

# SOUTH WEBER CITY PLANNING COMMISSION MEETING

**DATE OF MEETING:** 11 March 2021

**TIME COMMENCED:** 6:00 p.m.

**LOCATION:** Electronic Meeting through Zoom

**PRESENT: COMMISSIONERS:**

Gary Boatright  
Jeremy Davis  
Wes Johnson  
Julie Losee  
Taylor Walton

**CITY ATTORNEY:** Jayme Blakesley

**CITY PLANNER:** Shari Phippen

**CITY MANAGER:** David Larson

**DEVELOPMENT COORDINATOR:** Kimberli Guill

**Transcriber:** Minutes transcribed by Michelle Clark

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**ATTENDEES:**

**PLEDGE OF ALLEGIANCE:** Commissioner Boatright

City Manager David Larson welcomed everyone to tonight's meeting and expressed Mayor Sjoblom specifically wanted him to welcome new Planning Commissioners Julie Losee and Jeremy Davis.

**Read Electronic Meeting Declaration:** Commissioner Osborne

### **Order on Public Meetings of the South Weber City Planning Commission**

With recent turnover, the South Weber City Planning Commission is without a Chairperson. The Planning Commission will elect a Chairperson at its next regularly scheduled meeting. This will occur before the Planning Commission takes action on any matter.

In the meantime, I, David Larson, have been asked to organize this meeting. As the de facto chair of this meeting, and in keeping with the protocol the Planning Commission was following prior to the recent changes in membership, I do hereby find and declare as follows:

1. Due to the Emergency conditions which currently exist in the State of Utah, and specifically in Davis County and South Weber City as a result of the COVID-19 Pandemic and the recent surge in COVID-19 infections across the state and in Davis County, the holding of public meetings with an anchor location as defined in the Utah Open and Public Meetings Act, presents a substantial risk to the health and safety of those who may be present at the anchor location; and
2. The risk to those who may be present at an anchor location can be substantially mitigated by holding public meetings of the Planning Commission pursuant to electronic means that allow for public participation via virtual means; and
3. The City has the means and ability to allow virtual participation in the public meetings in accordance with the Utah Open and Public Meetings Act.

**NOW THEREFORE, BASED UPON THE FOREGOING,**

For thirty days from the date of this Order, meetings of the South Weber City Planning Commission shall be conducted by electronic means without an anchor location. DATED this 10 day of March 2021.

David explained the Planning Commission Chairperson has the discretion as to holding electronic meetings. In the future, the new Chairperson will make that decision.

**Planning Commission Training & Orientation:**

City Manager, David Larson pointed out he will not be attending the next part of this meeting as he has not been feeling well.

City Attorney Jayme Blakesley introduced himself and stated he is with a private law firm, Hayes, Godfrey, Bell located in Holiday. He has been with South Weber City for 6 months. He is married and has three children. Sports are his passion and if it has a ball, he loves to play it, watch it, and coach it.

Kimberli Guill, Development Coordinator, stated she works for the city and handles building permits, planning, and development. She welcomes questions and concerns.

Jeremy Davis has lived in the city for 3 years. He has been married for 21 years and has 4 children. He has spent time living in Florida and Washington.

Gary Boatright has lived in South Weber City for 2 ½ years. He works as operations manager for the historic sites for the Church of Jesus Christ of Latter-day Saints.

Taylor Walton has lived in the city for 8 years. He has four children. He works for the United States Air Force. He has a degree from University of Utah in City Metropolitan Planning. He was born and raised in Utah.

Julie Losee has been in South Weber City for 15 years. She was born and raised in California. She has 2 daughters. Her oldest is attending University of Utah. She comes from a family of 7.

Shari Phippen has been with the city for 3 months. She has an extensive background in city planning. She works for Congressman Moore. She comes from a family of 8. She has a Master's Degree in Public Administration from Idaho State. When she isn't working, she likes to read anything about WWII and baseball.

Wes Johnson came to Utah in 1985 with the Air Force. He retired in 1989 after 22 years as a weatherman for the United States Air Force. He went to work for Wildlife Resources and Utah State Parks doing computer mapping. He was recruited to a national firm to do consulting service for the forest service, BLM and the Atomic Energy Commission. He was also recruited by another company to do homeland security with them. He officially retired 7 years ago. He met his wife in England, and they have 3 children.

Jayne explained the objectives for this meeting include:

**Legal Framework:**

- LUDMA - Identify the powers and duties of the City Council, Planning Commission and Staff
- Avoid Court – Know how to avoid illegal, arbitrary, or capricious decisions by establishing a thorough record for each land use decision.
- Administrative v. Legislative Decisions – Understand the difference between administrative and legislative decisions, and the role of the Planning Commission in each

**Development Process:** (placeholder for content to be added by S. Phippen)

**Ethics & Open Meetings Act** – Make decisions openly and ethically.

**Discuss pitfalls and best practices.**

Jayne explained State Law in Utah is such that the State has the land use authority (generally) and the state delegates to political subdivisions, which are cities, land use decisions. All land use decisions in South Weber City must comply with the Land Use Development and Management Act ("LUDMA"). LUDMA authorizes the City to adopt its own land use standards, so long as they are consistent with federal and state law. It mandates the creation of a Planning Commission, establishment of a Land Use & Appeal Authorities with its city, and adoption of a General Plan and process for considering land use applications.

Jayne expressed there are general themes within LUDMA which include:

- Respect for private property rights
- Cities may regulate private property.
- Once written and duly established, land use regulations are binding.
- Land use ordinances must be plainly written to be enforceable.
- Process matters
- Tie goes to the applicant/property owner.

There are three roles and responsibilities in LUDMA which include: Legislative Body, Land Use Authority, and Appeal Authority.

**LEGISLATIVE BODY (City Council)**

- Only a Legislative Body may enact a land use regulation.
- Shall adopt a land use regulation to create or amend a zoning district and designate general uses allowed in each zoning district.

- May establish or modify other restrictions or requirements, including the configuration or modification of uses or density, through a land use decision that applies certain criteria or policy elements.
- Shall consider (but may adopt, reject, or revise) each proposed land use regulation that the planning commission recommends.
- May establish a land use ordinance that includes conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

**LAND USE AUTHORITY (City Council, Planning Commission, or Staff)**

- Shall apply the plain language of land use regulations.
- In the absence of a “plain” restriction, shall interpret and apply the land use regulation to favor the land use application.
- Shall approve a conditional use if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

**APPEAL AUTHORITY**

- Hears and decides requests for variances and appeals from decisions applying the land use ordinances/fees.
- May not entertain an appeal of a matter in which the Appeal Authority, or any participating member, had first acted as the Land Use Authority
- May be an individual or a multi-person board, body, or panel.

<b>LAND USE DECISIONS</b>			
	<b>LEGISLATIVE</b>	<b>ADMINISTRATIVE</b>	<b>QUASI-JUDICIAL</b>
<b>CHARACTERISTICS</b>	<ul style="list-style-type: none"> <li>- Promulgation of laws of general applicability</li> <li>- Based on the weighing of broad, competing policy considerations</li> <li>- Subject to voter referendum</li> </ul>	<ul style="list-style-type: none"> <li>- Applying the law to particular individuals or groups based on individual facts and circumstances</li> <li>- Decision is bound by the law and cannot be based on public opinion</li> </ul>	<ul style="list-style-type: none"> <li>- Defers to established law and Legislative/Land Use Authority</li> <li>- Review limited to error, illegality, or abuse of authority</li> </ul>
<b>RESPONSIBLE BODY</b>	<b>City Council or General Electorate</b>	<b>City Council, Planning Commission, or Staff</b>	<b>Appeal Authority or Court</b>
<b>EXAMPLES</b>	<ul style="list-style-type: none"> <li>- Zoning Ordinances (including a site-specific zoning ordinance)</li> <li>- General Plan</li> <li>- Rezones</li> <li>- Annexation</li> </ul>	<ul style="list-style-type: none"> <li>- Conditional Uses</li> <li>- Site Plans</li> <li>- Development Agreements</li> <li>- Subdivisions</li> </ul>	<ul style="list-style-type: none"> <li>- Variance</li> <li>- Appeal</li> <li>- Judicial Review</li> </ul>

Commissioner Boatright asked/commented in talking about laws and legal interpretation, he suspects the city isn't expecting the Planning Commission to be lawyers so that is where we can rely on Jayme and the staff to help us understand the laws and apply them to various projects coming before us. Jayme replied he, Shari, David, and Kim will be available to you to provide

direction. He encouraged the Planning Commission before they come to meetings to review the materials. References will include relevance to city code, especially zoning districts, and procedural requirements. He expressed Shari has put together a great template for actions that will come before the Planning Commission. Particularly, at the top it will state if it is a Legislative or Administrative decision.

Commissioner Losee asked who the Appeal Authority is in South Weber City. Kim replied it is Doug Stephenson, private attorney, in Salt Lake City. She explained the only time the city has used him is when the property owner requests a variance that goes against city code. City Planner Shari Phippen commented it is typical for cities to contract with someone outside the city because they can look at things more objectively. They also look at parameters set by state and local law. Commissioner Boatright pointed out the Planning Commission has recently taken a lot of heat for recommending something, but from what Jayme is saying, we are to look at the code and the proposal as it aligns or does not align with the code. He asked if it aligns, the Planning Commission is legally bound to recommend approval. Jayme replied that is correct and it can put the Planning Commission in difficult circumstances. He explained once a code is written, and a landowner makes application under that code then they have a property right within that zoning for the property. If an application comes forward that comports with the code as written, even if it is not favored by the public, the Planning Commission's role is to consider public comment, in as much as it informs the decision factually, but not to make the decision based on yea or nay or public support. A decision must be made based on applying the factual circumstances to what is written in the city code. If the application comports with the code, then it should be recommended and moved forward as compliant with the city code.

Jayme explained land use decisions and limitations. He stated only a legislative body may amend the number, shape, boundaries, area, or general uses of any zoning district; any regulation of or within the zoning district; or any other provision of a land use regulation. A legislative body may not make any amendments to a zoning district unless it first submits the amendment to the Planning Commission for the Planning Commission's recommendation.

Jayme identified two other types of land use decisions:

## LAND USE DECISIONS

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<b>APPEAL</b>	<b>VARIANCE</b>
<ul style="list-style-type: none"><li>• The City establishes the standard of review (“de novo” or “on the record”)</li><li>• Applicant has the burden of proving that the Land Use Authority erred</li><li>• To be overturned, the decision must have been illegal, or arbitrary and capricious</li></ul>	<ul style="list-style-type: none"><li>• Any person or entity with an interest in a parcel of property may apply to the Appeal Authority for a variance</li><li>• The Appeal Authority may grant a variance only if all five of the statutory criteria are met</li></ul>

Jayne described the definition of judicial review and stated a party may not appeal for judicial review unless it has exhausted all administrative remedies. The petition for review may come from a land use applicant or an adversely affected party. This means that an adjacent property owner can appeal a decision to zone the adjacent property, even if it does not zone their property because of those impacts.

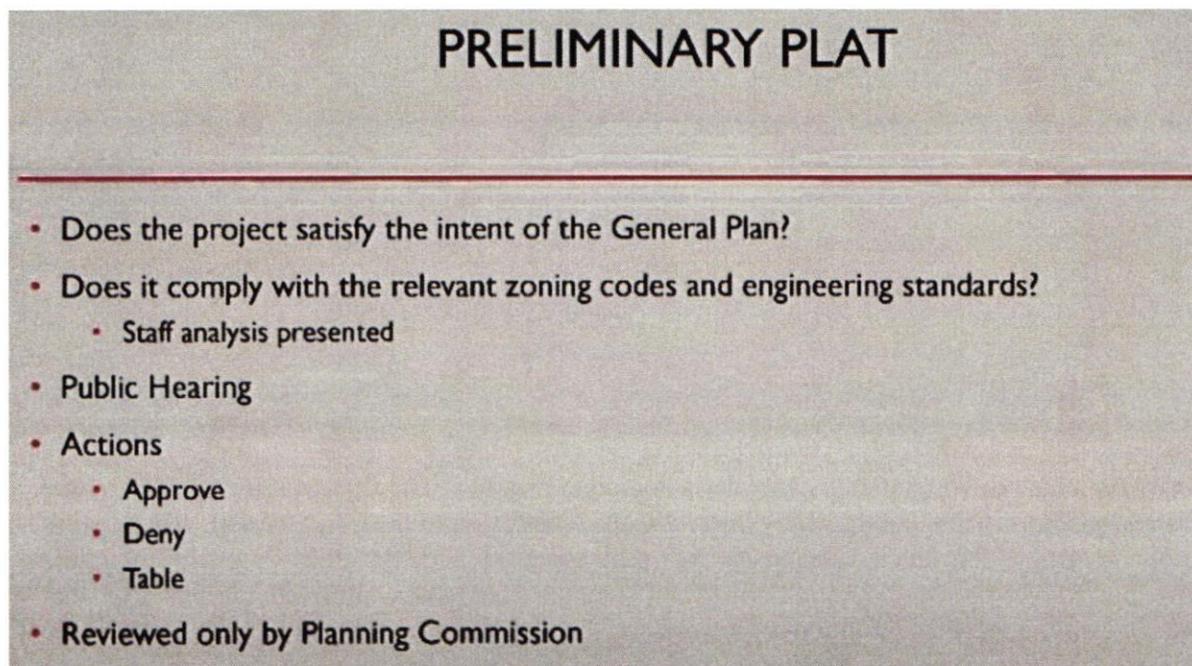
<b>JUDICIAL REVIEW</b>	
<p><b>VALIDITY OF THE ORDINANCE (LEGISLATIVE)</b></p> <ul style="list-style-type: none"> <li>• A court shall presume that a properly enacted land use regulation is valid</li> <li>• A challenge will hinge on whether the regulation is expressly preempted by, or was enacted contrary to, state or federal law</li> <li>• <i>Bradley v. Payson City, 70 P.2d 47 (2003)</i> <ul style="list-style-type: none"> <li>• Legislative – “reasonably debatable”</li> <li>• Administrative – “substantial evidence”</li> </ul> </li> </ul>	<p><b>APPLICATION OF THE ORDINANCE (ADMINISTRATIVE/QUASI-JUDICIAL)</b></p> <ul style="list-style-type: none"> <li>• A court shall presume that a final decision of a Land Use Authority or an Appeal Authority is valid</li> <li>• It will uphold the decision unless it is found to be (a) arbitrary and capricious, or (b) illegal</li> <li>• A decision is arbitrary and capricious if it is not supported by substantial evidence in the record of the proceeding</li> </ul>

Jayne explained if the Planning Commission denies an application because of insufficient parking or traffic flow, but there is nothing in the record that indicates a parking study was conducted, then your decision would be subject to questioned under this arbitrary and capricious standard because there is no evidence of a record. But if you suspect something has insufficient parking and you demand a parking study and the parking study confirms that and then you deny the application for having insufficient parking, then that decision will be based upon substantial evidence and be supported by judicial review. An administrative decision is arbitrary and capricious if it is not supported by substantial evidence found in the record of the proceeding. NOTE: Public clamor is *not* substantial evidence.

City Planner Shari Phippen reported she and Jayme are big fans of baseball. She read a quote from Babe Ruth, “The way a team plays determines its success. You may have the greatest bunch of individual stars in the world, but if they don’t play together, the club won’t be worth a dime.” Each member of the Planning Commission has varying ideas, skill sets, strength, and weaknesses, which are good, but the real strength from the Planning Commission comes when you can take all those strengths, put it together as one, and make effective decisions.

Shari explained before an application goes to the Planning Commission a concept plan will be brought before the staff which includes herself, City Engineer Brandon Jones, Fire Chief Tolman, and other city staff. They sit down with the developer and identify major red flags. At this time, they may review the zoning, density, road design, etc. It gives the developer an opportunity to go back and forth. It is not required but can save a developer time. The next step is the sketch plan, which is required. It is a higher level of detail with the survey of the property, site plan (project details), fire code, city engineering, roads, water, sewer, zoning, density, and

how it complies with the general plan. This all happens prior to going to the Planning Commission. The next step is preliminary plat which is as follows:



**PRELIMINARY PLAT**

- Does the project satisfy the intent of the General Plan?
- Does it comply with the relevant zoning codes and engineering standards?
  - Staff analysis presented
- Public Hearing
- Actions
  - Approve
  - Deny
  - Table
- Reviewed only by Planning Commission

Shari explained when a preliminary plat is reviewed by the Planning Commission. At this time, you will receive a staff report that has relative codes, general plan analysis, and whether the project specifications meet those things. The current city code states that with a preliminary plat the Planning Commission will hold a public hearing. This is an interesting situation because, by in large, subdivision approvals, once the property has been rezoned, subdivision approvals generally are administrative. When a decision is administrative, public clamor can be received and listened to, the job of the Planning Commission is to make their recommendation based on whether it complies with the city code without considering whether the public is in favor of it or not. The Planning Commission has three actions: approve, deny, or table. Jayme clarified when an action is tabled, it is taken up again later. This allows time to gather more information. A legislative decision is not bound by timelines, but an administrative decision can be.

Commissioner Boatright discussed the first two bullet points: Does the project satisfy the intent of the general plan? Does it comply with relevant zoning codes and engineering standards? He asked if the general plan is code, and what happens if someone comes in with a brilliant plan that is different from the general plan, what happens. Shari replied the general plan is not code but seeks to inform code. It is used as a guide for the city to use to create code from, but it is not city code. If someone presents an idea that does not follow the general plan, the Planning Commission can proceed with the project as it is presented, because the general plan is not city code but a guideline, or you can go through the process of amending the general plan to reflect the idea that the person came up with. Each city handles this differently. Commissioner Walton asked if the preliminary plat conveys entitlement. Shari replied the rezone conveys certain entitlements to develop the property under the zoning, but the preliminary plat does not because

there are additional requirements that must be met. The final plat and the recording of it secures entitlement, but not the preliminary plat.

FINAL PLAT	
<ul style="list-style-type: none"><li>• <b>Planning Commission reviews</b><ul style="list-style-type: none"><li>• <b>Make recommendation to Council</b></li></ul></li><li>• <b>All are conditions and standards of preliminary approval met?</b></li><li>• <b>No public hearing</b></li></ul>	

Shari explained the final plat is generally a smoother process. The final plat is reviewed by the Planning Commission and then they make a recommendation to the City Council. There is no public hearing at this level. Commissioner Losee asked what are the entitlements following final plat approval for the developer. Shari replied once the final plat is approved and recorded, that is the developer's entitlement to move forward and develop the project as they padded it. At this point the developer can begin selling lots, obtaining building permits, and develop the project as it has been recorded. There are various signatures required by city staff prior to recording.

Jayne explained there are entitlements that happen broad to narrow. The broadest level is the entitlement to the particular zoning applied to a parcel of property. Once someone makes an application to subdivide or develop a property, they have entitled themselves to that particular zoning for the property. However, they have not yet entitled themselves to the subdivided plats and the rights that Shari outlined. Jayne pointed out there are a few properties that apply to the mixed use zone the city no longer has a mixed use zone in the city code, but because those applications were made under the prior code that is what the Planning Commission will apply when they consider those applications (i.e. The Lofts Development). Shari discussed the Poll family property and the Stephens property which are unique and will go before the City Council first and then go back to the Planning Commission.

Commissioner Johnson discussed in the past with the final plat a lot of times they will come in with a list of items that need to be completed, before the plat can be approved. He asked if there is any way we can say it will not approve this final plat until these things are done or can we state it will be approved upon these items being completed. Shari replied hopefully staff will make sure those items are completed before going to the Planning Commission. She stated you can recommend with conditions that need to be completed prior to going before the City Council, but that is not what she recommends because items can slip through the cracks. Jayne acknowledged there are times when the developer has a timeline that doesn't necessarily meet with when the Planning Commission holds meetings. It is allowed for the Planning Commission to make additional conditions and have staff verify those conditions of been met. Commissioner Johnson voiced his frustration with a final plat having several conditions that need to be completed and he would rather see those items completed prior to going to the Planning

Commission. Commissioner Boatright agreed. Shari replied the staff is working to improve that process.

Shari reviewed the Planning Commission's responsibility to review conditional use permits.

The slide has a title 'CONDITIONAL USE PERMITS' at the top. Below the title is a red horizontal line. The content is organized into a bulleted list:

- Residential Zones
  - Standard of Review for PC
    - Signage, Landscaping, Traffic Circulation
  - Detrimental Impacts
- Nonresidential Zones

Shari explained the Planning Commission's responsibility with conditional use permits in residential and nonresidential zones. Shari is currently working on improving this process. Jayme added whenever there is a conditional use in code that is an allowed use as long as the Planning Commission and City Council review and impose whatever conditions might be necessary. But the detrimental impacts and the criteria for those conditions are limited to the category set forth in the city code. This is a subject that the City Code Committee and City Council will review and receive input from the Planning Commission over the next six months or so. South Weber City's current code doesn't spell out items such as (light, noise, & dust) in exact language. Shari announced the City Code Committee is working on bringing some of these items into city code.

Commissioner Losee remarked given the process that we just went through in adopting the general plan, and the updating of city codes, how closely aligned are we right now with the general plan and our city codes. She questioned if there will be a time when a conditional use will not be needed. Because if the permitted uses in a zone is very clearly specified and it is supported by what is in the general plan, shouldn't that mean we don't need a conditional use permit anymore. Shari replied she doesn't see the city doing away with conditional use permits because they aren't just for developers. They are also for individual homeowners (i.e. home day care). There are health, safety, and welfare concerns that need to be looked at closer to make sure it isn't causing a problem and put reasonable measures in place. Commissioner Boatright agreed and doesn't there is any way the city can write in code every possible situation. Shari suggested tightening up the permitted uses. Commissioner Walton is currently serving on the City Code Committee and explained they have noticed that some of the uses don't match what the intent is with the zone on the general plan. He discussed conditional use permits being a tool that can be used to insure to protect the intent of the general plan or the community and set specific conditions on that use. Shari explained a conditional use permit can help in regulating a use.

Shari explained the variety of other land use applications. They are as follows:

<b>OTHER LAND USE APPLICATIONS</b>	
<ul style="list-style-type: none"> <li>• <b>Land Use Ordinances (Title 10)</b> <ul style="list-style-type: none"> <li>• Rezones</li> <li>• General Plan</li> <li>• Land Use Definitions/Chart</li> </ul> </li> <li>• <b>Public Hearings</b></li> <li>• <b>Recommendation to Council</b></li> </ul>	

Sari announced the city is in the process of revising Title 10. Any time there is an ordinance regarding the regulation of land use, it will come before the Planning Commission. There will be public hearings to help gather input. She suggested looking at the general plan regarding rezone requests. The general plan is a collaborative effort, and any update major or minor will come before the Planning Commission. All the land use applications, the Planning Commission will make recommendation to the City Council.

It was stated the general plan and maps are available on the city’s website. Commissioner Boatright, Commissioner Losee, and Jayme Blakesley requested a printed copy.

Jayme conveyed it is required every year to have training on the Open & Public Meetings Act. The basic requirement of the act is that a public body must take their actions openly. A meeting is open to the public unless closed. There are limited circumstances to which you may close a meeting to the public. They are as follows:

<b>REASONS FOR WHICH A MEETING MAY BE CLOSED:</b>	
<ul style="list-style-type: none"> <li>• <b>Collective Bargaining</b></li> <li>• <b>Pending or reasonably imminent litigation</b></li> <li>• <b>Purchase, exchange, lease, or sale of real property if public discussion of the transaction would (a) disclose the appraisal or estimated value, or (b) prevent the transaction from being completed on the best possible terms</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Criminal investigative proceedings</b></li> <li>• <b>Certain types of procurement decisions</b></li> <li>• <b>Discuss the character, professional competence, or physical or mental health of an individual</b></li> <li>• <b>Deployment of security personnel, devices, or systems</b></li> </ul>

Commissioner Johnson pointed out in the general plan it discusses the city's annexation policy and there is not anywhere in the general plan where it discusses property disposal. He asked if that needs to be identified in the general plan. Jayme does not see any reason why that could not be a part of the general plan. Shari explained if the city wants to sell property there is a certain public process that must be followed. It includes allowing the public the opportunity to weigh in. The city cannot unilaterally decide to dispose of property. Jayme replied he thinks Commissioner Johnson is referencing properties where the city could decide to dispose of specific property, and if a decision is made to consider disposal, then the process Shari mentioned would be triggered. Commissioner Davis asked for an example of a procurement decision. Jayme discussed some procurement decisions can be made in a closed meeting. Jayme reminded everyone that what you say in a public meeting is public. Zoom meetings can be found on You Tube.

## ELECTRONIC COMMUNICATION (E.G., E-MAIL & TEXT MESSAGES)

### THE RULE

"Nothing in [the Open & Public Meetings Act] shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting." U.C.A. § 52-4-210.

### THE COROLLARY

The Open & Public Meetings Act is construed to restrict members of the public body from transmitting an electronic message to other members of the public body at a time when the public body is convened in an open meeting.

Jayme reminded everyone the Open & Public Meetings Act requires an entity make its decisions openly and texting during a meeting about the topics being considered the meeting, can be construed as not making those decisions openly. Your discussion and your dialogue during the meeting should be made openly and part of the meeting and part of the meeting minutes. The public input and other input you receive during a meeting should be done as part of the open meeting. If you are receiving text messages, whether it be among yourselves, general public, friends, members of the City Council or other public bodies, that type of communication about the matter you are discussing at the meeting, would be a violation of the Open & Public Meetings Act and is something that is discouraged.

Commissioner Johnson asked what happens if a developer contacts a member of the Planning Commission outside a meeting. Jayme replied you should decline that invitation and remind them your communication is to occur in a Planning Commission meeting. Commissioner Boatright asked about if the majority of them are commenting on social media. Jayme answered it may as it is defined as anytime a quorum of the public body is "gathered" then it could be construed to be a public meeting. That may include a text conversation in a messaging app or a social media post or elsewhere. He recommended as a matter of practice, if it is a decision that is

coming before the Planning Commission, especially if it is an administrative decision, to have the record of your decision occur at the Planning Commission meeting. That does not mean you cannot seek input from city staff or have questions or information you need leading up to that meeting. It means your deliberation, dialogue, and facts considered are to be made as part of the record of the public meeting. That will reflect the decision instead of conversations that might occur elsewhere.

Jayne explained the Municipal Officers' and Employees' Ethics Act. He conveyed each member of the Planning Commission is a municipal officer and their actions and activities are subject to the Municipal Officers' and Employees' Ethics Act. The Act is intended to establish standards of conduct for municipal officers and employees and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests. He stated it does not require recusal, but it does require disclosure.

Jayne reviewed the prohibited actions which are as follows:

<b>PROHIBITED ACTIONS</b>	
1. Use of office for personal benefit	
2. Compensation for assistance in transaction involving the city	
3. Interest in business regulated by the city	
4. Interest in business doing business with the city	
5. Conflict of interest involving duties	
6. Inducing an officer or employee to violate the Act	

Jayne explained you may not use public office for personal benefit:

- Disclosed or improperly use private, controlled, or protected information; or
- Use or attempt to use official position:
- To further officer's economic interests, or
- To secure special privileges for himself/herself or others

<b>PROHIBITED ACTIONS</b>
• Gifts (except for occasional non-pecuniary gift < \$50)
• Compensation for transaction involving the City w/o proper disclosure
• Interest in business regulated by the City
• Interest in business doing business with the City
• "any personal interest or investment"

Jayne discussed pitfalls and best practices:

## BEST PRACTICES

- Understand the nature of the decision (administrative/legislative/quasi-judicial)
- Know your role and responsibility (legislative body/land use authority/appeal authority)
- Follow procedural requirements exactly
- Document your decision in writing
- State the reasons for your choices
- For legislative decisions, consider public hearings as opportunities to learn
- For administrative decisions, know the law and apply it exactly
- Delegate whenever reasonable
- If you are delegating authority, give clear directions
- Recusal for actual or potential conflicts

## PITFALLS

- "That's outside the scope of our review tonight"
- Site visits
- "Hi, I'm the developer of the site that's on the agenda tomorrow night. Can we talk for a moment?"
- "I get that this meets the ordinance standard, but I really prefer ..."
- "I understand it satisfies the ordinance, but nobody in the neighborhood likes it."
- Text communication during a meeting
- Pre-meeting commitments
- Business dealings with the applicant
- Undisclosed interest in the project

Shari added if anyone has questions, please contact her or Jayme. Jayme reminded the Planning Commission to make sure they don't get caught up in discussions that are outside of the review. Shari has frequently seen when a subdivision comes forward and it is laid out a certain way and individual commissioners don't like the lay out and make statements to the developer if they have thought about trying the road this way or have you thought about making the lots face this way instead. That is one example that she has seen happen frequently and that is an example of something that is outside your scope. Commissioner Walton discussed this being difficult to pin point when they go outside the scope. He stated if there are portions of the code that are conflicting or cumbersome and just aren't working, we need to provide a recommendation to the City Council to look at changing that particular code. Jayme discussed there being an art to understanding the impacts to a particular decision. He and Shari want to help the Planning Commission, and respect their role in making decisions. Commissioner Boatright thanked Shari

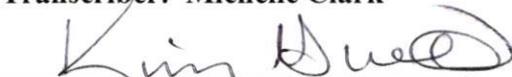
and Jayme in clarifying the Planning Commission's role. Jayme looks forward to working with everyone and getting to know everyone. Commissioner Walton thanked them for all their time in preparation in this training session. Commissioner Boatright understands Blair Halverson is assigned as the liason from the City Council and would like to know what is his role. Jayme doesn't want to speak for the City Council but there was conversation among the council when considering the structure and terms for Planning Commission members. He thinks there is unity in that they want good communication. Blair did express the desire that when he is present at Planning Commission meetings he doesn't want to take away the Planning Comissions authority. Jayme discussed the need for open communication between the Planning Commission and City Council. Shari announced at the next Planning Commission there will be an item on the agenda concerning new bylaws for the Planning Commission. It will contain instructions for who will be attending which meetings. For example, instead of a council member attending a Planning Commission meeting, whoever is elected vice-chair will report to the City Council rather than having a councilmember attend the Planning Commission meeting.

The Planning Commission will hold their next meeting on 18 March 2021 at 6:00 p.m.

**ADJOURNED:** Commissioner Walton moved to adjourn the Planning Commission meeting at 8:04 p.m. Commissioner Johnson seconded the motion. Commissioners Boatright, Davis, Johnson, Losee, and Walton voted aye. The motion carried.

**APPROVED:**  \_\_\_\_\_ Date  
Chairperson: Gary Boatright Jr.

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Transcriber: Michelle Clark

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Attest: Development Coordinator, Kimberli Guill