



**CITY OF ELEPHANT BUTTE PLANNING & ZONING COMMISSION**  
**REGULAR MEETING - OPEN TO THE PUBLIC**  
**Tuesday, March 3, 2020 - 9:00 am**

## **Minutes**

### **1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chairperson Nathan LaFont called the meeting to order and Commissioner Tami Smith led the Pledge of Allegiance.

### **2. ROLL CALL**

Clerk-Treasurer Rani Bush conducted roll call:

Chairperson Nathan La Font – Present  
Vice Chairperson Cathy Vickers – Present  
Commissioner Patsy Barnett – Absent  
Commissioner Sheridan Fuss - Present  
Commissioner Charles Looney – Present  
Alternate Commissioner Tami Smith – Present

In the absence of Commissioner Barnett, Alternate Commissioner Smith served as a voting member at this meeting. Clerk-Treasurer Bush declared a quorum was present.

### **3. DECLARATION OF CONFLICT OF INTEREST & STATEMENT OF OPEN MEETINGS ACT**

*\*The Open Meetings Act is in effect and there is a three-minute limit per speaker on all non-agenda items.*

Commissioners Fuss and Smith declared that there might be a conflict of interest regarding Item 12a Home-Based Businesses. Chairperson LaFont said their input is welcome but they might have to recuse themselves from voting depending on the motion.

### **4. APPROVAL OF AGENDA**

Commissioner Fuss made a motion to approve the agenda with the amendments of adding the year and changing the alternate commissioner's name from Rick Harrison to Tami Smith. Commissioner Looney seconded. 5-0. Motion Carried.

### **5. APPROVAL OF MINUTES**

#### **Approval of Regular Meeting Minutes February 4, 2020**

Vice Chairperson Vickers made a motion to approve the minutes with the amendment of changing the last word of the second paragraph on Page 3 from "life" to "lift." Commissioner Looney seconded. 5-0. Motion Carried.

### **6. PUBLIC INPUT**

None

## 7. COMMISSIONERS' COMMENTS

**Commissioner Fuss** asked City Manager Vicki Ballinger to relook at the pothole situation on Country Club road. She said she would along with Field Ops Manager Brian Burlage.

**Chairperson LaFont** had a discussion with City Attorney Ben Young about the appeals process. If the Commission makes a ruling that is appealed to City Council, the standard procedure according to the State is a record review. Typically it is officiated by City staff or legal counsel who would present the case to the Council. During that time they would review the overview, testimonies, discussions, final rulings, and any facts and findings. It is not a new hearing or a re-hearing. The Council would look at the record to discover whether or not P&Z was faulty with their decision.

City Council would either overturn the decision or uphold it. If it is upheld, then the applicant has the option to take it to district court. If City Attorney Young presented it to Council, he would have to recuse himself from this hearing. The City would have to get a different attorney since he already has an opinion.

Chairperson LaFont will be working with City Manager Ballinger to write up the procedure for P&Z. Fire Chief Boone recommended that City Attorney Young be the one to present to Council because of the issues that the City had in the past with staff being the presenter to Council. Commissioner Looney asked about new evidence being presented to the Council. Chairperson LaFont replied that no new evidence would be presented; it would only be a review of what has already been presented to P&Z plus the minutes from the hearing.

## 8. CITY MANAGER REPORT

**City Manager Vicki Ballinger** explained that staff is currently busy with the transition of the golf course to Spirit Golf Management (SGM). SGM takes over March 15. There will be an open house on April 4 from 5-7 with free food. She is also working on a new leave policy for staff. After taking funding requests to Santa Fe, the City received \$400,000 from Capital Outlay for a water project and \$750,000 for Michigan Avenue from the transportation fund, unfortunately, nothing for sewer.

She looked into Colonias funds but missed the deadline for the current funding cycle. She is planning on applying next year. Colonias is big on sewer. She participated in a polar bear plunge the prior Saturday at the Dam Site. There were about 20 jumpers and 40-50 people overall. She had a meeting with Don and Janyce Smyth about Mescal Loop. There is an ongoing issue with drainage for years. There was an attempt to get funding back in 2015-2016 which fell through, but there is a plan. The City is still looking at ways to address the issue. The complaint was that Mr. G's property is a water collecting place. He has punched holes in his backyard allowing water to run out into his neighbor's properties.

Sunset Ridge Road has been blocked off with barriers, but people are pushing them away to access the road. Field Ops Manager Burlage and her are looking into other ways to close off the road. She regularly gets out in the community so she can stay aware of issues. She received advice from legal counsel that city councilors should not attend P&Z meetings due to possible conflicts of interest.

## 9. CODE ENFORCEMENT REPORT

Code Enforcement Officer Devon Jones was not present but provided the commissioners with his report in their packet. He does routine inspections which usually results in Code violations which he then addresses, (i.e. weeds). He's getting good responses from the community. Fire Chief Boone pointed out that thefts are increasing so if anyone sees something amiss, like an open door at a vacant home, please report it to the sheriff's office.

## 10. ZONING/LAND USE REPORT

**Fire Chief Toby Boone** passed out the zoning permits for February. There was one commercial permit to place two 40 x 8 storage containers on one of the storage lots. According to the new ordinance, the containers must be uniformed in appearance.

## 11. PUBLIC HEARING ACTION ITEMS

None

## 12. REGULAR ITEMS

### a. Discussion/Possible Action: Ordinance 191 - Home-Based Businesses

Draft regulations from the February workshop prepared by Chairperson LaFont were in the commissioners' packet. He also sent it to legal counsel. City Attorney Young was unable to work on due to other City issues. He will do his best to get a draft ordinance back to the Commission by the next meeting.

Vice Chairperson Vickers made a motion to postpone discussions on Ordinance 191 until the legal review is done. Commissioner Fuss seconded. 5-0. Motion Carried.

### b. Discussion/Possible Action: Rezoning of Espina Park

Chairperson LaFont pointed out the Commission needs to do some homework on Espina Park. Code Enforcement Officer Jones did confirm that based on Ordinance 180 it will be very difficult to develop in the future under the current code. The Commission then moved to an office with a map to discuss the area. Chairperson LaFont brought up that it might be better to change the R-1-C designation rather than to rezone the area. Vice Chairperson Vickers said she would research the lot sizes.

Vice Chairperson Vickers made a motion call the area San Pedro Loop and postpone discussion until further investigation is completed. Commissioner Fuss seconded. 5-0. Motion Carried.

### c. Discussion: Commercial RV Storage Lots - Moratorium Strategy

Chairperson LaFont explained that the moratorium expires on April 11 and a decision needs to be made about how to proceed. The City received no gross receipt tax from them by State statute. Visually, they are very unappealing along the City's main commercial corridor and there are drainage issues. Trash requirements are another big issue. Yet because of no sewer, other types of businesses can't be developed along the corridor.

Boat, vehicle, and RV storage facilities are under conditional use requirements. The owner has to have a zoning hearing. The Commission can create any conditions or requirements but needs to have guidelines. There is nothing in our Code. City Council can amend the classification and fee structures. It's P&Z's responsibility to look at things like access, entrances, refuge, screening, and drainage issues.

Chairperson LaFont led a discussion about next steps including creating conditional use requirements such as fire, safety, trash, building separation, screening/streetscape, landscaping,



ingress/egress, sewer/dumping, mini storage units, etc. Next, he suggested meeting with storage lot owners to get their input. He will also talk to the Mayor about it. He will work on getting a special meeting or workshop scheduled before the moratorium ends on April 11.

**d. Discussion/Possible Action: Ordinance 173 – Nuisance**

Chairperson LaFont stated the legal review is still pending on this ordinance.

Vice Chairperson Vickers made a motion to postpone discussion on Ordinance 173 until the legal review is done. Commissioner Looney seconded. 5-0. Motion Carried.

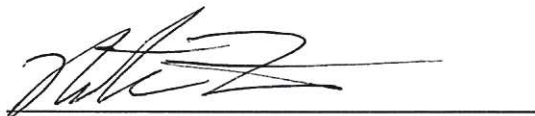
**e. Discussion/Possible Action: Ordinance 183 – Manufactured Home Standards (Age)**

Commissioner Smith made a motion to postpone discussion on Ordinance 183 until the legal review is done. Commissioner Looney seconded. 5-0. Motion Carried.

**13. ADJOURNMENT**

Vice Chairperson Vickers made a motion to adjourn. Commissioner Smith seconded. 5-0. Motion Carried.

***Minutes approved and adopted at the Planning and Zoning meeting on August 4, 2020.***



Nathan LaFont  
Planning & Zoning Chairman

ATTEST:



Rani Bush  
City Clerk-Treasurer

