Wendy Koch, Eileen Wheelock, Town Clerk Jeannette Piel

Absent: Denise Tennant

Resigned: Tony Robinson

A quorum was present at the meeting.

2. Approval of Agenda

AMENDED THE AGENDA TO INCLUDE RESIGNATION OF TONY ROBERTSON FROM THE PLANNING COMMISSION UNDER REPRORTS. MAYOR WENDY KOCH MOVED TO APPROVE THE AGENDA AS AMENDED FOR MARCH 29, 2023, EILEEN WHEELOCK SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

Amended Agenda was approved.

3. Approval of Minutes

MAYOR WENDY KOCH MOTIONED TO APPROVE FEBRUARY 22, 2023, SALLY RUSH SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

Minutes were approved.

4. Mayor's and Commission Member's Reports

a. Sale of Property Robert Croke to Avoriaz, LLC Complete.

The Ordinance requesting RC rezoning for the entire property failed at the Board of Trustees meeting on March 21, 2023. The property remains zoned R-1.

b. Harmony Domes status.

Resolution 23-02: A Resolution of the Town of Empire, Colorado, of substantial Compliance and Intent to Annex was passed by the Board of Trustees.

c. Clear Creek Watershed & Forest Health Partnership (CCWFHP, The Partnership)

- i. The Northern Colorado Fireshed Collaborative will be an MUA between the USDA Forest Service and Colorado State Forest Service (CSFS) in a collaborative capacity without becoming a formal member of The Partnership. Documents are still under review.
- ii. Diane Keilty is continuing to work on the grant for Ball Placer and Lions Creek to be part of the Upper Clear Creek Wildfire Planning Project. The Ball Placer is one of 5 water storage sites to target for this grant.

d. Walstrum (FREI) Quarry

Representatives of Town attended UCCWA field trip to Walstrum (FREI) Quarry on March 9th. A rezoning permit application (RZ2022-0001) has been submitted by Frei with the County.

e. Recreation in the Outdoors Management Plan (ROMP)

Sally Rush attended on 3/16/23 and was in the OHV breakout room along with some other Empire residents. Discussion included North Main and the Town of Empire. ROMP consultant summarized and will be doing work in ROMP planning.

f. CCC Innovative Housing Planning

Kickoff meeting at BoCC meeting room 4/9/23. All towns were in attendance. Lead by Trestle Strategy Group, the project is branded "Clear Path Home". Jeannette Piel and Sally Rush are proposed representatives of Empire on the Project Advisory Team. The two goals are for Zoning Review and formation of a Multijurisdictional Housing Authority.

g. Resignation of Tony Robertson from the Planning Commission.

Sally Rush, Chair, read into the meeting:

Dear Sally,

I am sending this email to you to formally resign from the Planning Commission, effective immediately.

A year and a half ago, Wendy asked me if I would be willing to fill a vacancy on the Planning Commission. I did not pursue this position, nor did I really want to fill the vacancy. However, I understood the need, so I said I would serve for one year. I fulfilled that commitment early last Fall.

The proposed 21 home development has apparently become a conflict-of-interest issue. Wendy came by our house this afternoon to tell us what the town's attorney had to say following last week's board meeting. Voicing objection to this development is not a problem for a concerned resident but is apparently problematic for those involved in Town governance, even if only serving in a volunteer position. Being on the Planning Commission restricts what I can say beyond a level that I am willing to accept.

I completely disapprove of the current re-zoning process. Wendy said we are constrained by the law. That may be true, but if the law means the "Planning" Commission must vote on re-zoning without ANY discussion of planning or the ramifications of re-zoning, then it's a stupid law that should be changed.

There was a large turnout for the Board meeting. Every single resident opposed re-zoning to RC and the Board vote was unanimously against it.

Government, be it at the Federal or Local level, is supposed to serve the people/residents. The residents made their views on the proposed development very clear at the Board meeting. We don't want 21 tightly spaced homes on that property. It goes against the very quality of life issues we want to preserve, as stated in the recently completed Master Plan.

I proposed to the developer that they consider a tolerable 3-5 home project. I stated once and reiterated later that if such a smaller, less intrusive development was unacceptable to them that there is a group of us prepared to buy them out for 20 percent over what they paid for the property. That was another thing I apparently wasn't supposed to say because of my volunteer position.

I hope you now understand why I am unwilling to continue serving on the Planning Commission. I believe I can be more effective and potentially more influential as a resident. I will continue attending Planning Commission and Board meetings and will do so with the freedom to speak my mind without risk of legal repercussion to the Town or myself.

Sincerely,

James Anthony (Tony) Robertson

Empire Planning Commission acceptance of resignation letter:

Dear Tony,

It is with regret that the Planning Commission accepts your resignation.

You have provided valuable participation and input. Your knowledge and technical expertise have been assets to the Commission and the Town.

Regarding your comments in your resignation email "voicing objection to this development" I would like to say that the Planning Commission is the forum of our town government to address land use and make recommendations to the Board of Trustees.

The action taken by the Planning Commission may not have been as thorough as it could have been, but it was legal and allowed Empire town government to proceed with official discussion, a public hearing, and a vote that did reflect the will of the Town. The Town government did not fail the public or their legal duties to make a fair, equitable, and thoughtful decision.

As you indicated in your email upon your resignation, I look forward to your continued participation in our Town's future. Thank you for your contribution to the Town through the Planning Commission for the last year and a half.

Sincerely,

Sally Rush, Chair

Empire Planning Commission

5. Presentation and Discussion of Updated Sketch Plan from Andre Suissa of Avoriaz, LLC

Suissa presented an updated sketch changing the road configuration on the housing section of the property. Discussion with Planning Commission and public followed. Concerns regarding the development include but are not limited to, water and sewer requirements, wildlife, density, infrastructure, neighborhood impact, fire risk. The Planning Commission concluded that there was not enough information to meet the requirements of Ordinance 170, Article XI, Section 2, 2.2.1. The PC reviewed the requirements and recommended the Developer and the Town of Empire PC schedule a Conference for April 20, 2023, at 6:30pm to "acquaint the applicant with substantive and procedural requirements of this Ordinance and the Town Zoning Ordinance and to identify policies which create opportunities and pose significant constraints for the proposed subdivision." Schedule listed below per the Ordinance.

- a. Pre-Application Conference - April 20, 2023 @6:30pm. Not a public meeting, but a conference with no voting action.
- b. Submission at a regular public meeting of the PC for the Sketch Plat and Plan by the subdivider, complete as outlined in Article XI, Section 4.
- c. The Planning Commission shall review the submittal and advise the subdivider of comments or recommendations it deems appropriate.

6. Zoning Discussion

The purpose of this session is to prepare Empire Zoning documents for review and recommendations by the CCC Innovative Housing Planning Project. Cappelli Consulting will be assisting Empire in this project. Documents to be reviewed will be the Zoning Map, Ordinance 170 Article III, IV, and VII. This item was tabled due to time constraints.

7. **Multifamily R3 Ordinance 170**: Discussion session was tabled due to time constraints.

8. **Organization of Planning Commission**: Announcement that the PC will begin review of Article III, Section 1. Planning Commission Administration to provide recommendations to the Board of Trustees for amendments to improve the function of the PC.

9. **Public Comment**:

- Jacob Belcher – How was Avoriaz, LLC able to get any idea of what he could do with the property before he owned it? (Andre: Bob Croke, the former owner began the process of rezoning prior to the sale of the property.)
- Concerned changes to this land will affect the wildlife trail. Suggested a wildlife study.
- Sean Stauffer- Concerns about fires and suggests using fire resistant materials and having open space between homes.
- Corey Novak – asked how many acres these homes will be on. (Andre: stated 2 houses per acre) Corey deducted the acres in front of the open space, allowing the recalculation to be 21 homes on 2.7 acres.
- Robert McGurk – questioned RV Park and the ability to build 2 story homes. (Andre: They have no intent to build 2 story homes.) It can happen when the homes are sold.

10. **The Next Regular Meeting of the Empire Planning Commission is April 26, 2023, at 6:30 pm. In-person with remote access.**

10. Adjournment:

MAYOR WENDY KOCH MOTIONED TO ADJOURN, EILEEN WHEELOCK SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

The meeting was adjourned at 8:14 pm.



Planning Commission Chair Sally Rush



Attest Town Clerk Jeannette Piel