CEDAR CITY PLANNING COMMISSION
MINUTES
March 15, 2016

The Cedar City Planning Commission held a Meeting on Tuesday, March 15, 2016 at 5:15 p.m., in the Cedar City Council Chambers, 10 North Main, Cedar City, Utah.

Members in attendance: Rich Gillette-Chairman, Craig Isom, Mary Pearson, Jennie Hendricks, Hunter Shaheen and Russ Olsen
Members Absent: Jill Peterson
Staff in attendance: Kit Wareham, Paul Bittmenn and Michal Adams
Others in attendance: Dave Clarke

The meeting was called to order at 5:15

ITEM/ REQUESTED MOTION	LOCATION/PROJECT	APPLICANT/ PRESENTER

I. Regular Items

1- Approval of Minutes (February 16, 2016) (Approval)

Craig moved to approve the minutes of February 16, 2016, seconded by Jennie and the vote was unanimous.

2- PUD Amendment (Recommendation)	**990 South Main/ Blvd. Plaza PUD Phase 1**	**BHF, LLC/ Platt & Platt**

Dave Clarke presented; explained how the sign for the Boulevard Plaza PUD is currently sitting on the parcel that will be sold or leased out. They wanted that sign on the Parcel #1 so they plan to move the lot line over just enough to get the sign off that smaller parcel.
Kit said it was a common sign for all the businesses within the PUD and they want it to be a part of the Boulevard Furniture parcel.
The sign was pointed out and how they will move that parcel line over 8' to get the sign on the parcel they want it on.
Jennie askedf if this created any problems with that entrance area. It will not.

Jennie moved to give a positive recommendation for the amendment to the Boulevard Plaza PUD. Seconded by Mary and the vote was unanimous.

The meeting adjourned at 5:27

II. Staff Items

1- New Member Training **Paul Bittmenn**

Paul B. gave training to the three new members of the Planning Commission. See attached handouts.

Michal Adams

Michal Adams, Administrative Assistant

Training Handouts (17 pages)

Cedar City Planning Commission

New Member Training

Planning Commission Basics

March 15, 2016

Presented by the Cedar City Attorney's Office

I. Welcome

II. Land Use Planning

III. Sources of Legal Authority

A. U.S. Const. amend. V (Due Process of Law and Just Compensation)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, ***nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.***

B. Utah Const. Art. 7 (Due Process); Utah Const. Art 22 (Private Property for Public Use)

Sec. 7. [Due process of law.]

No person shall be deprived of life, liberty or property, without due process of law.

Sec. 22. [Private property for public use.]

Private property shall not be taken or damaged for public use without just compensation.

C. Utah Code Annotated Title 10, Section 9a (Municipal Land Use Development and Management Act) Web address to publically available copy of Title 10, Section 9a of the Utah Code - http://www.le.utah.gov/xcode/Title10/Chapter9A/10-9a.html?v=C10-9a_1800010118000101

Topics discussed in the Municipal Land Use Development and Management Act - purpose, definitions, notice, planning commissions, general plan, land use ordinances, subdivisions, appeals and variances, district court review.

D. Cedar City General Land Use Plan (2012 edition)

C. role of staff

D. politics is for politicians and not planning commissioners

E. relationship between general land use plan and the zoning ordinance

F. proper procedure for amending rules

G. legislative vs. administrative responsibilities

OPEN AND PUBLIC MEETING AND ETHICS TRAINING
March, 2016

L Open and public meetings act (UCA §52-4-101 through §52-4-305).

1. Public Policy §52-4-102

A. The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.

B. It is the intent of the legislature that the state, its agencies, and its political subdivisions: (a) take their actions openly; and conduct deliberations openly.

(Annexation boundary commission case) Keams-Tribune Com. v Salt Lake County Comm'n, 2001 UT 55 -the supreme court interprets the Utah open and public meetings act broadly to further the declared statutory purpose of openness; it therefore follows that the exceptions be strictly construed.

2. What constitutes a meeting §52-4-103(4)

A. Meeting means:

(1) the convening of a public body;
(2) with a quorum present, including a workshop or an executive session whether the meeting is held in person or by means of electronic communications; and
(3) for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power.

B. Meeting does not mean:

(1) a chance meeting;
(2) a social meeting;
(3) or the convening of a public body that has both legislative and executive responsibilities where no public funds are appropriated for expenditure during the time the public body is convened and the public body is:
(a) convened solely for the discussion or implementation of administrative or operational matters for which no formal action by the public body is required; or
(b) the public body is convened solely for the discussion or implementation of administrative or operational matters that would not come before the public for discussion or action.

3. What constitutes a quorum and public body§ 52-4-103

A. Quorum means a simple majority ofthe membership of a public body, unless otherwise defined by applicable law.

B. Quorum does **not** include a meeting of two elected officials by themselves when on action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

C. Public body means any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

1. is created by the Utah Constitution, statute, rule, ordinance, or resolution;
2. consists of two or more persons;
3. expends, disburses, or is supported in whole or part by tax revenue; and
4. is vested with the authority to make decisions regarding the public's business.

D. Public body does not include a:

1. political party, political group, or political caucus; or
2. Conference committee, rules committee, or sifting committee of the Legislature.

4. So what do you have to do when you have a meeting?

A. Open to the public § 52-4-201

1. A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.

2. Location -if on the same day as the regularly scheduled meeting has to be in the same place the regular meetings are held. EXCEPTIONS .. Notice and traveling tour, electronic meeting, emergency or extraordinary circumstances.

B. Notice § 52-4-202

1. Notice posted not less than 24 hours in advance including -agenda, date, time, and place;

* Notice to be posted at the principal office of the public body, said notice shall include an agenda that provides reasonable specificity

to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.

* public comments -a public body may not take final action on a topic in an open meeting unless the topic is listed under an agenda item and included with the advance public notice. So it is ok to have public comments, just not vote on the issue until it is properly on the agenda.

* Notices published on the State public notice web page, in a newspaper of general circulation in the local area, and at the location of the meeting.

2. Notice once a year.

* Each public body which holds regular meetings, scheduled in advance, is required to publish a yearly meeting schedule.

3. Emergency meetings.

* Emergency meetings may be held for unforeseen circumstances when necessary to consider matters of an emergency or urgent nature. Still have to give best possible notice including where the meeting will be located and what will be discussed.

C. Keep Minutes and Record § 52-4-203

1. Written minutes including date, time, place of meeting, names of members present and/or absent, the substance of the proposals discussed and summary of comments, a record by individual member of each vote taken, name and comments from the public. The written minutes are the official record of the meeting and shall be available to the public within a reasonable time. Must have a method of approving the minutes and must release them prior to approval, but may indicate that they are subject to approval.

2. Recording shall be a complete and unedited record of all open portions of the meeting from start to finish and be identified by the date, time, and place of the meeting. Must be made available within 3 days of the end of the meeting. The public may use their own recording device and make their own recording.

3. Site visits or tours where no vote is taken -minutes have to be kept, but

do not have to record.

4. No recording if executive session for deployment of security personnel or evaluation of a persons fitness or competence to perform their duties.

5. Closed meetings §52-4-204

1. Must have a quorum present and 2/3 vote to go into a closed meeting for which proper notice is given, and for proper purpose.

2. Can't approve an ordinance, resolution, rule, regulation, contract, or appointment in a closed meeting. H.B. 491, 2012 general legislative session specifically requires applicants for mid-term elected vacancies be interviewed in an open and public meeting.

3. During the open meeting where the closed meeting vote is approved the following information shall be publicly announced and entered in the minutes:

   A. The reason(s) for the closed meeting;
   B. The location where the closed meeting will be held; and
   C. The vote by name of each member of the public body either for or against the motion to hold the closed meeting.

4. If you hold a closed meeting (UCA §52-4-206):

   A. Shall make a recording of the closed portion of the meeting (the recording shall be complete and unedited from the commencement to the adjournment);
   B. May keep detailed minutes that disclose the content of the closed portion of the meeting;
   C. Include in the recording and minutes: date, time, place, names of the members that are present or absent; names of others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of the meeting; and
   D. Don't record and only need affidavit if the closed meeting is for the discussion of the character, professional competence, or physical or mental health of an individual or the discussion regarding deployment of security personnel, devices, or systems.

5. Can close a meeting only for the following reasons (UCA § 52-4-205):

   A. Discussion of the character, professional competence, or physical or mental health of an individual;
   B. Strategy sessions to discuss collective bargaining;

C. Strategy sessions to discuss pending or reasonably imminent litigation;

D. Strategy session to discuss the purchase, exchange, or lease of real property if the public discussion of the transaction would:

1. Disclose the appraisal or estimated value of the property under consideration; or
2. Prevent the public body from completing the transaction on the best possible terms;

E. Strategy sessions to discuss the sale of real property if:

1. Public discussion of the transaction would:
   A. Disclose the appraisal or estimated value of the property under consideration; or
   B. Prevent the public body from completing the transaction on the best possible terms;
2. The public body previously gave public notice that the property would be offered for sale; and
3. The terms of the sale are publicly disclosed before the public body approves the sale;

F. Discussion regarding deployment of security personnel, devices, or systems;

G. Investigative proceedings regarding allegations of criminal misconduct; and

H. Discussion by a county legislative body of commercial information.

6. Disruption of a public meeting (§25-4-301)

The Open and Public Meeting Act does not prohibit the removal of any person from a meeting, if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

7. What happens if the open and public meeting act is violated §§ 52-4-302, 303, 304, and 305

A. Final action taken in violation of the act is voidable by the district court, within 90 days or 30 days for bonds.

B. Suit to compel compliance, includes an attorney fee provision.

C. Action to challenge a closed meeting. In such an action the Judge will review the records of the closed meeting in private. If the Judge finds the closed meeting violated the act the Judge shall publicly disclose the portions of the closed meeting that violated the act.

D. Criminal liability -in addition to any other penalty under this chapter, a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.

II. Municipal officers and employees ethics act CUCA §10-3-1301 through §10-3-1312).

1. Purpose (§10-3-1302) -to establish standards of conduct for municipal officers and employees and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.

2. Definitions (§10-3-1303).

   A. "Appointed officer" means any person appointed to any statutory office or position or any other person appointed to any position of employment with a city.... including, but not limited to, persons serving on special, regular, or full-time committees, agencies, or boards whether or not such persons are compensated for their services.

   B. "Assist" means for an officer to agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.

   C. "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

   D. "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the governmental employer for or in consideration for personal services, materials, property, or any other thing whatsoever.

   E. "Elected officer" means any who is elected or appointed to the office of mayor, commissioner, or council member.

   F. "Improper Disclosure" means disclosure of private controlled, or protected information to any person who does not have both the right and the need to receive the information.

   G. "Municipal employee" means a person who is not an elected or appointed officer who is employed on a full or part-time basis by a municipality or ...

   H. "Private, controlled, or protected information" means information classified as private, controlled or protected by the government records

access management act.

I. "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least I Oo/o of the outstanding shares of a corporation or I 0% interest in any other business entity.

3. Use of office for personal benefit (§I0-3-I304).

A. It is a violation of the ethics act to:

I. disclose or improperly use private, controlled, or protected information acquired by reason of the officer's or employee's official position in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for the officer or employee or for others;

2. Use or attempt to use the officer's or employee's official position to further substantially the officer's or employee's personal economic interest, or secure special privileges for the officer or employee or others; or

3. Knowingly receive, accept, take, seed, or solicit, directly or indirectly, for the officer or employee or for another, a gift of substantial value or a substantial economic benefit tantamount to a gift that: (a) would tend improperly to influence a reasonable person in the person's position or depart from the faithful and impartial discharge of the person's public duties; or (b) the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken. EXCEPTIONS -an occasional non-pecuniary gift having a value of less than $50.00; an award given in public in recognition of public service; a bona fide loan made in the ordinary course of business; or a political campaign contribution.

4. Compensation for assistance in transaction involving municipality (§10-3-1305). (Disclosure filing required)

A. It is an offense for a member of the public body to receive or agree to receive compensation for assisting any person or business entity in any transaction involving the municipality in which the member is an officer unless the member:

1. Files a sworn disclosure statement with the Mayor's office (at least 10 days prior to contracting with the outside entity);
2. Discloses the information in an open meeting to the members of the body of which the officer is a member immediately before the discussion.
3. For a staff member need to also disclose to your supervisor and any other staff member making a decision based on the information.

5. Interest in business entity regulated by the municipality (§10-3-1306).

A. Every appointed or elected officer or municipal employee who is an officer, director, agent, or employee or the owner of a substantial interest in any business entity which is subject to the regulation of the municipality in which he is an elected or appointed officer or municipal employee shall disclose the position held and the nature and value of his interest upon first becoming appointed, elected, or employed by the municipality, and again at any time thereafter if the elected or appointed officer's or municipal employee's position in the business has changed significantly or if the value of his interest in the entity has increased significantly since the last disclosure.

B. Disclosure filed with the Mayor. The Mayor discloses to the City Council.

C. Not applicable to instances where the value of the interest does not exceed $2,000. Life insurance policies and annuities may not be considered in determining the value of any such interest.

6. Interest in business entity doing business with the municipality (§10-3-1307)

A. Every appointed or elected officer or municipal employee who is an officer, director, agent, employee, or owner of a substantial interest in any business entity which does or anticipates doing business with the municipality in which he is an appointed or elected officer or municipal employee, shall publically disclose to the members of the body of which he is a member or by which he is employed immediately prior to any discussion by such body concerning matters relating to such business entity, the nature of his interest in that business entity.

1. Disclosure satisfied if done in writing as per the preceding sections.

7. Investment creating conflict of interest with duties (§10-3-1308).

   A. Any personal interest or investment by a municipal employee or by any elected or appointed official of a municipality which creates a conflict between the employee's or official's personal interests and his public duties shall be disclosed in open meeting to the members of the body in the manner required in the previous section.

8. Penalties (§10-3-1309- 10-3-1310).

   A. Class A misdemeanor to induce an officer or employee to violate the ethics act.

   B. Knowing and intentional violation of the ethics act shall be dismissed from employment or removed from office and is guilty of: (1) a 2nd degree felony if the compensation or assistance exceeds $1,000; (2) a 3rd degree felony or the total value of the compensation or assistance is more than $250 but less than $1,000; or the elected or appointed municipal employee or officer has been twice before convicted of violation of this chapter where the value of assistance or compensation was $250 or less; (3) a class A misdemeanor if the value of the compensation or assistance was more than $100 but less than $250; and (4) a class B misdemeanor if the value of the assistance or compensation is less than $100.00

   This criminal penalty does not apply to violations ofprovisions dealing with: interests in business entity regulated by the municipality; interest in business entity doing business with a municipality; investment creating a conflict of interest with duties; and inducing a officer or employee to violate the ethics act.

   C. If a transaction is entered into where there is a violation of a disclosure requirement the municipality may rescind or void any contract or sub-contract; and shall dismiss or remove the appointed or elected officer or municipal official from office.

9. 2012 legislative session S.B. 180.

This bill establishes, on the state level, an ethics complaint review commission dedicated to resolving ethics complaints brought against local government officers and employees. The commission is appointed by the governor and staffed by the legislature. The commission operates as a quasi-judicial hearing board and conducts formal hearings with subpoena power, contempt power, it is governed by the open meetings act and the state records retention act. The commission refers matters to the local prosecutor when the commission has reason to believe a crime

has been committed. The local government may create its own commission to avoid having its local ethics complaints go to the state wide ethics commission.

10. Questions.

11. Additional items discussed include Meeting Processes and Role of Boards in City Government.

CEDAR CITY RULES OF ORDER AND PROCEDURE

Chapter 1	Purpose Statement	
Chapter2	Parliamentary Order and Procedure	
	Section 2-1	Open and Public Meetings Act
	Section 2-2	Parliamentary Procedures
Chapter 3	Ethical Behavior	
	Section 3-1	Municipal Officer's and Employees' Ethics Act
	se-ction 3-2	Disclosure and Recusal
	Section 3-3	Ethical Behavior During Meetings
Chapter4	Civil Discourse	
	Section 4-1	Public Participation
	Section 4-2	Electronic Communication Devices
	Section 4-3.	Basic Civility
Chapter 5	Enforp.ement	
Chapter 6	Severability	

Chapter 1 Puroose Statement

The purpose of these rules of procedure is to provide a forum whereby: (1) the chairperson has the ability to facilitate or direct the discussion and keep order; (2) all duly elected or appointed members of the body have the ability to bring up ideas, discuss them, receive input from the public and staff: and come to their individual opinions and conclusions on each issue; (3) all duly elected or appointed members have the opportunity to express their individual opinions and conclusions on each issue through their vote; and (4) the elected and appointed officials understand that the majority vote rules, but the rights of the minority to speak, express ideas, and vote are always protected.

Chapter 2 Parliamentary Order and Procedure

Section 2-1 Open and Public Meetings Act

The rules adopted herein shall not be interpreted to alter any duty or. obligation the City has under the State of Utah Open and Public Meeting Act.

Section 2-2 Parliamentary Procedures

The meetings of the City Council and the Planning Commission shall be conducted pursuant to Roberts Rules of Order. Inapplying Roberts Rules of Order the chairperson is encouraged to reject overly formal application, and adopt the application that favors the four (4) basic goals contained in the purpose statement and facilitates the orderly conduct of the public's business. When there is a question as to the application of any of the parliamentary procedural rules, the decision of the meeting chair is final.

.Chapter 3 Ethical Behavior

Section 3-1 Municipal Officer's and Employees' Ethics Act

All elected officials, appointed officials, and city staff are required to abide by the provisions of the State of Utah Municipal Officers' and Employees' Ethics Act. Consistent with the provisions of the Municipal Officers' and Employees' Ethics Act all elected officials, appointed officials, and city staff are required to disclose actual or potential conflicts of interest between their public duties and their personal interests.

Section 3-2 Disclosure and Recusal

The City recognizes that the members of the Council and the Planning Commission have personal interests that may conflict with their public duties. The nature of these personal conflicts is set forth in the Municipal Officers' and Employees' Ethics Act. In an effort to protect the integrity of the public process, prior to a discussion or vote on an item where the members of the body have a conflict between their public duties and their personal interests, said members are encouraged to disclose a conflict of interest on the record of the meeting and recuse themselves from the chambers while the item is discussed or the vote is taken.

Section 3-3 Ethical Behavior During Meetings

All members of the body, staff, and the public are encouraged to conduct their affairs during the City's meetings in an ethical manner. Ethical conduct includes: (1) dealing with each other in an honest and respectful manner; (2) avoiding undue personal attacks; (3) avoiding interrupting those that the chairperson has recognized to speak; (4) extending common courteous behavior to others participating during the meeting; (5) maintain information provided in confidence or during a closed session of the public body; and (6) fully discussing all aspects of the items on the agenda so that a fully informed decision may be made.

Chapter 4 Civil Discourse

Section 4-1 Public Participation

Unless closed pursuant to the Open and Public Meetings Act, the proceedings of the City Council and the Planning Commission are public meetings·. This is a forum where the public is encouraged to attend and under certain circumstances provide thoughts, feedback, and ideas. Often times the public body will post an item on the agenda for public comments. This is an opportunity for the public to address their concerns about items not specifically

listed on the agenda. The opportunity to make comments does not imply the opportunity to insult, taunt, or otherwise provoke those present inthe audience or the members of the body conducting the meeting. Comments should be made in a civil and courteous manner. The meeting chair may set a reasonable time limit on public comments. A typical time limitation for an individual's comments is three (3) minutes, but the chairperson has the discretion to extend that time.

The City Council uses a two (2) meeting system in order to consider most agenda items. There is a work meeting where the item is discussed and the public is encouraged to participate; and there is an action meeting where the matter is brought before the body for a vote. During the work meeting the public's participation is encouraged and members of the public wishing to address the City Council need to be recognized by the chairperson, speak into the microphone at the podium, state their names, and make their comments. The chairperson conducting the meeting may set a reasonable time limit on the presenter's comments. A typical time limitation for an individual's comments is three (3) minutes. During an action meeting the chairperson conducting the meeting may allow further public comments on each item or the chairperson may choose to proceed diiectly to debate among the elected officials and a vote.

The Planning Commission conducts the work meeting and action meeting all at the same time. The chair of the Planning Commission is encouraged to allow public participation on each item during their meetings. The Planning Commission chair may also set a reasonable time limit on public comments.

Section 4-2 Electronic Communication Devices

Electronic communication devices provide an opportunity to communicate with ease. Th e devices also interrupt and distract from public meetings. Unless otherwise allowed forthe conduct ofpublic meetings, the volume for all electronic communication devices and their ring tones shall be muted and/or set to vibrate mode prior to commencement of the meeting. This section shall not apply to public safety employees.

Section 4-3 Basic Civility

The ability of the public body to discuss the public's business and to reach an informed decision is significantly hindered by conduct lacking civility. Further, the ability of the public to participate in the public process is hindered by conduct lacking civility. Inorder to protect the public's ability to participate and to protect the orderly conduct of the public's business, the following behavior during a public meeting is not allowed: (1) interrupting another person; (2) talking over one another; (3) taunting; {4)unreasonable personal attacks; (5) shouting; (6) booing; (7) name calling; (8) general conduct that is disorderly, rude, profane, or that disrupts the orderly conduct of the public's business.

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The chair of each public body is empowered to enforce these rules. While enforcing these rules the chair is encouraged to balance the public's right to participate in the meetings; respect for the views of the minority; and the need to conduct meetings in an orderly manner. The Chair is encouraged to remind those that offend these rules of these rules and ask them to conform their conduct to the standards of ethics and civility contained herein. If an individual chooses not to follow the chairpersons' warning the chair may ask the individual to leave. Ifthe individual refuses to leave, the chair may have the individual escorted from the room and/or arrested for disturbing an official meeting or other such applicable criminal sanctions. Removal of an elected official shall be conducted pursuant to City ordinance.

Chapter6 Severability

Ifany provision of this ordinan e is found to be in violation of the State or Federal Constitution, or any provision of State or Federal Law so that its enforcement is prohibited, then that section shall be deemed to be removed from the remaining provisions of this ordinance. The remaining provisions of this ordinance shall be interpreted to apply with the offending provision(s).