



PLANNING COMMISSION AGENDA
Thursday February 11, 2010
Morgan County Council Room
6:30 PM

PUBLIC NOTICE is hereby given that the Morgan County Planning Commission will meet at the above time and date at the Morgan County Courthouse, Council Chambers, 48 West Young St, Morgan, Utah. The agenda is as follows:

1. Call to order – prayer.
2. Approval of agenda.
3. Declaration of conflicts of interest.
4. Approval of Minutes for January 14, 2010.
5. Ordinance and General Plan Review Committee update.
6. Planning Commission Training.
7. Public comment.
8. Public Hearing/Discussion/Decision on proposed amendments to the Morgan County Land Use Code, Section 8-3-11-A-2-A (newly codified), formerly referred to as Land Use Management Code Section 16-03-210, regarding Board of Appeals, Appointments, Terms and Vacancy. It is proposed to lengthen the terms of Board of Appeals Members from three to four years.
9. Public Hearing/Discussion/Decision on proposed amendments to the Morgan County Code section 8-12A-22 (newly codified), formerly referred to as Section 18-23 of the Land Use Management Code, relating to financial surety for subdivision improvements.
10. County Council update.
11. Motion review and approval.
12. Adjourn.

**MORGAN COUNTY PLANNING COMMISSION MEETING
MORGAN COUNTY COURTHOUSE - RM. 29
THURSDAY February 11, 2010 – 6:30 P.M.**

MEMBERS PRESENT

Robert Wright
Ladd Albrechtsen
Steve Wilson
Bill Weaver
Jodee Bosen
Trevor Kobe
Adam Toone

STAFF PRESENT

Grant Crowell, County Planner
Charlie Ewert, Planner Tech/Code
Teresa Rhodes, Planning Commission Assistant

MEMBERS ABSENT

COUNTY COUNCIL PRESENT

Tina Kelley

*** * * M I N U T E S * * ***

1. Call to order – prayer.

The prayer was offered by Member Albrechtsen.

2. Approval of agenda.

Member Albrechtsen moved to approve the agenda. Second by Member Weaver. The vote was unanimous. The motion carried.

3. Declaration of conflicts of interest.

There were no conflicts of interest declared.

4. Approval of Minutes for January 14, 2010.

Member Toone moved to approve the minutes of January 14, 2010 with the noted minor corrections. Second by Member Albrechtsen. The vote was unanimous. The motion carried.

It was noted that the August 27, 2009 minutes, as referenced on the agenda, had been approved on September 24, 2009. There was no need to approval.

5. Ordinance and General Plan Review Committee update.

Chairman Wright noted the following:

- The committee had completed the initial review of the subdivision ordinance.
- Staff is working on that draft and the committee will review it one more time.

Chairman Wright asked about the request for proposal on the General Plan.

Grant noted the following:

- The County received five respondents to the request for proposal to the 2010 general plan.
- Garth Day, Charlie Ewert, Robert Wright, Tina Kelly and he had reviewed those.
- The firm they chose was Logan Simpson Design based in SLC. They are a principal planning group who has a lot of experience in rural areas. They focus on implementation.
- This decision is being forward to the County Council. If the Council approves, staff would like to immediately begin that process after that resolution is passed.
- A realistic timeline for this to take place would be about eight months.
- \$60,000 is approximate cost.
- Chairman Wright noted that on some of the simpler item changes in the LUMC it has been suggested that maybe the Planning Commission could address some of those items.

6. Planning Commission Training.

Impact Fees:

- Are a way for Counties to get money to pay for growth.
- Impacts that new growth cause:
 - Fire
 - Police
 - Transportation
 - Parks
- The County does not deal with the impacts that special service district or school districts have.
- Existing deficiencies (road in need of repair) in infrastructure systems can not be fixed using impact fees. The use of the fees is strictly controlled.
- Road impact fees require very complex analysis.
 - Roads – everything has to be based on study after study.
 - County has a capital facilities plan dated – This was followed up with an impact study in 2006
- Impact fees are scrutinized.
 - Often a waiting clause.
 - They can only be used for what they are collected on.
 - County is in the process of re-evaluating their impact fees.

7. **Public comment.**

There was no public comment.

8. **Public Hearing/Discussion/Decision on proposed amendments to the Morgan County Land Use Code, Section 8-3-11-A-2-A (newly codified), formerly referred to as Land Use Management Code Section 16-03-210, regarding Board of Appeals, Appointments, Terms and Vacancy. It is proposed to lengthen the terms of Board of Appeals Members from three to four years.**

Chairman Wright noted that Sterling Codifiers have completed the codification of the Land Use Management Code. What was formally referred to as section 16 will now be referred to as section 8?

Grant presented his staff report. (Please see attached exhibit A)

Chairman Wright –Noted the only change he saw in this was 2-A that the governing body shall appoint members for a four year term.

Member Weaver asked if the members would be replaced by staggering or in mass changes. Mr. Crowell noted the terms are intended to be staggered.

Member Albrechtsen moved to open the public hearing for text change to the terms of Board of Appeal Member terms. Second by member Kobe. The vote was unanimous. The motion carried.

There was no public comment.

Member Weaver moved to close the public hearing. Second by Member Kobe. The vote was unanimous. The motion carried.

Mr. Crowell noted in the current code it does state the following: “The governing body shall appoint members so that the term of one member shall expire each year.”

Member Toone asked if there were any risk in that if there was to be mis-conduct by the member. Mr. Crowell noted the County Council has the right to remove an appointed member if they so choose.

Member Wilson moved to forward a positive recommendation to the County Council for the proposed zoning text amendment to Section 8-3-11-A-2 of the Morgan County Code (formerly LUMC Section 16-03-020), application 10.002, based on the following findings:

1. **That increasing the length of the term of Board of Appeals members will increase the institutional memory, continuity, and experience level of the Board of Appeals.**
2. **That increasing the experience level of the Morgan County Board of Appeals will benefit the public’s health, safety, and welfare.**
3. **Extending Board of Appeal terms will ensure their terms are staggered from county council.**

Second by member Weaver. The vote was unanimous. The motion carried.

9. Public Hearing/Discussion/Decision on proposed amendments to the Morgan County Code section 8-12A-22 (newly codified), formerly referred to as Section 18-23 of the Land Use Management Code, relating to financial surety for subdivision improvements.

Mr. Crowell presented his staff report (Please see attached exhibit B)

Member Wilson noted that this does not seem logical and asked if Weber County had adopted this. Mr. Crowell noted Weber County had adopted this type of ordinance. This ordinance poses the least risk for the County but it does increase the risk for the developer.

He has not seen a bill in the legislature addressing the Weber County code yet, but would suspect if the economy were to pick up it could become an issue.

Member Wilson asked if there was a list of reputable bond companies the County would accept if a developer wanted to use a bond company instead of posting a cash bond? Mr. Crowell clarified that this was strictly for subdivision improvements – utilities, storm drains, retention ponds, hydrants, street monuments, roads, sewer, water systems, and some minor landscaping. This was not bonding to build a home or for sidewalks, etc. Although it is costly to the developer this is the form of surety the County may prefer to use given the historic failure rate.

Member Kobe moved to open the public hearing. Second by Member Albrechtsen. The vote was unanimous. The motion carried.

There was no public comment.

Member Kobe moved to close the public hearing. Second by Member Wilson. The vote was unanimous the motion carried.

Member Toone asked if this would affect minor subdivisions. Mr. Crowell noted it would affect any subdivision where improvements are required.

Member Kobe recommended some minor wording changes.

Member Weaver stated this may put a lot of financial burden on developers. Mr. Crowell noted that it has not been addressed in any of the bills to the legislature this year. If a big municipality were to adopt it there would be more complaints from developers.

There are some development agreements that say they were vested under previous codes at the time. That is a possibility that the County needs to be aware of.

Member Weaver noted the surety amount could be substantial. What would be done with the money? Mr. Crowell noted the County would place it in their banking institution. He noted

from previous experience, there is always the question as to who gets the interest. In this case, the County would be the one to keep that interest.

Member Wilson stated he finds the requirement to be somewhat excessive, but sees why the County would like to see it passed. He believed the developer should have the option to use a bonding company if it is a solid company and one the County approved of.

Mr. Crowell noted this ordinance is a temporary fix in that it will eventually be incorporated into the subdivision ordinance with some minor changes when that ordinance is adopted.

Chairman Wright suggested taking paragraph D out. Mr. Crowell noted in this case he believed it was good to have that repetition.

Council was clear they wanted an ordinance similar to Weber County. However, the Planning Commission is entitled to make its own recommendation.

Mr. Crowell noted the County does have a current situation where the bank has failed and the FDIC has said the funds are not available to the County. This ordinance is somewhat reactive. However, the County Council is very concerned and has reason to be based on the experience of the past few months.

Chairman Wright stated it worries him that the County may be tying up a large amount of money for a long period of time. This leaves the developers on the hook for a lot of money and they may not be able to do the development. He understands why the new ordinance is being considered; but there are some downsides to this.

Member Kobe noted these are the kind of agreements that need to be in place when the economy is booming and there are no credit problems as well as in lean economic times. This is something that should be in place regardless of the economy so that when it does pick up again, the County has that security in place. This is an incremental cost to the developer.

Member Toone asked how this affects a development that occurs in developmental phases. Mr. Crowell noted they would bond for the plat that is being worked on at the time and an occasional off-site improvement that is necessary to complete the plat being worked on; such as a water tank or pump station located off-site etc.

Member Toone stated this is the safest and most secure way for the County. It protects against bank development failures. It does not protect against hyper inflation. He understands that in order to get anything in life some type of risk has to be taken. He further understands that this protects the County. However, this does not give a developer any incentive to develop here so he does have some concerns in that regard.

Chairman Wright asked about developments that have failed; are they in part a result of poor engineering and the counties approval of work that may have been sub-standard. Mr. Crowell noted that perhaps the standards have not been as fully in place for all developments due to the fact that the County has had different engineers, council, and geotech engineers over the

past several years; defective materials could have also been a factor. While this may have been an issue in the past, the fact remains that when needed, funds were not available to the County for use.

Mr. Crowell noted that he has made the changes to the ordinance that Mr. Kobe brought up earlier.

Member Kobe moved to recommend that the Planning Commission forward a positive recommendation to the County Council for the proposed land use regulations text amendments for financial surety for required subdivision improvements, application 10.003, based on the following findings:

- 1. That the responsibility for construction of and the guarantee of construction of required subdivision improvements is with the sub divider and developer, and not the general taxpayers of Morgan County.**
- 2. That the County has faced or anticipates facing substantial administrative and financial issues with the collection of improvements guarantee funds from surety bonds, letters of credit and escrow deposits in off site accounts.**
- 3. That the County deems the deposit of improvement guarantee funds directly with the Morgan County Treasures as the safest way to ensure required improvements in subdivisions and to protect the general taxpayer from being responsible for costs related to required subdivision improvements.**

And the following one condition:

- With the following three text changes requested by member Kobe which Mr. Crowell will make in the following sections:**
 - a. Section B-2**
 - b. B-3**
 - c. Section K**

The vote was not unanimous with Members Kobe, Wilson, Weaver, and Albrechtsen for and Member Toone opposed for the following reasons:

- Member Toone believed it is too much money for the County to sit on where this can take more than one year for construction. He would feel more comfortable if the money was collected and released in staggered increments.**

The motion carried with a vote of four to one.

10. County Council update.

- Mtn. Green Area Plan was approved by the County Council. There was concern expressed concerning the location of the town center and the industrial park. Mr. Crowell noted that there will be another chance to look at the Mtn. Green land use map when the general plan is reviewed. The Planning Commission may want to go back and look at existing zoning versus the map.**
- Sensitive area ordinance was tabled – There was concern that the language of the ordinance needed to be tightened. The County Council asked staff to schedule a meeting with the planning Commission to address the items of concern. Mr. Crowell noted he is anticipating the March 2, 2010 County Council meeting as a time for that review.**

- Milton Area Plan will be heard and discussed at the County Council on Tuesday, February 16, 2010. A public hearing will be held.

11. Motion review and approval.

Member Albrechtsen moved to approve the motions stated in the meeting tonight. Second by Member Kobe. The vote was unanimous. The motion carried.

Member Toone noted that he met with Mr. Crowell and did some research with the historical society on road dedication. There are areas in the county that will not have any development.

Member Weaver noted that there was an article in the Standard Examiner stating that the shrimp business in the industrial park in Mtn. Green is looking to locate to Ogden. He noted that is a substantial business and the County should be looking at ways to maintain businesses such as this in the County; it will be a substantial loss.

12. Adjourn.

Member Toone moved to adjourn the meeting.

Approved: _____
Chairman

Date: _____

ATTEST: _____
Teresa A. Rhodes, Clerk
Planning and Development Services

Date: _____

Exhibit A - Land Use Code, Section 8-3-11-A-2-A (newly codified), formerly referred to as Land Use Management Code Section 16-03-210, regarding Board of Appeals, Appointments, Terms and Vacancy.

Planning and Development Services

48 West Young Street
Morgan, UT 84050
(801) 845-4015

STAFF REPORT

February 1, 2010

To: Morgan County Planning Commission
Business Date: February 11, 2010

From: Charlie Ewert, Planning Technician

Re: County Initiated Text Change regarding Board of Appeals member terms

Application No.: 10.002

Applicant: Morgan County

Request: To amend Section 8-3-11-A-2 (formerly the Morgan County Land Use Management Code, Section 16-03-210) of the Morgan County Code to increase the terms of Board of Adjustment members from three to four years.

SUMMARY & BACKGROUND

Following the recent text amendment changing the Planning Commission Terms from three to four years, the County Council requested that the Staff bring forward amendments to the Morgan County Code which increases the length of the term for Board of Appeals members from three to four years.

ANALYSIS

The proposed change will work to increase the institutional memory and continuity of the Board of Appeals. The experience and training that Board of Appeals members gain while on the job for a longer period of time will benefit the residents and property owners of the County.

To facilitate this ordinance change, the following changes need to be made to the text of Morgan County Code Section 8-3-11-A-2 (formerly the LUMC 16-03-210-2-a):

2. The board of appeals shall consist of five (5) members, appointed from the five (5) county council districts, and may include whatever number of alternate members the governing body considers appropriate. If a position cannot be filled with a qualified person residing within a particular district, the county council may appoint an at large member. Members shall hold no other public office or position within the county. All members and alternates must be residents of the county. Alternates shall be required to attend all regular meetings, unless excused by the chairperson.

- a. The governing body shall appoint the members and alternates for a term of ~~three (3)~~ four (4) years.

Title 8- Land Use Regulations (formerly Title 16- Land Use Management Code) sets out procedures for adopting and amending the code:

8-3-2-C. Amendments And Rezoning:

1. The governing body may amend:
 - a. The number, shape, boundaries or area of any zoning district;
 - b. Any regulation of or within the zoning district; or
 - c. Any other provision of the zoning ordinance.
2. The governing body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or is first submitted to the planning commission for its approval, disapproval or recommendations.
3. The governing body shall comply with the procedure specified in subsection B of this section, in preparing and adopting an amendment to the zoning ordinance or zoning map.

8-3-2-B. Preparation And Adoption Of Zoning Regulations:

1. The planning commission shall prepare and recommend to the governing body a proposed zoning ordinance, including both the full text of the zoning ordinance and maps, that represents the planning commission's recommendations for zoning all or any part of the area within the county.
2. The governing body shall hold a public hearing on the proposed zoning ordinance recommended to it by the planning commission in compliance with Utah Code Annotated section 17-27a-205.
3. After public hearing the governing body may:
 - a. Adopt the zoning ordinance as proposed; or
 - b. Amend the zoning ordinance and adopt or reject the zoning ordinance as amended; or
 - c. Reject the ordinance.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a positive recommendation to the County Council for the proposed zoning text amendment to Section 8-3-11-A-2 of the Morgan County Code (formerly LUMC Section 16-03-020), application 10.002, based on the following findings:

1. That increasing the length of the term of Board of Appeals members will increase the institutional memory, continuity, and experience level of the Board of Appeals.
2. That increasing the experience level of the Morgan County Board of Appeals will benefit the public's health, safety, and welfare.

MODEL MOTIONS

Sample Motion for a Positive Recommendation – "I move we forward a positive recommendation to the

County Council for the text amendment to Section 8-3-11-A-2 of the Morgan County Code (formerly LUMC Section 16-03-020), application 10.002, based on the findings listed in the Staff Report dated February 1, 2010, and as modified by the conditions and findings below:"

1. List any additional findings and conditions...

Sample Motion for a Negative Recommendation – "I move we forward a negative recommendation to the County Council for the text amendment to Section 8-3-11-A-2 of the Morgan County Code (formerly LUMC Section 16-03-020), application 10.002, based on the following findings:"

1. List any additional findings...

Exhibit B - proposed amendments to the Morgan County Code section 8-12A-22 (newly codified), formerly referred to as Section 18-23 of the Land Use Management Code, relating to financial surety for subdivision improvements.

Planning and Development Services

48 West Young Street
Morgan, UT 84050
(801) 845-4015

STAFF REPORT

4 February 2010

To: Morgan County Planning Commission
Business Date: 11 February 2010

From: Grant Crowell, AICP
Planning and Development Services Director

Re: **County Initiated Text Amendment Regarding Financial Guarantee for Subdivision Improvements**

Application No.: 10.003

Applicant: Morgan County

Request: To amend Morgan County Code Section 8-12A-23 (formerly section 18-23, LUMC), regarding financial guarantee requirements for subdivisions. It is proposed to only accept funds directly deposited into escrow with Morgan County as financial guarantee for required subdivision improvements.

SUMMARY & BACKGROUND

Recent issues with the country's financial crisis have trickled down to Morgan County. The value of letters of credit from financial institutions has diminished, the amount of struggle to recover funds from surety guarantee instruments has increased, and some banks that have backed previous financial guarantees for subdivision improvements no longer exist. These issues can potentially leave the general taxpayers of the County footing the bill for failed or required subdivision improvements that were left incomplete by the original developers. In an effort to curtail future issues with recovery of financial guarantees, the County Council has directed staff to modify the Morgan County Code to only allow funds that are directly deposited with the Morgan County Treasurer as an acceptable guarantee for required subdivision improvements.

ANALYSIS

In order to effectuate the requested changes to the County Code, several text amendments must be made. The entire text of the proposed changes to the County Code is attached to this report as Exhibit 'A'. Title 8- Land Use Regulations (formerly Title 16- Land Use Management Code) sets out the required procedures for adopting and amending the land use requirements of the County Code:

8-3-2-C. Amendments And Rezoning:

1. The governing body may amend:
 - a. The number, shape, boundaries or area of any zoning district;

- b. Any regulation of or within the zoning district; or
- c. Any other provision of the zoning ordinance.
- 2. The governing body may not make any amendment authorized by this subsection unless the amendment was proposed by the planning commission or is first submitted to the planning commission for its approval, disapproval or recommendations.
- 3. The governing body shall comply with the procedure specified in subsection B of this section, in preparing and adopting an amendment to the zoning ordinance or zoning map.

8-3-2-B. Preparation And Adoption Of Zoning Regulations:

- 1. The planning commission shall prepare and recommend to the governing body a proposed zoning ordinance, including both the full text of the zoning ordinance and maps that represents the planning commission's recommendations for zoning all or any part of the area within the county.
- 2. The governing body shall hold a public hearing on the proposed zoning ordinance recommended to it by the planning commission in compliance with Utah Code Annotated section 17-27a-205.
- 3. After public hearing the governing body may:
 - a. Adopt the zoning ordinance

STAFF RECOMMENDATION

Staff recommends that the Planning Commission forward a positive recommendation to the County Council for the proposed land use regulations text amendments for financial surety for required subdivision improvements, application 10.003, based on the following findings:

- 1. That the responsibility for construction of and the guarantee of construction of required subdivision improvements is with the subdivider and developer, and not the general taxpayers of Morgan County.
- 2. That the County has faced or anticipates facing substantial administrative and financial issues with the collection of improvements guarantee funds from surety bonds, letters of credit and escrow deposits in off site accounts.
- 3. That the County deems the deposit of improvement guarantee funds directly with the Morgan County Treasures as the safest way to ensure required improvements in subdivisions and to protect the general taxpayer from being responsible for costs related to required subdivision improvements.

MODEL MOTION

Sample Motion for a Positive Recommendation – “I move we forward a positive recommendation to the County Council for the Financial Guarantee for Subdivision Improvements Text Amendment, application 10.003, based on the following findings:”

- 1. List any additional findings and conditions...

Sample Motion for a Negative Recommendation – “I move we forward a negative recommendation to the County Council for the Financial Guarantee for Subdivision Improvements Text Amendment, application 10.003, based on the following findings:”

- 1. List any additional findings...