



Approved July 6, 2023

APACHE COUNTY COMMUNITY DEVELOPMENT
P. O. Box 238
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Phone: (928) 337-7526

PLANNING AND ZONING COMMISSION
MINUTES FOR June 1, 2023

Commissioners

District I

Carey Dobson
Bobby Fite
Brad Jarvis

District II

Oscar Miranda, Vice-Chair
Kay Hauser
Dan Muth, Chair

District III

Brad Peterson
Bob Pollock
Traegen Knight

Alternate

Michael Bragiel

Staff Members in attendance

Matthew Fish, Director
Shanna Pearce, Plan Reviewer

Tyron Jenson, Deputy County Attorney

Working Lunch Session

Chairman Dan Muth called the working lunch session to order at 12:05 p.m.

Mr. Fish advised the commission that Mr. Gomez had withdrawn his CUP application for his RV Park in Alpine and explained that he could not reapply for a year. Mr. Fite and Mr. Fish briefly discussed the findings of the hydrology and ADOT report submitted. No further discussion.

Training and discussion on the Basic Duties of the Planning & Zoning Commission.

Mr. Fish went over the basic duties of the Planning & Zoning Commission, he referenced A.R.S. 11-802 & Article 11 of the Apache County Zoning Ordinance Section 1101. He explained the role of the Planning & Zoning Commission and the role of the Planning & Zoning Department in assisting the Board of Supervisors *to conserve and promote public health, safety, convenience and general welfare*, A.R.S. §11-802 (A)(B).

Mr. Fish explained the supervisorial districts, the number of commission members appointed per district, and how they were appointed when the county contained Indian reservation not subject to county zoning regulations. He noted that *at no time no more than three representatives may be a resident of an incorporated municipality*. A.R.S. §11-802(C)(E).



Mr. Fish explained the powers and duties of the Commission regarding the Comprehensive Plan and what the plan should include, 1. Official maps. 2. Growth and land use. 3. Commercial or industrial uses. 4. Transportation and utilities. 5. Community facilities. He added that he felt the Comprehensive Plan was almost as important as the Ordinances and should be considered as well as the sub-area community plans when recommending approval to the Board of Supervisors. He also noted his role as the director in advising the commission.

Mr. Fish explained the duties of the commission and staff when developing and recommending zoning ordinances to the Board of Supervisors, 1. Establish Zones within the county. 2. Identify the most important use of land inside the county. 3. Adopt regulations governing the divisions of land in the county 4. Make recommendations to the Board of Supervisors on rezoning land inside the county. 5. Review conditional use permits and make recommendations to the Board of Supervisors.

Mr. Fish advised the commissioners that he felt it was time to hard zone the county, by taking it area by area, using other counties as resources. Mr. Muth clarified that because the county was already zoned Gen-Ag any rezoning would have to go through the current rezoning process stipulated in our ordinances, precipitated by actions of the county not the public. Mr. Fish agreed and advised the commissioners that Article 4 of the County Ordinance contained a blueprint of the hard zoned areas.

Mr. Fish noted that he would like to start looking at the ordinance and going through each Article to recommend amendments where necessary. Mr. Muth asked Mr. Fish if he was aware of any conflicts between the comprehensive plan and Article 4 pre-established zones that were not instituted. Mr. Fish stated that he would look at them to determine if there were any. Mr. Muth stated that if there was any conflict, they would need to be rectified so that they worked together. Mr. Fish stated he would research this and report back to the commission with a progress report in July and a full report in August. Mr. Fish pointed out two important terms in the duties of the Commission and Staff were to *Identify the most important use of land inside the county and to Adopt regulations governing the divisions of land in the county*. He encouraged the commissioners to commit this to memory and use them as a recurring theme in their decisions.

Mr. Fish explained that any person with standing aggrieved by a decision of the commission shall have a right to make an appeal to the Board of Supervisors and the appeals process. Article 1107(G)

Mr. Fish explained CUP's, their purpose, the evaluation criteria and general standards, and the process. Article 1107(A)(B). He explained to the commission that the Evaluation criteria and general standards listed (B) were critical when considering a CUP application and added that in his opinion, when applied may disqualify many CUP applications.

Mr. Fish stated it was his job to prepare each commissioner, in a timely manner to make their recommendation(s) and that he would consider the evaluation criteria when making his recommendation(s) to the commission. He added that in some instances his



recommendation(s) may be for non-approval or no recommendation; it was the commissions responsibility to use his information and resources (ordinances, comprehensive plan, subarea plans, and statues) to make an informed decision when making a recommendation(s) to the Board of Supervisors, who makes the final decision.

Mr. Muth stated that history showed there to be a lot of interest in Article 24 Short Term Rentals (STR) and asked if the state statue made an allowance for a county to consider such activities under the CUP process and evaluation criteria. Mr. Fish stated that the statute did not specifically allow counties the option. Mr. Jenson stated that the statute specifically would not allow counties to regulate STR's through the CUP process, it only allowed for detailed activities listed in the statute.

Mr. Bragiel asked that when considering an added burden on the community did it have to be an excessive burden. Mr. Fish stated yes, it had to be an excessive burden.

Mr. Fish went over the Procedures of the Planning and Zoning Commission adopted June 6, 2022, last amended July 9, 2015. Section 1 – Meetings (B) Special Meetings, called by the chairperson and the procedures. (C) Open to the public, public meetings are recorded and public record. (D) Cancel a Meeting, taken care of by staff. (E) Quorum and Method of Voting, 4. votes are recorded and kept 3. Any member of the commission may request roll call vote; otherwise voting may be by roll call or voice vote at the Chairman's discretion. 6. a tie vote on any recommendation by the Commission to the Board of Supervisors shall require that the matter be sent to the Board, noting that the vote was tied on the matter.

Section 2 – Officers and Their Selection (B) Terms of Office, (C) Elections, (D) Vacancies and procedures.

Section 3 – Standing and Special Committees (A) the chairperson can appoint special committees at certain times.

Section 4 – Quorum, Voting, Conflict of Interest, Mr. Fish advised that the last training was approximately two (2) years ago, he will work with the county attorney's office for a refresher course. Mr. Fish asked the commissioners for any recommendations for future training and added that other counties were sending their commissioners to specific training courses, and he had reached out to get more details.

Mr. Miranda reminded the Commissioners of following Open Meeting Law procedures when contacting, meeting with other commissioners at different locations outside of regular meetings, and emailing. Mr. Fite asked Mr. Jenson what was considered a violation of the Open Meeting Law when Commissioners have phone conversation or emailing. Mr. Jenson stated he would investigate this and added that we want to avoid the appearance of trying to get around open meeting laws, this is where issues arise.

Mr. Fite added that many times there would be a quorum of board members at other meetings at the same time without it being noticed and they had been advised in the past



this was a violation without their attendance being posted. Mr. Fite asked how you avoid violating Open Meeting Law when you have a quorum that happened to meet up at the Post Office. Mr. Jensen advised that you don't discuss issues that would normally come up before the commission or the board when gathered outside of what's been posted, if it happens that everyone shows up at the same place at the same time don't discussed things that should only be discussed in public meetings.

Mr. Fite recommended a refresher training on private property rights, what the commission can and cannot do, this issue has been brought up many times in CUP applications.

Mr. Peterson commented that general counsel of other boards he is on had advised that if commission business is not being discussed in other commissions or boards that a commissioner sit on it is not a conflict of interest.

Mr. Fish noted that the Board of Supervisors will add to their agenda when a quorum may be present at other meetings, he advised the commissioners that staff would notice meetings for them if provided a 30-day notice.

Mr. Miranda added that while serving on multiple committees they rely on an agenda to stay focused on the items of discussion for that specific entity so that the business of other districts, boards, or commission are not intermingled. He also noted that there was a lot of misconception of conflict of interests and what it meant for board members; no necessarily being on multiple boards/commissions, a conflict arises when there is a pecuniary gain. Mr. Jensen advised that he and Mr. Fish would work on putting together training for Conflicts of Interest and added that the best approach was to recuse yourself if you had a pecuniary interest.

Mr. Muth recognized Commissioner Bob Pollock from Greer, AZ, new member for District III. Mr. Pollock introduced himself, was thankful for the opportunity to serve his community and the county and looking forward to serving with the commissioners.

Adjournment 12:50 p.m.

Regular Meeting

Call to Order.

Chair Dan Muth called the public meeting to order at 1:00 p.m.

Roll Call/Determination of a Quorum.

Chair Dan Muth determined a quorum was present by roll call, seven (7) commissioners present, Dan Muth, Chair; Oscar Miranda, Vice-Chair; Brad Jarvis; Bobby Fite; Brad Peterson; Bob Pollock; Michael Bragiell, Alternate.



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Call to the Public

No public comment(s).

Approval of the minutes from the May 4, 2023 meeting.

Chair Dan Muth opened for a motion and discussion.

Chair Dan Muth called the question.

Vice-Chair Oscar Miranda motioned to approve as presented.
Commissioner Bobby Fite seconded the motion.

No Discussion

Vote, 5 ayes to 0 nays with 2 abstention, Commissioners Brad Jarvis and Brad Peterson were not present at the meeting.

Motion Carried

Report from Staff to the Commission.

Mr. Fish advised the commission there would be a CUP for an older manufactured home and a major plat amendment of the Hidden Paradise Subdivision on the agenda for July.

Adjournment.

Chair Dan Muth adjourned the public meeting at 1:07 p.m.