

CITY OF SOUTH JORDAN
PLANNING COMMISSION WORK SESSION
OAK CONFERENCE ROOM
March 12, 2019

Present: Commissioner Mark Woolley, Commissioner Julie Holbrook, Commissioner Earl Jolley, Commissioner Sean Morrissey, Commissioner John Ellis, Commissioner Michael Haynes, City Planner Greg Schindler, Deputy City Engineer Jeremy Nielson, Staff Attorney Todd Sheeran, Planning Director Steven Schaefermeyer, City Recorder Anna West

Absent: Commissioner Sean Morrissey

Others: See Attachment A

5:45 P.M. – 6:30 P.M.

WORK SESSION

I. Review of Agenda and Training

Chairman Woolley opened the Planning Commission Work Session. All Commissioners are present except Earl Jolley and he will be here later for tonight's meeting and Sean Morrissey is excused.

Staff Attorney Todd Sheeran said first let's talk about the procedure. We have one item on the agenda that needs to be moved to go before the RMP item. One of you will need to make a motion to have that moved. As far as when we get to the RMP issue, Ryan and I talked about what should be the procedure of that. We would propose that the staff goes first and as part of the staff report Greg will turn some time over to me to clarify an item in the staff report. The applicant will be given 20 minutes for their presentation and then open for public comment. We had a criticism at City Council where the applicant presented after public comment and the public felt like they didn't get to raise some issues that the applicant brought up afterwards. Once you are done with that and before you make your motion that would be the appropriate time to ask me legally what can we do type questions. That way RMP has submitted everything and the residents have submitted everything and then we can start discussing the schedule.

Staff Attorney Sheeran said because the media is going to be here I advise you not to have any sidebar conversations, which is always an issue, no matter what public meeting you are in.

Planning Director Schaefermeyer said don't be afraid to ask what might be a dumb question. It is better to have that on the record even if it is uncomfortable to say I don't understand something than to turn to your neighbor and ask.

Staff Attorney said you should always have your cell phones down. Ryan and I have talked about setting a definitive time to end the meeting. As you know public comment can go a very long time even with putting a limit on each speaker's comments. The residents will be given 1-hour presentation and that will be done by multiple residents where one talks about one issue and another talks about another issue. You can say we have public comment cards to fill out by the speakers and they will be given 2 minutes each for their comment. After the residents presentation you could say we will limit the individual public comment period to 30 minutes.

IT Director Jon Day said you will see a timer in front of you and I won't stop it, I will just keep it running for you. Do you want that set for 1-hour? Staff Attorney said yes, the residents are pretty good a staying within their time limit. Then set 20 minutes for RMP, and 2 minutes on individuals.

Staff Attorney Sheeran said I think it would be important for you to make known, after public comment closes and after we are done asking the applicant follow-up questions, no more evidence will be considered or submitted. You may have questions and maybe it is something we have not looked into, where you can direct us to look into them without receiving new evidence. We have told them time and time again that this is the hearing that they submit evidence so this is the last scheduled meeting that we can have to clear that 45 day period. RMP has told us that they are willing to extend the time a meeting or two, depending on, we want to make sure we have a written decision where you can vote on it. We want to have the written decision clean, condensed and clear. They have agreed to extend it until at least the next meeting on the 26th.

Chairman Woolley said if we did defer two weeks to the next meeting, and then made a decision there, we still would have two weeks to approve the minutes. Staff Attorney Sheeran said I would likely be prepared with a written document where the vote gets passed on the written document. That can be circulated before the meeting.

Commissioner Ellis said so the staff has a recommendation like they do on all others to approve? Staff Attorney Sheeran said yes, with certain conditions. You might possibly receive more evidence so I don't know what the condition may look like at the end of the meeting, but our recommendation is to approve with conditions. I will make a clarifying statement to the public during Greg's staff report. In our conversations with RMP and talking to the Ombudsman several times, we determined that one condition can satisfy the two anticipated detrimental effects from staff's eyes. Because they are a Public entity as opposed to a developer, they have the statutory condemnation right. So they have that right under state law to get those easements if needed. They can get those easements before or after the work is done.

Planning Director Schaefermeyer said that is why we will give some time to Todd to explain that in the Public Hearing. If you have questions about that, hold off until the Public Hearing so that the residents are also privy to that and there is no question about where the change is coming from and why.

Staff Attorney Sheeran said when Greg is going through the staff report he will then turn time over to me and I will go over my complete analysis. Here is a sheet (Attachment A) of my proposed language. I printed off extra copies to have available for the residents to show what staff is proposing.

Commissioner Holbrook asked about adding an appropriate property value analysis to that. Is that something we can put on as deficient?

Staff Attorney Sheeran said we received an email from RMP and the appraiser that did that cover letter clarifying that the statement made in the cover letter versus the study. You will receive that today.

Chairman Woolley said in that last sentence "*Apart from this process and in accordance with Utah Law, RMP shall pay just compensation for the properties that a court determines are devalued.*" We are talking real estate at that point not easements? Staff Attorney Sheeran said that goes to the eminent domain process and the just compensation that occurs during eminent domain. In talking to the Ombudsman, he pointed us to a case that ultimately says that people are entitled for just compensation if there is a taking that took place on the property and for a recognized property right. So the properties outside of this

proposal is outside of that taking. For instance if someone said their view was obstructed and the court says a view is not recognized property and none of their property was taken.

Chairman Woolley said there are cases with RMP in Utah where they got paid compensation for devaluation of property where this has happen. Not a view but they put large power poles where smaller ones existed. It had nothing to do with an easement, nothing to do with views just simply the devaluation of property.

Staff Attorney said that is part of the process of eminent domain. They pay the damages of the affected properties.

Staff Attorney Sheeran said my legal opinion is that the property valuation cannot be a condition. They paid for that easement and whatever that easement says back in 1958.

Commissioner Hayes asked I did some research to see how other cities have reacted to public input regarding power lines like this. Are you aware of RMP making any concession or recommendation from other cities? Staff Attorney Sheeran said I don't think they are saying what they have done in other cities.

The question was asked what Draper is doing on this. It was noted that the line is complete in Draper. City Planner Schindler said there were no residents to deal with in Draper, it was just commercial.

Planning Director Schaefermeyer said my only comment is to give as much direction to Todd on what needs to be in the decision so when he drafts it there are no surprises.

Staff Attorney Sheeran said I believe you will be asked to consider things that are outside of your purview and in the staff report I point to two things, both the alternative route study and the score cards, ultimately that's a City Council determination. I would anticipate certain things coming up that is not properly before you. I would be prepared to discuss it and you can ask me questions.

Chairman Woolley asked what things are off the table. Planning Director Schaefermeyer said we encouraged, Jana Fullmer specifically, to provide us as much as possible of what they were going to present so we are not entirely sure. It is basically what Todd has pointed out and some issues that go back to safety and policy issues. In general this idea that RMP has their regulatory bodies and an engineer that designed it according to the regulations that they are required to follow.

Commissioner Holbrook asked if someone submits new information and one of us wants to read that information in detail, can we not vote tonight or what? Staff Attorney Sheeran said you can, the issue then becomes the shot clock. RMP verbally agreed to us on the phone that they are willing to extend the time for one or two meetings. Mr. Schaefermeyer said I would give an opportunity for RMP to respond as well. We can request some additional information; the challenge is how does it not get to where they provide additional evidence and we are continually arguing around a subject that just needs to be decided.

Chairman Woolley asked if we need to get more than a verbal that RMP has given you so far. Staff Attorney Sheeran said we need to get the verbal. You need to ask them if they are willing to extend it to the next meeting on a specific date. Then you can direct us as staff.

Planning Director Schaefermeyer said we have given the residents notice that this is your evidentiary hearing so if there is some way to avoid having another evidentiary hearing that would be best. I would have that conversation and find something that works for everybody. That makes a clear expectation for RMP and for you as a Commission. Be very specific about what you need and be very specific on how we

get that information, who is giving that information and how that will play into the decision. It is all of our best interest, RMP, the neighbors, the City, anything that is on the table, if it is legitimately on the table, let's look at it.

Staff Attorney Sheeran said I am prepared for any questions you have with the big topics that we point out in the staff report, the easement issue, and my legal response and in correlation with that, the devaluation of property and I will explain all of that in the public hearing. EMFs is kind of a safety issue and I am prepared to give my opinion on the consideration of that issue. The safety and design encompasses a large majority of their remaining issues. This all goes back to the same safety issues.

Commissioner Ellis asked if the pole count will be the same or will they have taller poles and longer distances between. Staff Attorney Sheeran said I think they are prepared to address that.

Planning Director Schaefermeyer said if anything is unclear, let's ask them.

City Planner Schindler said there is one woman that has health issues and can't come to the meeting. A neighbor of hers send me an email with a video that she recorded for her to have heard. My suggestion is that should be the first public comment right after the resident's presentation.

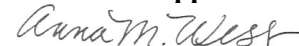
City Recorder Anna West asked everyone to speak directly into the mic. When someone sits back in their chair away from the mic their voice is not picked up in the recording and that makes it difficult when doing the meeting minutes.

ADJOURNMENT

Commissioner Holbrook motioned to adjourn the March 12, 2019 Planning Commission Work Session. Commissioner Ellis seconded the motion. Vote was unanimous in favor.

The March 12, 2019 Planning Commission Work Session adjourned at 6:30 p.m.

This is a true and correct copy of the March 12, 2019 Planning Commission Work Session minutes, which were approved on March 26, 2019.


South Jordan City Recorder

Deputy Recorder Cindy Valdez prepared the meeting minutes