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FILLMORE CITY
PLANNING COMMISSION MEETING
May 27, 2014

Minutes of the meeting of the Fillmore City Planning Commission held May 27, 2014 in the Fillmore City Council Chambers, 75 West Center. Notice of the time and place of the meeting was posted on the Utah State Public Meetings Website, at the City Office, Fillmore Library, and City Recorder's Office; it was faxed to The Chronicle-Progress, radio stations KNAK and KMTI, and emailed to each member of the Commission on the 23rd day of May, 2014. Those present for the meeting were:

Chair:	William Goddard	Members:	Charles Carling
Council:	Eric R. Jenson		Tafta Watson (<i>arrived late</i>)
Recorder:	Marlene Cummings		Ryan Hansen
Staff:	Megan Davies		Tracy Whatcott
	Jamie Orullian		Ken Finlinson
Mayor:	Eugene Larsen	Alternate:	Chad Kunz
Attorney:	Greg Greathouse		
		Excused:	Bart Adams
			John Orullian

Others: Darwin Hunt, Shayne Faulkner, John Cole Cooper, Don Fuller, Tony Fuller, Jan Robison, Jade and Tressa Robison, Judy Huntsman, Errol Dearden, Eldon and Barbara Christensen, Bryant Christensen, John Orullian, Janet Cooper, Alan Roper, Jim Dyer, Greg Hunt, Robert Worley

Chairman Goddard opened the meeting at 7:00 p.m. and welcomed everyone.

PUBLIC HEARING – JUNE BRUSH HILL EXPANSION MAP APPLICATION

The public hearing was opened upon motion by Commissioner Carling and second by Commissioner Hansen. Motion carried with a unanimous vote.

Chairman Goddard instructed that this portion of the meeting is a public hearing to obtain information and public comment regarding the request to amend the expansion map. He opened the meeting for public comment and invited the representative for the applicants to speak first.

Shayne Faulkner (representative for property owners)

Mr. Faulkner stated that he has 25 years of experience in real estate, banking, and development. He indicated that all those involved with the June Brush Hill property hope to partner with the community and make this a win/win situation for all. They would like to develop 80 acres and pattern the subdivision after the neighborhood to the north. Their desire is to develop this property in a reasonable, responsible way

45 and to follow every guideline, policy, recommendation, and procedure and comply
46 with federal, state, and local laws. He estimated that the project would take eight
47 years to complete.

48

49 Fifty acre feet of water is available which should be sufficient for the project. Any
50 issues with hillside slope can be addressed and overcome just as it has in other
51 places. One mile of road is all that is needed to accommodate the plan. Mr. Faulkner
52 estimated that this development would generate \$50,000 to \$60,000 in property tax
53 revenue that would offset the maintenance costs. The developers would use
54 community resources for building. He re-emphasized the desire to pattern after what
55 is already in place. Some people don't like change, but some do; growth is
56 inevitable. He didn't want to make reference to memos from the past and doesn't
57 want it to become a big legal issue. These land owners want to move forward and
58 work together.

59

60 Jim Dyer

61 Mr. Dyer introduced himself and said he lives at 75 East Valley View Road. He had
62 prepared a letter to express his opinion which he presented to the commission:

63

64 *"Dear Members:*

65

66 *My name is Jim Dyer and I am a city resident and homeowner adjacent to the*
67 *subject, 80 acre, June Brush Hill location.*

68

69 *The subject property appears to be a land speculation project without the support of*
70 *required applications and therefore, is fatally flawed. Water availability is more*
71 *conversational than real while grade, storm water runoff from the resulting*
72 *hardened surfaces isn't addressed nor is accessibility (10% grades are not realistic)*
73 *for emergency and waste/snow removal vehicles. There are significantly more*
74 *objections I have that are not timely for this particular meeting.*

75

76 *For good and sufficient reasons the June Brush lobbying effort has been rejected*
77 *only to return as a request to the city based solely on previous rejections by the*
78 *county. Clearly however the more regulatory hurdles that can be overcome now a*
79 *more value added attraction can be offered to a future speculator.*

80

81 *There appears to be a serious lack of demonstrated financial depth for this project to*
82 *suggest the developer/investor would be able to meet the obligations that would*
83 *result in a completable project. There are abundant developed properties available*
84 *within the present city boundaries.*

85

86 *The question of water remains speculative at best.*

87

88 *The addition through annexation of the subject property is not in the interest of the*
89 *city simply because the County twice has correctly rejected it. June Brush Hill*
90 *remains a potential liability that Fillmore could ill afford to gamble on.*

91

92 *I ask for a NO vote on amending the Fillmore city Growth Expansion Map.*

93

94 *Respectfully, Jim Dyer”*

95

96 Josephine Huntsman (former city council member and planning commissioner)
97 Mrs. Huntsman said this issue has been discussed over and over again and each time
98 it has been determined not to be in the city’s best interest. She would like the fire
99 chief and public works crew to address fire and maintenance issues. She has read
100 comments made by the property owners that they did not necessarily want sidewalks.
101 Mrs. Huntsman noted that sidewalks are a required city standard. In the past, wells
102 have been drilled but came up dry. It would be very difficult for the city to supply
103 water to the area.

104

105 Greg Hunt (professional developer)

106 Mr. Hunt was born and raised in Fillmore and owns property in the vicinity of June
107 Brush Hill; he has a vested interest in the long term plans for the area. He
108 emphasized that water is the number one obstacle to development. Utah Code
109 requires a minimum of 40 psi; water pressure is a big issue. Fire code requires 1,000
110 gallons per minute for 120 minutes. What about irrigation water? How large a tank
111 would be required to meet state standards? Tanks would require pumps which could
112 become a financial burden to the city. The claim of \$50,000 to \$60,000 property tax
113 revenue is flawed; the average annual property tax is \$155 per home (Fillmore’s
114 share). Fifty new homes would generate only about \$8,000 for Fillmore City. How
115 many years would it take to have 50 homes? People are not moving to Fillmore in
116 great numbers.

117

118 He noted that the application had been rejected for these reasons in the past. If it
119 were doable it would be done already. Home Owner Associations sometimes work
120 but many times become insolvent. Once the property is annexed the burden falls
121 back to the city. He recommended that the application be rejected.

122

123 Chairman Goddard clarified that Fillmore City has the lowest property tax rate in the
124 state. Generating property taxes is not the goal of annexation.

125

126 Alan Roper (Millard County Commissioner)

127 Mr. Roper arrived late and asked about the purpose of the hearing. Attorney
128 Greathouse explained the hearing was to receive public input regarding the
129 application to add June Brush Hill to the expansion map. Mr. Roper said that June
130 Brush Hill is the perfect place for Fillmore to expand. He added that every

131

132 community needs a place with homes with a view; costs can be dealt with at the
133 appropriate time. He could see no reason why the city would not include this
134 development on the expansion map. Water, he noted, can be supplied anywhere; it
135 would cost, but can be done. He recommended that the expansion map be amended
136 to include June Brush Hill. When asked why the county doesn't encourage this
137 development as a county subdivision. Mr. Roper responded that the county respects
138 the city and is not in the subdivision business. Also there are development issues
139 that would ultimately revert back to the city. He said that water can be supplied to
140 the area and the cost paid by the developers.

141

142 Shayne Faulkner

143 Mr. Faulkner thanked everyone for their comments and asked where the city would
144 be if the forefathers had asked "what if?" There would be no Fillmore he said.
145 Growth will come whether the city works for or against it. This is not speculation.
146 The property owners want to work in a spirit of cooperation and will address all the
147 reasonable concerns. If water is the issue they will provide the city with their written
148 intent to comply with established law. They are not looking for a legal battle.
149 Property owners should be allowed to develop and include the community in the
150 process. They have a desire to cooperate. If sidewalks are a requirement - no
151 argument; if water needs to be addressed - no argument. All issues are addressable.

152

153 Cole Cooper (attorney for property owners)

154 Attorney Cooper stated that they don't want to debate non-issues. Their mindset is
155 not for a legal battle; they want to cooperate. People own the land and want to be
156 able to use it. To say that it can't be developed is unreasonable because it is next to
157 developed property. The "what if's" are not the issue. He would like to hear what
158 the real argument is.

159

160 Attorney Greathouse responded that the debate is not about people using their land;
161 the issue is whether or not it should be added to the expansion map. The city can
162 decide what is best for the city. The goals of the city's General Plan, fiscal impacts
163 and financial burdens all need to be considered.

164

165 Tony Fuller

166 Mr. Fuller stated that he is a water rights consultant. There is a 1924 priority water
167 right for 48 acre feet in the Flowell District that is transferrable to the city wells. A
168 non-use permit that was issued last year is good for six years. Mr. Fuller explained
169 that a home in the county requires one acre foot of water per lot. If the property is
170 annexed the water will be deeded to Fillmore City.

171

172 Chairman Goddard called for a motion to close the public hearing and return to
173 public meeting to allow the commission to discuss the matter.

174

175

176 **Motion by Commissioner Finlinson to close the public hearing and return to**
177 **regular meeting; second by Commissioner Whatcott. Motion carried with a**
178 **unanimous vote.**

179

180 Public meeting resumed. (*Commissioner Watson, who had arrived late, took her*
181 *place on the podium; alternate commissioner, Chad Kunz, who had been filling the*
182 *vacant seat stepped down.*)

183

184 BUSINESS – DISCUSS REQUEST TO AMEND THE EXPANSION MAP

185

186 Mr. Goddard opened the discussion by saying he was involved when the city’s
187 General Plan was written. A lot of thought and discussion went into it. The goals
188 and objectives were established as guidelines for making decisions that are best for
189 the entire community.

190

191 The first Land Use Goal states: “To promote land use efficiencies, particularly in the
192 utilization of publically provided infrastructure, facilities and services, all new
193 residential uses are required to be located within the existing municipal boundaries of
194 the city. Significant areas of vacant residential-use lands already exist within the
195 city. Development of these areas, where required infrastructure and services are
196 available, or can be provided in a cost-efficient way, reduces not only initial
197 development costs, but also ongoing maintenance and operation costs incurred by the
198 city and its residents.”

199

200 When the city forefathers looked for a place to build they developed in the valley
201 where the water flowed. Water does not flow uphill. He admonished the
202 commissioners to look from the standpoint of what are the long term benefits or
203 consequences for the city. Developers will develop the land sometime down the road
204 and the city will have to accept it and maintain it. If it is developed now, Fillmore
205 will be left holding the bag. Fillmore City does not favor developing areas where
206 services are not available. He concluded that Fillmore’s tax base is very low;
207 property tax revenues will never cover maintenance costs.

208

209 He called for discussion on the request to amend the expansion map.

210

211 The following points and concerns were discussed by the commission:

212

- 213 • There are a lot of cities that have developments on steep hills, the obstacles
214 can be overcome.
- 215 • There are concerns about having enough water to meet household use,
216 irrigation needs, and fire code requirements.
- 217 • There are unanswered questions about the cost of furnishing water and who
would pay for it.

- 218 • Being on the expansion map does not assure annexation; however land that
- 219 won't be considered for annexation should not be added to the expansion map.
- 220 • The city does not annex little pieces of land or develop land that isn't
- 221 accompanied with a clear plan.
- 222 • The land has to be easy to service with utilities.
- 223 • What are the attitudes of residents about growth? Is there resistance to
- 224 progress.
- 225

226 Attorney Greathouse advised that the city has a lot of latitude in this area; it may not
227 be best for the city right now but that doesn't preclude it from consideration in the
228 future. The issue at this time is whether or not to add June Brush Hill to the
229 expansion map, not whether or not to annex it. However, areas added to the
230 expansion map should be areas the city would be willing to annex and meet city
231 annexation standards.

232
233 Mr. Greathouse added that when the June Brush Hill owners approached the county
234 planning commission in 2007 about development they were advised that they had not
235 followed the proper process for subdividing and that it was an illegal subdivision.
236 Land had been deeded before any subdivision approval. They were told a possible
237 way to remedy the problem would be to put the land back under one entity and then
238 submit the application with the complete subdivision plans and impacts. This has not
239 been done.

240
241 County Commissioner Alan Roper countered that all that is being asked right now is
242 to add the area to the expansion map. Annexation standards would have to be met at
243 the time of annexation which may be twenty years down the road or maybe it would
244 never happen. This is an opportunity to entice people to want to move here and build
245 on the hill. That could be the site for some of Fillmore's most beautiful homes.

246
247 Jan Robison said she did not know there was a problem when she bought the
248 property; she would like to be able to sell some of it. The road is on her land but she
249 doesn't intend to close it. She knows hillsides can be developed because she grew up
250 on Leigh Hill in Cedar City; it is a beautiful subdivision and it would have presented
251 the same development challenges. It is possible to overcome the challenges. She
252 petitioned the commissioners to help the owners move forward, not put a stop to
253 everything.

254
255 Mr. Faulkner stated that they don't want to put the cart before the horse. They are in
256 the early planning stages and want to think it out thoroughly and proceed slowly.
257 All they are asking is to have the property added to the expansion map then come
258 back later with expert opinions that confirm that development is either doable or too
259 costly to pursue. He asked the commission not to say no just for the sake of saying
260 no.

261

262 Attorney Cooper affirmed that the owners will work around whatever is required.
263 They could develop the side of the hill and use the top for something else. It doesn't
264 have to be all or nothing. All they want is to be added to the map; it's that simple.

265

266 Greg Hunt asked to address the commission. He has been involved in over two
267 thousand developments. Developers always bring detailed development plans and
268 may back away if serious issues arise, even if they have already invested a lot of
269 money. There has been no clear plan presented on how to deliver water and if there
270 would be enough for fire protection. Would they run a new water line 3 miles from
271 the city storage tank or would they install a new tank on the hill? All obstacles can
272 be overcome if there is enough money. Do the developers have the money? Both
273 options would be very costly. If the subdivision were added to the existing water
274 line it would compromise fire protection. If requirements aren't met for fire
275 protection it will affect insurance rates for the whole city. Can the developers give
276 the city 100% assurance that this development will not be a burden to the
277 community?

278

279 Eldon Christensen wondered how this development would be a great expense to the
280 city, and how would it be any different than other piece of property?

281

282 Chairman Goddard replied that once it is developed and Fillmore city accepts it, the
283 city will foot the bill from thereon out. Expenses include maintenance of the
284 infrastructure, snow plows and fire trucks that can easily maneuver on the 10%
285 grade; the costs to pump and distribute water.

286

287 Mr. Goddard restated that the proposal is to add the 80 acre parcel known as June
288 Brush Hill to the expansion map. He asked if the Commission was ready to make a
289 recommendation.

290

291 **Motion by Commissioner Hansen to recommend to the City Council that the**
292 **application to amend the Fillmore City Expansion Map to include June Brush**
293 **Hill be denied. Commissioner Whatcott SECONDED the motion.**

294 **Roll call Vote:** **Commissioner Whatcott YES**
295 **Commissioner Finlinson YES**
296 **Commissioner Carling YES**
297 **Commissioner Watson Abstained**
298 **Commissioner Hansen YES**

299

300 **Motion carried.** A recommendation will be forwarded to the city council.
301 Commissioner Watson explained that she abstained because she missed the first part
302 of the meeting didn't hear the public comments.

303

304 Attorney Cooper said, for the record, he wanted to know why it was denied. It
305 seemed to him that the Commissioners had their minds made up before the meeting.

306

307 Chairman Goddard noted, for the record, that June Brush Hill is not compatible with
308 the Fillmore City General Plan land use goals and it does not meet Fillmore City
309 Annexation Standards. There is no reason to add any area to the expansion map that
310 does not meet this criterion. There were also all the reasons expressed by those in
311 attendance who were opposed to adding June Brush Hill to the expansion map.

312

313 ADMINISTRATIVE

314

315 Approval of Minutes

316 Motion by Commissioner Hansen to approve the minutes of the April 22, 2014
317 meeting; second by Commissioner Finlinson. Motion carried with a unanimous vote.

318

319 Council Report – Councilmember Eric Larsen

- 320 • Jamie Orullian has been appointed to the position of Deputy City Recorder.
- 321 • Plans for the Fourth of July celebration are underway.
- 322 • The city is in the middle of the budget process; there will be a public hearing
323 before the budget is adopted.
- 324 • The ATV Jamboree , the car show, and the mile long yard sale are coming up.
- 325 • Two options to improve the traffic flow at the bus barn intersection are being
326 discussed.
- 327 • At this time there is no city ban on fireworks.

328

329 Recommendations for Commission Alternates

330 Chairman Goddard and Commissioner Finlinson will be going off the Planning
331 Commission at the end of June. The two current alternate members will move up to
332 regular voting members and two new alternates need to be appointed. Mr. Goddard
333 asked for recommendations for new alternates for the Mayor to consider. The
334 following persons were suggested: Lloyd Brown, Sarah Dearden, Sotero Alcala, Jeff
335 Mitchell, and Nate Groesbeck.

336

337 **The meeting adjourned at 8:38 p.m. upon motion by Commissioner Finlinson**
338 **and second by Commissioner Watson. Voting was unanimous.**