

Town of Empire
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Empire Planning Commission Regular Meeting Minutes
August 30, 2023 ~ 6:30 pm

In Person and Remote Meeting using the Zoom platform.

1. Called Meeting to Order - Chairperson Sally Rush called the meeting to order at 6:31 PM. The meeting was held in person and remotely through Zoom.

2. Roll Call – The Empire Planning Commission requires a simple majority of three members present at the meeting for a quorum.

Present: Chairperson Sally Rush, Mayor Wendy Koch, Denise Tennant, and Lon Fulton. Eileen Wheelock attended via Zoom. Also in attendance were Deputy Chief Keith Sandford and Town Clerk Jeannette Piel.

A quorum was present.

3. Approval of Agenda

MAYOR KOCH MOTIONED TO APPROVE THE AGENDA FOR AUGUST 30, 2023, TENNANT SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

Agenda was approved.

4. Approval of the Minutes - July 27, 2023 Planning Commission Minutes & Attachments.

The Planning Commission was given time to read the minutes for proper summary of action items, for verification of public comment and for correct spelling and grammar. A spelling error was noted on page 3, and the word “dies” will be replaced with the word “does.” Other items were discussed but no further corrections were suggested.

TENNANT MOTIONED TO APPROVE THE AMENDED MEETING MINUTES FOR JULY 27, 2023, MAYOR KOCH SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

The July 27, 2023 PC Meeting Minutes, including Attachments, were approved as amended.

5. Appreciation of Empire Exercise

Clerk Piel stated “We hope you’ve seen the Town Park survey and will have a chance to complete it by this Thursday. Oftentimes we get bogged down in identifying problems and focusing on the negative. While this is one way to gather important information, there is another equally important way. We want all of you to tell us what you appreciate about Empire. It can be anything. What’s the first thing that comes to your mind, what’s the first thing you show people when they visit, what do you miss the most when you are away. This shows us what you value, what you are proud of, what we need to protect, what we need to maintain, what we need to celebrate, etc. I have asked this question at the last 2 Board meetings, and staff felt it would be nice for the Planning Commission as well. I’m hoping to have at least two responses each time. Short and sweet - keep it positive!”

- Small enough you can walk to work in the Winter.
- Hearing trucks come down the pass and fading into the distance in the middle of the night.
- Son didn't need his drivers' license until he was 21 and he shared that he valued this about growing up in Empire.
- Home town, where we're from. After 15 years this place has become home.
- Flowers are growing!
- Peggy's tomatoes!
- Appreciates this exercise! Loves our Bighorn sheep, hummingbirds, misses old frog rodeo and old goat parades.
- Eclectic community: a Gem of a Place!
- I love the light, two valleys, different times and weather changes.
- Walking out the front door and walking with dogs, love my neighbors.
- Town Hall: coming up over the hill, love the American flag and the view is the best in the whole world.
- Love the gas station; if you want to know what's going on, or feed your candy habit, go there!
- Loved when he moved here 8 years ago when Empire didn't need a police officer.
- Walking up a mountain many years ago with his dog, heard another dog, and he met Hans Berg. We miss him greatly, and need others to try to replace him.
- Small town, has not changed much in the past 16 years; we know each other and we can enjoy this magnificent, beautiful valley without being encumbered by unsightly things.

6. Site Plan Application - Inquiries from the property east of 135 East Sunny Avenue.

The Town has received a site plan application for the property east of 135 East Sunny Avenue. The Planning Commission went through the submitted drawings with the checklist, discussing items to still be addressed which will be communicated to the property owner.

7. Harmony Domes - Development Permit Checklist and Letter update.

The Planning Commission reviewed the development permit checklist that was used to create a letter to the Developer. Also, an engineer will be required to create a grading and drainage plan, which is held as a town record. Tennant is concerned about how we ensure the work actually done meets the plan, with no local building inspector. Further discussion about how the Town works to certify the plans and the work when there is no one to inspect, how do we get someone who can inspect.

Further discussion took place regarding all signage on commercial property which must meet sign requirements in Ordinance 170, road signs on the dedicated road which are the Town's responsibility, and any road signs on private property which are not subject to the Town's sign ordinance. Other discussions included how the domes will be cooled, if there are windows present on the plan, and where will the required trash dumpster be located.

Chairperson Rush will meet with the Developer, and she will email the PC to prepare for the September meeting. The final letter was read into the record and is attached. Wheelock requested a Planning Commission field trip to go through the model dome on the property.

8. Planning Commission Members Continuing Education - Chairperson Rush explained that tonight's light agenda gave us the opportunity to conduct training without holding an extra workshop this month. The Jeopardy game we played in our last training was an overview of the materials in our binders, and tonight we will participate in a cooperative learning exercise to dive into processes relating to Ordinance 170. It is important that we do not discuss details of any current matters in front of the PC, but rather speak in generalities relating to the Ordinance as we learn together.

Lisa Kunze, Town Projects Assistant, began by sharing definitions of a Comprehensive Master Plan (CMP) from the State of Colorado and from Empire's Land Use Ordinance 170. Both define the CMP as the guiding document of a municipality, with the legally enforceable measurements of the CMP being included in Ordinances, Resolutions, and Policies adopted by the Board of Trustees.

a. Public Discussion and incorporating public concerns in processes.

Staff has been compiling both public comments and questions for PC review, including them into Staff Reports, and has drafted a policy that will be presented to the Board of Trustees that clarifies the Town's efforts to continually incorporate public concerns in all processes.

b. Ordinance 170: Preliminary Plat and Plan phase overview.

The PC then completed a cooperative learning exercise, with each member providing an overview of a portion of the Preliminary Plat and Plan phase in Ordinance 170 and discussing each phase for clarity and understanding. Members completed a short quiz, coming to consensus on answers. Training materials are attached.

The Chair announced a 5-minute break.

9. Public Comment: Public comment is limited to 5 minutes per person. The Planning Commission does not respond to questions during this time. For operational questions, please email the clerk.

Robin Raulf-Sager: Grateful for the training in tonight's meeting, but reserve training for when the public is not here, unless it specifically pertains to the audience. If problems happen with the minutes and the PC is not given advanced notice, do something else instead of making the audience sit for 30 minutes. Appreciate our time, so do it on your own time. West Fork Village is not on the agenda tonight, which is refreshing for most of us. We sat through so many hours of meetings, all worked hard, people wanted more information on easements and grades etc. In talking to Chad, they came to the conclusion that this proposal does not meet the Master Plan. Does this 18 house development align with the master plan? No it's not, but she learned tonight it's not legally binding. Having all information going through, why aren't we voting it down beforehand instead of going through all of this. Does this align with the Master Plan? If no, then other details become unimportant, like easements etc.

Chad Craven: Ditto what Robin said. He learned a lot from the training, was helpful. But if we all believe that 18 homes are not what we want in Empire, then the rest of the details don't matter. If we are thinking we will not approve this, we are wasting the Developer's time and he feels sorry for them. Speeding problem and roads: he has seen similar sized towns put giant planters painted with flowers in the middle of town roads to stop people from doing 110 mph in our town.

Bernie Hubner: BOT is the first line of defense, don't get much credit for the hard work they do. He's helped with the town in the past, and knows it's not an easy job. West Fork can be forgotten. The land was plotted for one house. He's not against developments, but 18 or 21 is too much. They don't acknowledge our roads are laid out East to West, and we are wasting their time.

Peggy Hubner: Most positive meeting she's seen. Thank you. She appreciates that you are trying to listen to us. But you haven't listened to them, because they passed the Sketch Plan. Peggy's complete comments are attached.

Rick Koetz: Following up with Peggy. He spent 22 years in corporate management building residential and commercial properties. His job was to do their entire preliminary project presentations. He has created 60-house subdivisions on wheat fields. He is saying that it wasn't a requirement, they wanted everything on the table and did their homework. Think about the whole project. They had ads out here, people walking the site, how can you realistically vote on this without seeing the whole picture. They had to do a certain mix of houses and had to meet other rules. By doing the whole presentation, everyone got to talk about the project. Right now, we just see tiny squares on a platform. Look at the Habitat subdevelopment; he believes they were supposed to mix up houses but 3 or 4 in a row are exactly the same. Their problem is the lots are only 24' wide. Please consider the whole project, not just the footprint.

Lyndy Modesitt: Thank you for the enormous amount of work and care and her deepest hope is that we all are making altruistic choices, without an agenda. She disagrees with the interpretation of the Master Plan as a guiding principle and not legally binding. Ordinance 170 states that it's purpose is to "implement the town's master plan." Legally why would you not want that? Purpose of Ordinance 170 is also to establish adequate and accurate records. Actually, in her mind, it echoes the master plan. In alignment with Robin, and to quote someone who does not want to be named, the problem is the HOW is being considered before the SHOULD. She disagrees with the comments in the minutes, stating the developer's statement was inaccurate and he actually stated the reason for the road variance was they could not make other use of the property. They didn't respond to community concerns. She is concerned it will just be whittled down, and again consider the should before the how. Recognizes the hard work, but why are you kowtowing to these developers over the citizens' plea to protect our town.

Lauri Sargent: left before public comment.

Larry Modesitt: Thanks for listening to us again. If these developers had prior experience, they would have known the road variance had no legal precedent. We may have been inexperienced, but we learned quickly. They did withdraw the road variance. He is warning us that they could do that again, because when he asked if they were going to pay for the development in order to bring the infrastructure to you, Andre responded that it is not their responsibility. He disagrees that the Master Plan has no legal enforcements, and referred to phrases from article 11; "these regulations should be implemented to the towns master plan;" "costs of improvements are the responsibilities of the developer" that clearly state that the costs are born by the developer, including engineering studies, increase size of pipes, dig deeper wells, any of those things that are part of the town costs. Andre said tap fees pay for it, keep in mind we

will need the fees for ongoing work. Remember there are several places in Ordinance 170 that say what should be done: written agreement from developer about improvements, estimates of costs, repairs etc. The Ordinance clearly states that whatever we have to expand, the costs must be borne by the developers. No matter what he said to me, he was wrong. Significant amounts of collateral are often required, in the forms of a bond, and he doesn't want this to happen to Empire.

Allen Fistell: Appreciation of Empire exercise, was disrespectful when they took the mic away from me before I was finished. Approval of Minutes, people's comments were interpreted. In Terry Gray's comments, the minutes said he said he lived across the way. He said that Allen lived across the way. If there are variances like this, how much more of the minutes are inaccurate? That's a problem. You were told the Master Plan is not legally enforceable, but the Master Plan is mentioned several times in Ord 170, therefore it is enforceable. If it goes to court, they will tell us it is enforceable. Final comments were submitted and included as an attachment.

Linda Robertson: When you talked about the Master Plan not being legally enforceable, see Art 11, sec 1.2 where the language says the town must implement the Master Plan. If it's not legally binding, why did she spend the last 3 years working on it if it doesn't matter? Remember there are 211 signatures on a petition out there, and we hope the developers start listening.

Bob McGurk: May submit written comments after the town's Zoom audio failed.

Buzz Chandler: Citizens have not seen a resume of previous developments by this developer, including price and size, and beginning and conclusion dates.

10. The Next Regular Meeting of the Empire Planning Commission is September 27th, 2023, at 6:30 pm. In-person with remote access.

11. Adjourned Meeting

TENNANT MOTIONED TO ADJOURN THE MEETING, FULTON SECONDED THE MOTION, CLERK PIEL CONDUCTED A ROLL CALL VOTE, ALL WERE IN FAVOR, MOTION PASSED.

The meeting was adjourned at 9:24 PM.

(Planning Commission Chair, Sally Rush)

(Town Clerk Jeannette Piel)