Minutes of the Ogden Valley Planning Commission Regular meeting December 06, 2016, in the Weber County Commission Chambers, commencing at 5:00 p.m.

**Present:** Laura Warburton, Chair; Will Haymond, Jami Taylor, Robert Wood

**Absent/Excused:** Greg Graves, John Lewis, John Howell

Staff Present: Rick Grover, Planning Director; Scott Mendoza, Assist Planning Director; Ronda Kippen, Principal Planner; Charles Ewert, Principal Planner; Courtlan Erickson,Legal Counsel; Kary Serrano, Secretary

***\*Pledge of Allegiance***

***\*Roll Call***

1. **Consent Agenda:**
   1. **Rules of Order:** Approval of the Rules of Order

**MOTION:** Commissioner Haymond moved to approve consent agenda item: Rules of Order. Commissioner Wood seconded. A vote was taken with Commissioners Haymond, Taylor, Wood and Chair Warburton. Motion Carried (4-0)

Director Grover said this next request is to vacate a portion of a public right-of-way; typically an area that has been designated a public right-of-way, it ends up being dedicated that way through a subdivision plat. In this instance, they have a piece of land that is being requested to vacate a portion of the Old Snowbasin Road. As the Planning Commission reviews this item, staff noticed it as a public hearing, and if there are any public comments, the Chair needs to open and close the public hearing. After the Planning Commission makes a recommendation; whether it be a positive or negative recommendation. If this is an item they do not feel comfortable reviewing they could table this, but they need to make some type of action on this item. Then staff will forward their action to the legislative body which will be the County Commission; who will then make a formal determination on this. On the screen is an aerial view of the actual street vacation on the dedication plat that was being proposed. The applicant, Roger Dutson will be presenting; and after his presentation there will be a presentation by Ronda Kippen.

**2. Petitions, Applications and Public Hearings**

**2.1. Legislative Items**

**a. New Business:**

**1. EV 2016-05:** A public hearing to consider and make a recommendation on a request to vacate a portion of the Old Snowbasin Road, a dedicated public thoroughfare located at approximately 5923 Snowbasin Road.

Roger Dutson, Applicant, 5923 Snowbasin Road in Huntsville, said he built a house on this property about 20 years ago, and their entrance runs through this area that he is asking to be vacated. That has been a road for maybe 40-50 years before they built and that was just a dirt road into the parcel. They got the approval from the state who owned all of this back then, and then they conveyed it back over to the county when they built the road going over to Snow Basin. They finally got to the point with the last few years where Snowbasin Road has slipped so greatly down below on his north border; and it has even been closed for short periods of time, before the county got it filled when they had big drop offs over there. The county needs an additional road easement area down there; he would be happy to give all the road easement they need to do whatever they need to do. The subdivision plat that he would be filing, will be after the vacation of the easement if it’s vacated and shows the area that is quite a large area down where it’s needed for the county, and it will be on the tax role if it is approved.

Ronda Kippen said the item for tonight is a legislative item; they are looking for recommendation, either positive or negative to vacate a portion of the Old Snowbasin Road. This area is not going to impact a public thoroughfare along that road. The area is approximately 1.6069 acres that would be vacated. When an easement is typically vacated, it basically vacates 50% to one property owner and the other 50% to the other property owner. The way this lays out, it would vacate directly to Mr. Dutson, because there is not a property owner to the other side of the easement that would benefit from the vacation of the public thoroughfare. Courtlan Erickson, Legal Counsel said they are not making any representation about who would legally own that land afterwards. They’ve made it clear in the past conversations with Mr. Dutson, and he understands that fully, when the county vacates it, the county doesn’t decide who gets it, it passes to whoever has the legal right to it. That’s an independent separate issue that the county doesn’t deal with or has to deal with, and Mr. Dutson is aware of it. Based on Mr. Dutson’s willingness to dedicate this property to the county, that is the good cause they were able to find to make a positive recommendation for this vacation. Staff does not feel it would be harmful to the public interest, or it would materially injure any of the public. This could hopefully help us get some maintenance on that road and maybe save the taxpayers in the future.

Ronda Kippen said in reviewing it, she wanted to look at the conformance to the general plan, and address a couple of areas out of the general plan. The transportation goal in the Ogden Valley General Plan is to ensure the Ogden Valley has a transportation system that enhances mobility and connectivity, reduces congestion, and meets air quality standards without disturbing existing land uses. Old Snowbasin Road is the existing local road that is not currently nor proposed to be a collector or arterial thoroughfare into the Ogden Valley. The vacation of the subject property that is currently part of the public thoroughfare known as Old Snowbasin Road will not reduce the existing streetscape design nor have a negative effect on the “Active Transportation Plan” outlined in the Ogden Valley General Plan for a “Proposed Category 2: Bike Lane.” Staff does recommend approval of the vacation based on the conditions listed in the staff report and the recommendations are based on the findings listed in the staff report.

Chair Warburton opened for public hearing, there were none, and closed for public hearing.

**MOTION:** Commissioner Taylor moved to recommend for approval EV 2016-05 which is a request to vacate a portion of the Old Snowbasin Road, a current dedicated public thoroughfare located at approximately 5923 Snowbasin Road. This positive recommendation is based on (a) determination that a good cause exists for the vacation; (b) the public interest or any person will not be materially injured by the proposed vacation; and (c) conformance to the General Plan. This motion is based on the applicant staff’s presentation, based on the public hearing, and the accompanied staff report and the finding listed there in. Commissioner Haymond seconded. A vote was taken with Commissioners Wood, Haymond, Taylor, and Chair Warburton voted aye. Motion Carried (4-0)

**2. DISCUSSION: ZTA 2016-06:** To discuss and take public comment on a proposal to amend the following sections of Weber County Code: Definitions (§101-1-7), Ogden Valley Lighting (§108-16), and Ogden Valley Signs (§110-2) to provide clearer standards for outdoor light and outdoor lighting devices in the Ogden Valley in order to support dark sky-viewing, astrotourism, the Dark Sky accreditation of North Fork Park, and the Ogden Valley General Plan.

Charles Ewert said the public hearing that was scheduled for tonight, even though it was noticed in the newspaper, it didn’t get noticed on the website, it didn’t get noticed on the Right to Know Website, the Utah Public Notices Website, so they cancelled the hearing and just want to have a have discussion. If all works out, they will vent out any issues and come back January 03, 2017 meeting with a complete ordinance ready to be adopted and have public hearing at that time.

Charlie Ewert said let’s start with Page 22 of 48, on Page 1. He will be referring to the number on the bottom of the page. He went in and added a number of definitions in order to support the Ogden Valley Outdoor Lighting Ordinance.

Charlie Ewert said on Page 2. He changed some of the sign definitions, and Line Item 77 “Sign Face” was transposed to “Face Sign” in the ordinance and we are just trying to fix some of the problem areas as well, and just trying to clarify what kind of definitions in the sign code.

Charlie Ewert said on Page 3. This page is where we go straight into the Ogden Valley Outdoor Lighting Statute.

Charlie Ewert said on Page 4. This page is mostly strikeouts.

Charlie Ewert said on Page 5 starts into the General Standards, that’s where they talk about the four basic standards of outdoor lighting in the Ogden Valley. He read Section 108-16-3 – General Standards, Section 108-16-5 – Specific Standards, and Subsections (1) through (6). Page 6 continued with Sign Lighting and the rest was all strikeouts.

Charlie Ewert said on Page 7. This page is all strikeouts.

Charlie Ewert said on Page 8 Exemptions, he gives a list of things that should be exempt from the requirements of the code and he applied a few additions, in order to get this exemption they have to do x, y, or z, before they could be exempt. He read Section 108-16-5 – Exemptions, Line Items 284 through Line Items 303.

Charlie Ewert said on Line Item 304, Subsection (5) Historic Antique Lighting. He wasn’t sure in the last work session why they would exempt historic and antique lighting, if they could be retrofitted to still have the shielding necessary to make it comply. The response from the commission was that they had decided that should be held in the same standard. Director Grover said they have looked at fixtures and they could easily be retrofitted.

Charlie Ewert said on Subsection (6) Holiday or Festive Lighting and read Line Item 307 through Line Item 312, and said string lights cannot stay up permanently and needs to come down once a year. It’s still in the code regarding string lighting and its output lighting. They will get into that and some of these can overlap. Festive lighting in the output lighting that could be an overlapping term.

Ron Gleason said they could put the lights up one day and take them off the next day and then put them back up the following day. Mr. Ewert replied that is correct and they wanted to make sure that it was at least required to take them down once per year. From what he understood from the Planning Commission, maybe they don’t want to get into that level of regulation.

Charlie Ewert said on Subsection (7) Low Output Light Source, and read Line Item 313 through Line Item 317. Let us do the same calculations that they do for canopies and figure out what are they intending to light, and how many lumens per square foot is that. They could say for our large area, we are intending to light an acre of land and take the full amount of lumens per square foot in this small spot where it’s bright in this one spot.

Chair Warburton asked on Page 7, Section 108-16-8 c. it states that penalties are outlined in this land use code. She couldn’t find any penalties. Mr. Ewert replied it’s not in the lighting ordinance; its elsewhere in the land use code, he didn’t include it in here and probably should have. There is an enforcement penalty that is in General Provisions in Chapter 1, and he believed it’s either Class B or Class C misdemeanor and that is on Line Item 451, Section 108-16-8 (b).

Chair Warburton referred to Page 5, Line Item 220 through Line Item 226 and asked if that meant that light coming out more than 50% out of the window. Mr. Ewert replied if it’s residential it falls under Category A, so that is exempt in residential and agricultural uses. He is talking about commercial, and if you are standing outside on the street, and can see any of the lights inside those windows, then the cumulative area of all those openings, 50% of that light cannot trespass through.

Charlie Ewert said on Page 9, Subsection (9) Motion Sensor controlled light source and he didn’t specify that. This is a good deal with a number of lights that are out there are going to be no retrofit necessary except putting a timer on that. The timer could be a light switch so if you light that up; and people could easily do that and replace out that light switch with some kind of motion sensor or timer.

Charlie Ewert said on Page 9, Subsection (11) Safety or Security Lighting this one he revised and he wanted to make it very clear what the standards are: Submit to us proof from your insurance company, that they are going to go after you if you don’t change your lighting situation.

Charlie Ewert said on Page 9, Subsection (12) Special Event Lighting that was one that Commissioner Lewis was advocating in the last meeting. He read Line Item 351 through Line Item 355.

Director Grover indicated that Mr. Mendoza said that there is no noise ordinance. Chair Warburton replied that she thought there was one. Director Grover said that he was going to do some quick research. Mr. Ewert said that noise could be construed a nuisance but we haven’t set a standard on what that is, so it would take a court to make that determination.

Charlie Ewert said let’s focus on Part B and come back to Part A. Special Events shall not occur more than twice per month, is everyone okay with that. The response was yes. Mr. Ewert said that get’s him back to Part A, we’re not saying no light after 10, what we’re saying is lights that don’t comply with referenced ordinance.

Charlie Ewert said on Page 9, Subsection (13) Underwater Lighting, and as long as you are not trying to get away with lighting something above the water, because underwater lighting is exempt. Oh put a big spot light under your pool to light up your statue.

Charlie Ewert said on Page 9, Subsection (15) Tower Lighting, and he is talking about FAA Towers and we want to make sure there are some exemptions. However, the FAA minimum would be the county’s maximum.

Charlie Ewert said on Page 9, Subsection (16) Traffic Control Devices, they can’t say no streetlights, and they could try and in their General Plan states no traffic lights.

Charlie Ewert asked if there were any questions on exemptions. Of all the other ordinances he has read, this is the most comprehensive list of exemptions.

Charlie Ewert said on Page 10, Section 108-16-9 Procedures for Compliance, they are basically saying that they need to provide certain additional things with your application; whether it’s design review, building permit review, land use review, and that’s what needs to come in with the permit.

Charlie Ewert said starting on Line Item 395 Land Use Authority, may require the applicant to submit photometric schematics and attestation from a qualified professional that the submittal complies with this chapter. What is important to acknowledge here, the chapter does not talk about foot candles on the ground.

Charlie Ewert said on Page 11, Section 108-16-7 Required Replacement of Nonconforming Outdoor Lighting, and Line Item 412. He took out amortization and put in replacement. This is our seven year standard; if before seven years you plan to modify the building of the site to a certain threshold; you will also be bringing up your lights to that standard. If we do eliminate residential and agricultural from the applicability of this; are there any standards in the applicability that should stay. .

Assistant Director Mendoza said as far as the education component, the Planning Division is working with Starry Nights, and when we create a project for residential in Miradi, Starry Nights is one of the review agencies Starry Nights is aware of that and they go down and have a conversation and educate developer. They offer expert attorney written CC&R’s, they offer resources to the developer and the homeowner in trying to find lights and fixtures that are in compliant and that research is done for them. Starry Nights is being very careful in not implicating the County with the night sky or the ordinance.

Charlie Ewert Charlie Ewert said on Page 11, Section 108-16-8 Violations and Enforcement. He will get in there and mandate for the county to provide education. He wants to run that by legal before he does anything to forming an ordinance, he should have something back on January 3rd that has the provision.

Charlie Ewert said on Page 14, Section 108-16-15 Examples of recreation facilities. He talked to both Ski Resorts, and they said it’s more than likely they know how to do it; they aren’t going to use that much light. Those huge light poles are going to have very long tubes at the end of them to hide that bolt from offsite area.

Charlie Ewert said that phase out that we have on the lighting ordinance, he could easily copy and paste it and do a side code if you want to see that. Giving up the seven year phase out and they have to be in compliance. Or they can do any site improvement will require a sign replacement. In the State Code there are protections for signs; it is only relevant to Billboards, and he think.

Chair Warburton said on Page 11, Section 110-2-4 Non-conforming Signs. She said she was confused by this and read Line Item 345 through Line Item 347, and even though it was out of conformance, what if they change a sign. Mr. Ewert replied if you change the message on the sign, according to our nonconforming section and this division, the county cannot require you to replenish that sign. But if you change the structure of a sign, then you need to bring it into compliance.

Charlie Ewert said they have a lot of nonconforming signs and a provision in the sign code that are now non-enforceable due to the Supreme Court decision that was made last year. It was determined that that if you have to read the sign to determine what kind of sign it is, that it was an illegal infringement on the first amendment freedom of speech. The way the current provision is, a property owner can be out of compliance; and can be nonconforming provided that it was grandfathered from a previous ordinance.

Charlie Ewert said on Page 16, Section 110-2-11 Temporary Sign Usage and asked if the commissioners had any questions on the tables. There was no response.

Charlie Ewert on Page 24, Section 110-2-12, Sign Materials and Display Standards, and the only reason we dived into sign is because of the lighting. Essentially we had two different provisions, one was internal illumination and the other was external illumination. We removed internal illumination all together and just talked about illumination. We don’t specify what internal illumination is; just that the light has to be downward directed shining only on the sign face so that the parameter with the light doesn’t go more than six inches beyond that sign face when it’s on flat wall. There is a little bit of caveat for the Halo; by its nature Halo reflects off a surface and that’s okay. We can also say if we can’t tell that you comply, then we can ask you to bring in a professional photometric plan for signs. The difference with the sign is the bulb is here, the sign is here, so the lumens difference between that distances is not that much. He just took an estimated guess on that picture that it’s 1650 lumens all together.

Charlie Ewert said on Page 25, Line Items 543 through Line Item 552, there are a lot of strike outs and restructured external and internal.

Charlie Ewert said on Page 25, Subsection (12) Sign Area, Line Item 586 through 590. There is a standard for it here and a definition for it, so he just struck it out and said see Section 101-1-7.

Charlie Ewert said on Page 26, Section 110-2-15 Examples of Sign Illumination and he put in some picture. He had a request from the Ogden Valley Starry Nights to choose a different sign so he will be looking for something else that is not yellow and red is not attractive colors and don’t fit with the community character.

Charlie Ewert said prior to 2010 it said the sign face had to be of colors, earth tone in nature, muted colors that are not bold colors. This question was mainly proposed to the Starry Night folks if they would be able to consider in putting that back into the sign code. Right now the sign code says support structures shall be of a certain materials and muted earth tones and didn’t know what the legislative intent was to remove it.

Director Grover said the other point you need to look at to is, the General Plan also talks about village areas. When we started looking at those village areas, we are going to be looking at possibly at foreign based code. Those areas we’ll plan to identify that area for that specific architectural style which the General Plan talks about. If we start getting into too much detail on this right now, I think we might be doing some disservice to the village area planning.

Charlie Ewert said we have a request from the Ogden Valley Land Trust to allow them to erect a historic farm sign on a historic farm. Right now the proposal that they have which they say looks a lot like the sign that you see over in the park. Technically that is a pole sign and pole signs are not allowed. They are requesting since the sign code is open to see if enough of the Planning Commission would be amenable to allowing something like this for Legacy Farm. Under the new read case, if you have to read the sign and know what kind of sign it is, you are regulating free speech and you can’t do it. So if we have to read that sign to know that it is a historic sign, we are regulating free speech.

Chair Warburton opened up for Public Hearing.

Ron Gleason, who resides in Huntsville, gave a presentation about Dark Skies and the importance of maintaining IDA Accreditation, the involvement of everyone that has worked diligently to keep that status. How Ogden Valley is not only competing locally to maintain their status but also worldwide, and the importance of this ordinance. There are going to be some pressure for the county to figure out these processes are and how to do the education, and how to iron out the process.

Ron Gleason said on Page 9, Section 108-16-5 Subsection (10), about the indoor lighting projecting out. Part of the discussion at the work session was single residential versus multi-family. On there it just says residential, does that mean single family or multi-family. We talked about Page 9, Section 1008-16-5 Subsection (12) Special Events and Special Lighting, and Commissioner Taylor brought up the Kelley Creek Farm Agri-Tourism. They have all year lighting which is up, and if you do something special, is that going to bleed over and affect the Agri-Tourism. On Section 108-16-5 Subsection (3) Exemptions of Federal and State facilities; does that include churches or is it just federal and state, because there are a lot of improvements that need to be done on those there.

Chair Warburton closed for Public Hearing.

**2.6. 3. Public Comment for Items not on the Agenda:** None

**4. Remarks from Planning Commissioners:** Chair Warburton introduced and welcomed Steve Burton, the new Planner II.

**5. Planning Director Report:** None

**6. Remarks from Legal Counsel:** None

**7. Adjournment:** The meeting was adjourned at 8:25 p.m.

Respectfully Submitted,

Kary Serrano, Secretary,

Weber County Planning Commission