

ALPINE CITY PLANNING COMMISSION MEETING
Alpine City Hall, 20 North Main, Alpine, UT
February 16, 2021

I. GENERAL BUSINESS

A. Welcome and Roll Call: The meeting was called to order at 7:00 p.m. by Chairwoman Jane Griener. The following were present and constituted a quorum:

Chairwoman: Jane Griener

Commission Members: Ethan Allen, John MacKay, Alan MacDonald, Troy Slade, Ed Bush

Excused: Sylvia Christiansen

Staff: Austin Roy, Jed Muhlestein, Marla Fox

Others: Hyrum Bosserman

B. Prayer/Opening Comments: Troy Slade

C. Pledge of Allegiance: Ethan Allen

Hyrum Bosserman introduced himself to the Planning Commission.

II. PUBLIC COMMENT

No Comments.

III. ACTION ITEMS

A. Open Public Meetings Training by City Attorney

Hyrum Bosserman, from the City Attorney's office, said the City needed to fulfill the open training requirement. He asked if anyone knew what Sunshine Laws were. Jane Griener said that they were laws that make sure nothing was done in secret. Hyrum Bosserman said that was correct. He noted that it started in 1976 as a federal law and the law stated:

1. *Every portion of every meeting of an agency must be open to the public observation.*
2. *Procedures must be implemented to ensure that the public is provided with adequate advance notice of the agency's scheduled meeting and agenda and there was to be transparency on the decisions made by governing bodies.*

The intent as the Utah legislature had set forth that everything done by a legislative body took place in an open forum. Public business should be public business, which was what they were trying to ensure. Mr. Bosserman continued with the presentation. He explained what a meeting was under the open and public meetings act: whenever a quorum of a decision-making body was present it constituted a meeting but required notice at least 24 hours in advance. A quorum was a simple majority, and since there were seven members in the commission, anytime four or more officials met it constituted as a quorum. There needed to be an agenda, date, and location of the meeting noticed 24 hours in advance and posted at the principal office and the government website. There should be a schedule of regularly scheduled meetings posted and noticed once a year. There should be an agenda that reasonably specified the items of topics of discussion for action. Items raised by the public but not on the agenda may be discussed but no action may be taken.

Mr. Bosserman had prepared a quiz and they went through the questions. He explained that Planning Commission members were not allowed to meet in numbers that would constitute a quorum outside of a posted meeting because it would be considered a de facto meeting that would require notice and would be in violation of the public meetings act. Jane Griener asked about involvement of an email chain and its validity as a quorum. Mr. Bosserman explained that a text group or email chain with a quorum of members qualified as a meeting if City matters were discussed. They could email separately or have a thread with less than a quorum, but not the entire group. It was a gray area, but best practice would be to keep it less than a quorum. All records were subject to a GRAMA requests and an email chain could be subject to these requests.

Hyrum Bosserman explained that there needed to be an anchor location for meetings, and it was best to have a quorum present but that members were allowed to attend meetings through other means if they were unable to be there in person. COVID-19 was a special exception; via a signed affidavit they were allowed to suspend an anchor location. However, the affidavit needed to be renewed every 30 days. It needed to be noticed to the public how they could attend these virtual meetings.

Hyrum Bosserman explained that during emergencies, the Mayor could hold a meeting with limited notice.

Hyrum Bosserman explained that the public was allowed to send concerns electronically to the Planning Commission, but best practice would be to bring up the message during the meeting. If the person wanted to remain anonymous, that was okay. He also said it was not okay for Planning Commission members to send emails or texts to other members expressing extreme disappointment in that member's position or vote. These thoughts needed to be expressed on the record for transparency.

Hyrum Bosserman said Planning Commission member's emails were considered public records and could be retrieved during a GRAMA request. He said best practice would be to have a separate email account for City emails, so they didn't have to sift through personal emails. Ed Bush asked if they should have Planning Commission emails through the City. Mr. Bosserman said that that would be a good practice, but it was a matter of practicality. Troy Slade asked if the Planning Commission was required to store City emails. Mr. Bosserman said the emails were public record and should not be deleted; he said they should be stored. There were certain time limitations depending on the subject.

Hyrum Bosserman explained that if the audio system went down during a meeting and the public could not speak or be heard, best practice would be to suspend the meeting and continue later when the electronic issues were worked out.

Hyrum Bosserman explained that closed meetings were related to misconduct of an employee. Additionally, closed meetings were held if the City was planning on selling or acquiring a piece of property, imminent litigation pending, a hotly contested site Plan, security issues, or criminal conduct. He said there had to be a roll call with votes to go into a closed session and a motion made to go into a closed session and state the reason for the closed session. He said that once the session was closed, the recording needed to be stopped and a new one started for the closed session. Any actions during a closed session needed to be voted on during an open session with a motion and a second made. Any discussion during a closed session was to remain private and minutes must be approved within a short window of time. Approved minutes and audio recordings needed to be posted for the public within three days.

Hyrum Bosserman explained that the consequences of noncompliance was that an item could be voidable. The action item would need to be brought to the next meeting, discussed again, and a new motion made. If an action item was left off the agenda, that item could be discussed, but no action can be taken until the item could be legally noticed.

B. Ordinance 2021-06 – Accessory Building Setback Exception Criteria

Austin Roy stated that this had been tabled on January 5, 2021. The Bingham, Cushing, and Strong families spoke during the public comment portion of the Planning Commission meeting. They felt an amendment was needed to the accessory building setback exception ordinance, as well as the maximum allowed height for structures receiving an exception. The wording had been changed and a draft was being put together by the legal staff. The Planning Commission discussed the item and told the residents they would hold a public hearing.

The Planning Commission held a public hearing for the proposal on January 19, 2021, and recommended that the proposal be denied through the following motion:

MOTION: *Ed Bush made motion to recommend that the Accessory Building Setback Exceptions be denied as proposed and that the ordinance be left as is. Sylvia Christiansen seconded the motion. There were 5 Ayes and 2 Nays (recorded below). The motion passed.*

Ayes

Sylvia Christiansen
Ed Bush
Ethan Allen
Alan MacDonald
Troy Slade

Nays

John MacKay
Jane Griener

On January 26, 2021, the City Council reviewed the proposal and decided that the City ordinance needed to be amended. The item was sent back to the Planning Commission to draft language which would allow for increased height. It would also allow structures to be built in an easement if they were moveable.

MOTION: *Jason Thelin motioned that the council send back the proposal to the Planning Commission instructing them to do two things one look at the allowable height for accessory buildings and determine if a height of 12-feet 6-inches would be acceptable in Alpine City and second determine if movable accessory building would be allowable within the setback and easements of a property. Greg Gordon seconded the motion. There were 4 Ayes and 1 Nays, as recorded below. The motion passed.*

Ayes

Lon Lott
Jessica Smuin
Greg Gordon
Jason Thelin

Nays

Carla Merrill

The Planning Commission reviewed the proposed ordinance again at the February 2, 2021 meeting. After some discussion, the Planning Commission decided to table the item to address a few issues. The following motion was made:

MOTION: Alan MacDonald moved to table this issue until further review of these issues:

1. Incorporate height amendment of 12 feet 6 inches or 13 feet;
2. Consider incorporating a 2-foot setback;
3. Consider appropriate language for movable buildings that can be moved within 24 hours or a fine;
4. Building have no power, gas, water, mechanical running to it;

5. *Staff consider legal ramifications of encroaching on a city easement and the process for a resident to get a sign off from the city and utility company.*

John MacKay seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

*Sylvia Christiansen
Ethan Allen
Alan MacDonald
Troy Slade
John MacKay
Jane Griener*

Nays:

Austin Roy said the new proposed language to the Accessory Building Setback stated:

Accessory buildings shall be set back not less than fifteen (15) feet from the rear lot line and ten (10) feet from the side lot line, except that a two (2) foot minimum rear or side setback shall be required when all the following conditions are met:

1. The accessory building is located more than twelve (12) feet from an existing dwelling on the same or adjacent lot;
2. The accessory building contains no openings on the side contiguous to the lot line;
3. No drainage from the roof will be discharged onto an adjacent lot;
4. The accessory building shall be constructed of non-combustive materials or have fire resistive walls rated at one (1) hour or more;
5. The building will not be placed on land designated as a recorded easement, such as a utility or tail easement, unless the owner(s) of said easement agree(s) to allow the encroachment. Documentation of the agreement shall be provided to the city;
6. The building will not be taller than twelve (12) feet six (6) inches to the top of the roof line;
7. The building does not require permanent attachment to the ground and can be moved or relocated within 24 hours;
8. The owner acknowledges that they bear all costs of moving a building, including damage to the property, in the event an easement needs to be accessed, and fines shall be issued for buildings that cannot be moved within 24 hours;
9. The building will not exceed 200 square feet in size; and
10. The building will have no associated electrical, gas, plumbing, or mechanical equipment attached or running to it. A solar powered light may be permitted if it does not prohibit the building from being movable as described above.

Ed Bush said the language seemed to imply that everyone that wanted to build in the setback couldn't have a movable structure. He said he thought the City Council wanted this to change moveable buildings to apply to easements only and not to all properties. The moveable issue was put in strictly for easements. Ed Bush asked how the moveability of a structure would be measured and what the definition of a moveable building was; anything not attached to the ground was considered moveable. This ordinance would only get more complicated and would be amended as they came across different issues with it. Ordinances were typically proactive, but they would need to clarify with the attorney if this would apply retroactively or not.

The Planning Commission discussed making changes to the ordinance and what the intention of the City Council was. Ed Bush said that they could table this issue. He asked the City Council to be more specific about the intention of their motion. The Planning Commission could decide if they were okay with the

12-foot, six-inch height for sheds in the easement and making the structures movable. Alternatively, they could recommend something totally different.

MOTION: John MacKay moved to recommend that Ordinance 2021-06 be approved as proposed. The motion died for a lack of a second.

Alan MacDonald asked the Planning Commissioners how they were feeling about sending this issue back to the City Council for further clarification on the motion. The Planning Commission members all said they want to work on a new ordinance further.

Alan MacDonald wanted to know what they all wanted to work on since no one seconded John MacKay's motion. Ed Bush said he would want the language to be changed to say a person could only have a moveable structure if the structure was on an easement. He wanted items 7 and 8 subbed to 5. There was discussion about the two-foot minimum.

Alan MacDonald said they needed to decide if they were comfortable allowing people to put a structure in an easement. Jane Griener said the owner would have to get an agreement from the owner of the easement in order to encroach on the easement.

Alan MacDonald said a standard shed height was 10 feet. Custom sheds could be whatever was desired. He wanted to know why they were choosing a 12-foot, six-inch height. Austin Roy said that number was proposed by an applicant because that was the height of their shed. It was based on a diagram that had been drawn up based on the 12-foot, six-inch request to determine the line of sight. The current allowable heights were 20 for an accessory building and 34 for a home. How these heights were determined and how to determine an appropriate height for this ordinance was discussed. Some thought the number was arbitrary and so a relevant number for sight line at two-foot out was calculated by Jane Griener. She came up with a little over 10.3 feet using a right triangle calculator.

Building and encroaching on a utility easement was discussed. Citizens would have to request permission from the utility company.

Ed Bush said if they put a movable paragraph, the language of numbers 7 and 8 needed to be under the sub-head of number 5: Sheds on an easement.

Code enforcement had extended the deadline for this issue until June from February, so they had time on their side and didn't need to force themselves to rush to decide. They wanted to take the time to make the right decision and consider unintended consequences. There was discussion about other things going into easement areas such as fences or retaining walls. Marla Fox said that the form for accessory buildings and retaining walls was the same form. There was more discussion about the height number.

MOTION: Ed Bush moved to recommend the Accessory Building Setback Exception be approved with this exception:

1. Move number 7 and 8 to be conditions under number 5 easement encroachment.

John MacKay seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

Ethan Allen
Ed Bush

Nays:

Alan MacDonald
 Troy Slade
 John MacKay
 Jane Griener

Jane Griener asked Austin Roy to bring back the retaining walls ordinance for review.

IV. COMMUNICATIONS

Austin Roy said the City Council needed to hold a couple of meetings on certain dates and this would move one of the August meetings and the meeting in November would be moved from the 2nd to the 3rd Tuesday. He will bring the correct dates at a later date.

V. APPROVAL OF PLANNING COMMISSION MINUTES: February 2, 2021

MOTION: Troy Slade moved to approve the minutes for February 2, 2021 as written.

Ethan Allen seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed unanimously.

Ayes:

Ethan Allen
 Jane Griener
 Ed Bush
 Alan MacDonald
 Troy Slade
 John MacKay

Nays:

None

MOTION: John MacKay moved to adjourn the meeting.

Alan MacDonald seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed unanimously.

Ayes:

Ethan Allen
 Jane Griener
 Ed Bush
 Alan MacDonald
 Troy Slade
 John MacKay

Nays:

None

The meeting was adjourned at 9:35 p.m.