

1 **ELK RIDGE PLANNING COMMISSION MEETING**

2 **June 9, 2011**

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5 **TIME AND PLACE OF PLANNING COMMISSION MEETING**

6 A regular scheduled meeting of the Elk Ridge Planning Commission was held on Thursday, June 9, 2011, at 7:00 p.m. at 80 East Park
7 Drive, Elk Ridge, Utah.

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9 **ROLL CALL**

10 *Commissioners:* Kelly Liddiard, Kevin Hansbrow, Debbie Cloward, Sharon Dahlstrom
11 *Absent:* Randy Jones, Dayna Hughes, Nelson Abbott, Dan Steele
12 *Others:* Marissa Bassir, *Planning Commission Coordinator*
13 Adam Castor, *LEI Planner*, Erin Clawson, *City Council*, Ray Brown, *Code Enforcer*, Kylee Hill, Brian Wall,
14 Nancy Wall, Julie Christensen, Cindy Dalton, Shamayne Mason, Lucretia Thayne, Jamie Towse, Janene and Chris
15 Thorpe, Elizabeth Weeks, Adonia Howell, Shelly Neria, Emma Neria

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17 **OPENING ITEMS**

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19 **OPENING**

20 Kelly Liddiard, Chair, welcomed at 7:05 PM. Opening remarks were said by Kevin Hansbrow followed by the pledge of allegiance.

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22 **DEBBIE CLOWARD MOTIONED AND KELLY LIDDIARD SECONDED TO VOTE SHARON DAHLSTROM,**
23 **ALTERNATE MEMBER, IN AS A VOTING MEMBER. VOTE: YES – ALL (3), NO – NONE, ABSENT – (4) DAYNA**
24 **HUGHES, RANDY JONES, NELSON ABBOTT, DAN STEELE**

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26 **APPROVAL OF AGENDA**

27 Kelly Liddiard, Chair, reviewed the agenda and there were not any changes.

28
29 **WALL CONDITIONAL USE PERMIT PUBLIC HEARING**

30 Kelly Liddiard opened the public hearing at 7:07 PM.

31 Lucretia Thayne indicated that she went to visit the Wall's residence when she saw there was a recommendation to deny their
32 conditional use permit. There were two letters that were complaining about the smell of chickens and she passed out "The Seven Myths
33 of Urban Chickens" to the planning commission. She claims the statements in the letters are inaccurate. Chickens are not noisy or
34 messy. They are far safer than dogs and cats. She compared the feces of ten chickens to produce the same as a medium size dog. She
35 finds that dogs are a far more dangerous thing. She read a myth of chicken noise. "Laying hens at their loudest have about the same
36 decibel level as human conversation." So chickens are going to disturb a neighbor as much as two people talking. In her experience,
37 chickens will occasionally squawk if something disturbs them or when laying an egg. At night, they are very quiet because they all go
38 into the coop and snuggle down. She does have neighbor dogs that wake her up in the night. She indicated on a map the distance from
39 the Brown's residence from the Wall Residence. The Brown's wouldn't know if they even had chickens because they are so far away.
40 There was also mention about skunks. Ms. Thayne also indicated that they have had skunks in their window wells twice since they have
41 been living in Elk Ridge and there were not any chickens around. Since they got their conditional use permit and have their chickens,
42 they have not seen one skunk. Food left out for dogs and cats, etc. is far more attractive to skunks than chicken food. Mr. Van Parys'
43 letter talked about his expectations when he moved to Elk Ridge and that was not chickens. When Ms. Thayne moved to Elk Ridge she
44 said there were chickens all over the place. So what is expected when moving to Elk Ridge sometimes doesn't impact where the city is
45 at presently. Mr. Van Parys worries about if chickens got into his yard with his dog. Ms. Thayne indicated that Ms. Wall has around her
46 house a solid, high vinyl fence and he has a vinyl fence around his yard. So the likelihood of that happening is very slim. If her
47 chickens got out into his yard, he is not responsible for what the dogs do to that chicken because they were invading his territory. If his
48 dog got out and invaded her yard that would be a different matter. Most of Mr. Van Parys letter is a rehash of stuff that went on with
49 adopting the code – much of it is inaccurate and written in a very emotional way. Nelson Abbott had pigeons legally under the code
50 prior to ever initiating anything about hobby animals. Ms. Thayne indicated she thought the law seems of being applied unequally in
51 favor of dogs over chickens. Ms. Brown should be reporting the dogs instead of worrying about chickens that won't impact her.
52 Shamayne Mason was also in support of Ms. Wall and her chickens. She has thoughts that the constitution states that we are all created
53 equal and it seems to her that in Elk Ridge she is seeing that the public has the right to life, liberty and the pursuit of happiness and there
54 are many who seem to want to determine what somebody else needs to pursue to be happy. She doesn't think that she read anywhere
55 that she has the right to impose how someone else is going to be happy on them or impose her value system on them. At the reference of
56 dogs and adding chickens to make more noise, she was thinking that chickens will make their noise at laying an egg for about 1-2
57 minutes a day and it could be a little loud. But for six chickens and a full day, that is an average of 12-15 minutes of noise over the
58 whole day. They put themselves to bed at dark and don't hear a peep until morning. They are pretty quiet. She is concerned at what
59 appears to be the desire to force issues upon people. That is really not the way she feels the city should be working. She is also sorry to
60 hear of intimidation or inaccurate betrayals of things that have been seen and she has been a participant of inaccurate portrayals that
61 have happened in her personal case. She would hope that truth, justice, logic and reason may soon return to the associations and
62 dealings in Elk Ridge.

63 Lucretia Thayne handed the Planning Commission a letter from her son. One of the reasons for denial was because of a code about
64 natural enemies being boarded together and she firmly does not believe that code applies to this case because natural enemies being
65 boarded together would refer to the same property, not someone two houses away.

66 Nancy Wall said that when she came and got her application for the permit from the city, they followed everything that was on that
 67 application to be in compliance. When Mr. Brown got back, he came and did the inspection for compliancy with them and he said there
 68 was a law – “General Regulations relating to animals: k: Incompatibility of Animals: Owners shall not allow animals which are natural
 69 enemies, temperamentally unsuited, or otherwise, or otherwise incompatible to be quartered together or so near each other as to cause
 70 injury, fear, or torment.” Mr. Brown specified that there were at least four bird dogs in the neighborhood. Ms. Wall was at a loss when
 71 he came because she felt she had done everything to be in compliance. Her chickens were wondering free. She assumed because her
 72 whole backyard was fenced in that would be okay. Mr. Brown said they need to have a run. So they have put posts in to complete the
 73 run and Mr. Brown saw those. *She asked her neighbors in the audience to stand.* Ms. Wall indicated those neighbors have dogs. Kylee
 74 Hill is the closest with a dog and Ms. Wall has not noticed any fear or torment in her chickens.

75 Kylee Hill indicated that she works in a veterinary office and there has been no sign of fear, stress or anxiety, which are all common
 76 symptoms of a dog that can see a chicken. She is pretty sure her dog is too stupid to even know what is on the other side of the fence.
 77 Ms. Hill didn't even know they were there for a month until she got the notice and she didn't notice an increase of barking with her
 78 dogs. If they haven't increased their barking and her chickens aren't stressed out, she sees no problem.

79 Nancy Wall indicated the Thorpe's also have a bird dog that is arthritic and is 11 years old.

80 Janene Thorpe said there is no problem because he doesn't even know there are chickens.

81 Nancy Wall said that Mr. Van Parys also has his two bird dogs and Ms. Wall understands that if their chickens get out and get out and
 82 get underneath the fence or get eaten, that is their responsibility. They are their pets, just like people who are pet owners understand that
 83 when their dogs or their cats get out they are responsible for them. She feels at a loss for where the specified code comes in not making
 84 them compliant. It wasn't on the application they had. Ms. Wall also indicated that she felt like she was being harassed by Mr. Brown
 85 for this code because when he was on city council he voted against chickens. So as a code enforcement officer, going to residents place
 86 to inspect the property, maybe it is better to get someone who is not living in Elk Ridge, cannot vote and hasn't voted on the city rules
 87 and regulations and laws so there may be an unbiased opinion on their compliancy.

88 Adonia Howell said she did not know that Ms. Wall had chickens until she got the notice in the mail and even after she got the notice
 89 did not know that she had chickens. She knows pretty much everyone who has a dog and how many they have and what sets them off.
 90 She can also tell when they have visited her yard. She has not known or heard Ms. Wall's chickens until that point. She also explained
 91 that they have chickens at her work and the residents love them. She doesn't hear them and she doesn't smell them when she goes out
 92 there. They are not a problem or a nuisance either. My husband agrees that Ms. Wall has done everything that she has been told to do.
 93 She is in compliance.

94 Erin Clawson indicated she has just come into a new position and has researched the code and the hobby animal code lists what has to be
 95 done in order to comply to get a permit. It doesn't say that they have to adhere to the animal code. The animal code in Title 5 is a
 96 municipal code and not a development code. She wanted the planning commission to be aware of that if they weren't.

97 Kelly Liddiard closed the public hearing at 7:24 PM.

98 Kelly Liddiard was curious to know why the staff is denying it besides the incompatibility of animals. He was there when the code was
 99 written and the intent of that code was for the same owner to have bird dogs and chickens. However, after the issue has come to light
 100 and after research, Mr. Liddiard thinks the code probably needs to be re-written to some extent because if one neighbor has dogs and the
 101 next neighbor has cats, they are incompatibility animals and that wouldn't work. He bets that they can find that on every street in every
 102 neighborhood in the city. So it is his opinion that that code has no bearing on the application in question because everyone else has been
 103 allowed to do it and it is kind of grandfathered-in in his eyes. So if there is another violation...that the coop isn't there or the run is not
 104 in existence then that is something that should be looked at. Other than that, he hasn't heard anything that she isn't in compliance.

105 Kevin Hansbrow remembers too; when the code was written and he agrees completely with Mr. Liddiard that it was mainly just to keep
 106 enemies out of the same yard more than off the same street. With just the exception of having the run done, he doesn't see why they
 107 would be out of compliance. Until they get the run done, there should be a time limit of how soon that will be done.

108 Brian Wall explained that it is just a matter of connecting the fence. It is there, they just haven't connected it yet. They need to connect
 109 the fence and put a top on it.

110 Sharon Dahlstrom indicated that she is new and needed to ask a question. In looking at code 5-2A-21k Incompatible Animals, she
 111 couldn't find the animal code and asked if there is another code for animal regulations.

112 Kelly Liddiard indicated that there is other code, but he couldn't tell her where it is. He also indicated that he read the night before and
 113 it says that there just needs to be a coop and a run area. That's as far as it goes. It doesn't say anything about letting them out.

114 Sharon Dahlstrom asked if it said anything about how big or how far.

115 Adam Castor said it has to be 24 sq feet.

116 Kelly Liddiard said the setback is 25 feet from adjacent buildings and six chickens are allowed.

117 Sharon Dahlstrom said that is a minimum of 24 sq. feet. The backyard can't be counted as a run.

118 Kelly Liddiard said the backyard cannot be counted as a run. It has to be a separate space.

119
 120 **KEVIN HANSBROW MOTIONED AND DEBBIE CLOWARD SECONDED TO APPROVE THE CONDITIONAL USE**
 121 **PERMIT FOR CHICKENS FOR THE WALL FAMILY ON CONDITION THAT WITHIN SEVEN DAYS OF TODAY (BY**
 122 **6/16/11) TO BE INSPECTED. UPON INSPECTION MEETS ALL THE REQUIREMENTS, SETBACKS AND SQUARE**
 123 **FOOTAGE FOR THE CHICKEN RUN. VOTE: YES – ALL (4), NO – NONE, ABSENT – (4) RANDY JONES, DAYNA**
 124 **HUGHES, NELSON ABBOTT, DAN STEELE**

125 126 **CONDITIONAL USE PERMITS REVIEWED BY CODE ENFORCER**

127 Adam Castor indicated that the code enforcer went around verifying some of the conditional use permits – Lynn's, Simmons', and
 128 Abbott's.

129 Kelly Liddiard asked the reason why they were checked on.

130 Adam Castor explained that was the condition of the approval of the conditional use permit. This was the first time they were inspected.

131 Ray Brown indicated he had visited three residents with conditional use permits and two of them were out of compliance.

132 Kelly Liddiard asked if Lynn's horse was non-compliant.
 133 Ray Brown replied that the Lynn's horse is not a miniature horse. It is a 49-52 inches and miniature horses are 34 inches or shorter. It
 134 was measured from the withers to the ground. Mr. Brown indicated that he agreed with Ms. Wall that the city should find someone else
 135 to do code enforcement because she is right that he lives in the community and nothing against Ms. Wall. Mr. Brown explained that
 136 Americans debate a lot. People think a person should be on one side or the other. Being a former law enforcement officer, he couldn't
 137 do that. Americans spend a lot of time debating and riding on an American's rights no matter which side of the political side a person is
 138 on. Americans love their rights and talk about them. It is a shame that Americans are not as enthusiastic with responsibility, which
 139 accompanies rights. To be assured, Americans have rights and the one they love the most is the right to speak freely and he is certainly
 140 no exception. Every fight that is engaged today revolves around some real or perceived human rights...Does everyone have to be
 141 responsible, as well as have rights? Mr. Brown believes Ms. Thayne has not given correct information. Mr. Brown believes there does
 142 need to be a code enforcement officer. He talked to the Lynn's who are very fine people. They do not have the horse they were sold. It
 143 was not a miniature pony. The horse is currently not on property and Mr. Brown doesn't know what they are doing. He also indicated
 144 there was another violation noted on the staff report, but not cited. [15-17 chickens on property without permit] Simmons moved their
 145 chicken coop to be in compliance. They told Mr. Brown that the Planning commission approved his chicken run as part of their
 146 changing of their non-compliance before the Planning commission would give them their conditional use permit. The chicken run is
 147 closer to the adjacent house than the owner's house. He gave them the code dimensions. The Simmons said it was in their submitted
 148 plan. Mr. Brown had the city pull the submitted plans and it is not in there. He asked them to fix that because it is not in compliance.
 149 Nelson Abbott's chicken coop and run are in compliance. He put about \$1500 into his coop and it is gorgeous.
 150 Kelly Liddiard said the Lynn's should be on notice that the horse cannot come back to the property because it is not a miniature horse.
 151 Sharon Dahlstrom commented that they are in non-compliance for chickens, as well.
 152 Ray Brown said they can't have both, but they did have chickens without a permit. He didn't cite them. Mr. Brown told them what they
 153 needed to do to apply for a conditional use permit for the chickens, but they couldn't have both chickens and a miniature horse.
 154 Kevin Hansbrow indicated that they need to be put on notice.
 155 Kelly Liddiard thought that they need to be noticed and that the horse cannot come back because it isn't in compliance. They also need
 156 to do something with the chickens.
 157 Kevin Hansbrow said they need to apply for a conditional use permit for their chickens and meet all the requirements. They need to be
 158 in the application process within the seven days from notice.
 159

160 SIMMONS CONDITIONAL USE PERMIT FOR CHICKENS

161 Kelly Liddiard personally thinks that people need to be in compliance with the code. He questions whether they should give him some
 162 time.
 163 Sharon Dahlstrom asked if they were also talking about the number of chickens.
 164 Kelly Liddiard said yes, they are talking about two violations – the run and the number of chickens.
 165 Ray Brown indicated that in his notes, the Simmons said they were getting rid of six chickens. He did go back to check that.
 166 Kelly Liddiard asked when he went back to check.
 167 Ray Brown indicated it was May 31, 2011.
 168 Planning Commission Assistant indicated that the Simmons was approved for a conditional use permit back on December 9, 2010.
 169 Kelly Liddiard asked if there was a verbal warning or if Mr. Brown just looked at it.
 170 Ray Brown said he just looked at it and gave her a copy of the letter that he submitted to the planning commission. He left the door open
 171 to fix the issues.
 172 Kevin Hansbrow thinks that they would be willing to cooperate, but they just need to be given a certain amount of time.
 173 Kelly Liddiard agreed and thought that the city should send the owners notice that they are out of compliance and they need to have it
 174 resolved by a certain amount of time, then their permit will be revoked.
 175 Planning Commission Assistant asked for a specific time frame.
 176 Mayor Pro-temp. Erin Clawson said the time frame should be the same as the others, seven days.
 177 Adam Castor said that he remembered the relocation of the run was part of the conditions with the approval.
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179 APPROVAL OF 5/12/2011 PLANNING COMMISSION MEETING MINUTES

180 There were not any changes made to the meeting minutes of May 12, 2011.
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182 **SHARON DAHLSTROM MOTIONED AND KELLY LIDDIARD SECONDED TO APPROVE THE MINUTES OF MAY 12,**
 183 **2011 PLANNING COMMISSION MEETING AS WRITTEN. VOTE: YES – ALL (4), NO –NONE, ABSENT – (4) RANDY**
 184 **JONES, DAN STEELE, DAYNA HUGHES, NELSON ABBOTT**
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187 CITY COUNCIL UPDATE

188 Erin Clawson indicated that Mayor Lutes resigned through the newsletter. The council voted for her to be the mayor pro-temp. They
 189 are taking applications until the 21st for mayor for the next five months to be appointed by the council on the 28th of June. There will
 190 also be a special election during the regular election time so during July 1-15 anyone can put their name in for the two years remaining
 191 for Mayor Lutes' term.
 192 Kevin Hansbrow asked if there were any applicants yet.
 193 Erin Clawson replied that there have been applicants. There was a special meeting to accept Mayor Lutes' resignation and to vote for a
 194 mayor pro-temp. They will be hiring someone to put the fence around the water tank so Corbett and his crew can work on other things
 195 such as curb and gutter. It has been long overdue for some residents in town that have paid for it. There was some sewer breakage
 196 where some roots were growing through the pipe and backed into a citizen's home and the city will be settling with them with the

197 insurance. Payson city came and helped Corbett. Corbett talked them into giving us a free demonstration. So the city council is facing
198 some expensive issues with the insurance company and how things are being monitored.
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200 **OTHER BUSINESS**

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202 **ADJOURNMENT** – Chair, Kelly Liddiard, adjourned the meeting at 7:42 p.m.
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Planning Commission Coordinator