



**ARAPAHOE COUNTY  
PLANNING COMMISSION  
April 21, 2009**

**Members**

Arnold Hayutin  
Brian Weiss  
Leah Martin  
Brett Larson  
Kim Herzfeldt-Absent and Excused  
Paul Rosenberg  
Mark Brummel

**OTHERS PRESENT**

Jan Yeckes  
Joleen Sanchez

**OPENING COMMENTS**

Jan Yeckes stated that there are two sets of minutes to be approved. She also stated that the Planning Commission (PC) would be asked to postpone the Land Development Code item. She said the consideration of amendments to the by-laws is a study issue and an updated draft would be given to the PC members with the next packet.

**ADOPTION OF MINUTES**

**The motion to adopt the minutes from the January 6, 2009 and February 3, 2009 Planning Commission hearings was made by Mr. Hayutin, duly seconded by Mr. Weiss.**

**The motion passed unanimously.**

**CONSENT AGENDA**

There were no Consent Agenda items.

## REGULAR AGENDA ITEMS

### **Item 1 – Case No. W09-001, Land Development Code Update definitions of Pet & Inoperable Vehicle, Continued from March 17, 2009.**

Ms. Yeckes explained that, at the last meeting, there were a few people present from the 4 Square Mile area (4SM) who expressed concerns with the proposed changes; staff met with the 4SM group late in the process and staff felt that the changes were such that the hearing should be re-noticed. She said no specific date has been set yet. At the last hearing, she said, the PC continued the case to a date certain, which is this evening, and asked staff to meet with the 4SM group. She said staff would like the PC to postpone this case. She said she anticipates that this would be brought back to the PC at the first meeting in June. She said the case number would remain the same, as this case is not being withdrawn. She said originally, Tammy King, Zoning Administrator, had written a memo that said staff was asking the PC to remove this item from the agenda, but it is still an active case.

Mr. Rosenberg asked about the dog fanciers' position.

Mr. Brummel said there is an issue in another municipality.

Ms. Yeckes said the staff had a study session with the Board and there was discussion regarding the concerns from the citizens and the issues. She said the Board understood the need to change the definitions of "pets" but on the other issues that many people spoke about, the Board didn't want any changes. She said all of that discussion regarding kennels and hobby breeders would not be relevant.

Ms. Martin said at the last meeting, there was discussion about the number of pets.

Mr. Brummel said there was debate regarding three or four per household and he felt that the PC isn't doing what is ought to do. He said there are people out there breeding pit bulls for sale and they are getting around the code because they can say the dogs are pets. He said there ought to be a way to stop that.

Ms. Martin said they could breed pit bulls as long as they get a licensed kennel.

Mr. Brummel said it was decided that the existing code covers that.

Ms. Yeckes said there is a gap between the number of pets one could have and the point where the State gets involved, and that gap was what the PC was trying to address. She said the Board felt that there were only a few cases and the County couldn't really prove what the people in question were doing and they also stated that the County doesn't have the staff to stake out the houses. She said the staff must depend on existing regulations and processes by agencies like the Dumb Friends League. She said there were other discussions regarding zoning and animal welfare, which is not a zoning issue, and what people do with their property, which is a zoning issue. She said if the issue is not related to zoning, then it cannot be regulated with the Land Development Code (LDC). She said the message from the Board was to use existing regulations to deal with problems.

Mr. Hayutin asked if the goal then is to clarify the definitions.

Ms. Yeckes said yes, regarding the definition of pets. She said the issue related to inoperable vehicles is much more specific, and she felt that there are some gaps that could be addressed. She said the PC should not regulate so much through definitions, but there is not a good place in the LDC to do it any other way.

**The motion was made by Mr. Hayutin and duly seconded by Mr. Larson to continue Case No. W09-001 to a future date for the purpose of re-noticing.**

**The motion passed unanimously.**

**Item 2 – Consideration of Amendments to the Planning Commission By-Laws**

Ms. Yeckes said in the packet there are proposed corrections and clarifications. Ms. Yeckes stated that the formatting and typos need to be corrected. She said she would like to discuss the proposed changes with the PC, then an updated draft would be submitted to the PC for the next meeting, where the PC could vote on the revised by-laws.

The proposed changes to the by-laws were reviewed.

Ms. Yeckes said in the by-laws it is not clear that the PC is an advisory board which makes recommendations to the Board of County Commissioners, and that should be clarified. She said on page 7, the attorney pointed out that consideration of Comprehensive Plan amendments should be in the LDC, as the PC has no authority to approve Comprehensive Plan changes.

Mr. Hayutin asked if there is anything in the by-laws that defines a Location and Extent.

Mr. Rosenberg said there are times when there are an even number of PC members and the potential for a tie. He recalled a 2 to 2 vote in the past.

Ms. Yeckes said the by-laws don't say what happens if there is a tie.

Mr. Rosenberg said that should be included. He said that has resulted in a defeated motion, but it is not written in the by-laws.

Ms. Yeckes agreed that the PC needs clarification for a tie vote. She said one option would be to forward the case to the BOCC without a recommendation.

There was debate.

The PC agreed that if a majority does not vote in favor of a motion, the motion would fail. Ms. Yeckes said on page 4, Item B, said it should be clarified that a motion would die if there is no second.

Mr. Hayutin said that is addressed in section E under Robert's Rules of Order.

Ms. Yeckes wondered if that should be clarified in the by-laws. She further stated that there is nothing specific in the by-laws regarding amending a motion.

Mr. Rosenberg said there haven't been any issues with that and the PC should follow Robert's Rules of Order.

It was clarified that the Chair can make a motion.

Ms. Yeckes reviewed Section 1.N -Continued. She said there is a difference between "continued" and "postponed", and clarified that "postponed" should not be limited to a date certain.

Mr. Hayutin said as chair, there were times when he wanted to go into a private discussion with the other PC members and there are times when the PC needs to talk things through. He said he would like a good definition for that. He also asked if the PC has the ability to go into an Executive Session.

Ms. Yeckes stated that in 27 years, she has never seen a Planning Commission go into Executive Session. She said everything is always discussed in a public hearing. She said she cannot think of a legitimate reason to go into Executive Session, but she would ask the attorney to address that.

Mr. Hayutin said there might be a question about procedure.

Ms. Yeckes said sometimes there are circumstances that are not very clear and the PC can get the attorney's opinion, but that can be done on the record.

There was discussion regarding a past meeting where there was a short recess to allow the applicant and the residents to come to an agreement. Ms. Yeckes clarified that that was between the developer and the homeowners, and that is allowed because they are not the decision makers. She said the PC should not participate in those types of discussions or listening to those discussions.

Ms. Yeckes said a correction is needed to I. P. regarding the term "publicized", which should be changed to "posted".

There was discussion regarding the election of officers and the possibility of a tie. One recommendation was to continue the vote until there is a full Board, but that might not be a workable solution. The PC agreed to flip a coin if there is a tie for the election of officers.

There was discussion regarding the number of terms a PC member can serve.

Mr. Hayutin said he would like to see that extended because the PC gets some really good people that have to retire.

Mr. Brummel said the Board has the final decision on whether or not any member can serve, regardless of the number of terms.

There was further discussion regarding term limits for County Commissioners.

Mr. Brummel asked if it is difficult to fill PC seats.

Ms. Yeckes said the PC is a very big commitment.

Mr. Larson asked about the East Arapahoe County Advisor Board. Ms. Yeckes said that board has chosen not to meet, and they are treated as a referral agency. There was discussion regarding this board's processes.

Ms. Yeckes discussed changes to section II.B.4. She clarified that the Planning Division Manager is the custodian of all the PC files, study items, etc. but the Clerk and Recorder is the official custodian of the minutes and actions of the Board. She said that is the distinction between files and records.

The addition to section IV.B. was discussed. Mr. Rosenberg clarified that the PC does not vote on whether or not to hold study sessions.

There was discussion regarding a change to IV.D.8 related to applicant rebuttal. Mr. Rosenberg said he is not comfortable with the word "rebuttal". There was debate regarding the wording of that sentence. The PC agreed that the word "rebuttal" should be omitted.

There was discussion regarding section IV.D.12.

Ms. Yeckes stated that there is no action needed from the PC.

**Adjourned at 7:30 p.m.**

---

**Arnold Hayutin, Chair**

---

**Joleen Sanchez, Asst Clerk to the Board**