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FILLMORE CITY
PLANNING COMMISSION SPECIAL MEETING
March 5, 2015

Minutes of the meeting of the Fillmore City Planning Commission held March 5, 2015 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, City Recorder's Office, faxed to The Chronicle-Progress, radio stations KNAK and KMTI, and emailed to each member of the Commission on February 27, 2015. Those present for the meeting were:

Chairman:	L. Bart Adams	Members:	Ryan Hansen
Council:	Eric R. Jenson		Tracy Whatcott
Staff:	Kevin Orton		Jesse Ralphs (Alternate)
	Marlene Cummings		Charles Carling
	Teresa Alldredge		Lars Rasmussen (Alternate)
	Greg Greathouse (Attorney)		Chad Kunz
			Tafta Watson (arrived at 7:30 PM)

Also present:

Mayor Eugene Larsen	
Terri Hoover	Jamie Monroe
Judy Huntsman	Kyle Monroe
Lorna Adams	Dennis Whitaker
George and Star Murray	Jennifer Prows
Bill Goddard	Travis Prows
Misty Penney	Nikki Turner
Klint Penney	Ashley Eldredge
Craig and Connie Teeples	Lindsay Mitchell
Corey Anderson	Jeff Mitchell
Jerold Anderson	Trisha Foster
Deb Oepfinger	Peggy Christensen
Andrea Madsen	Mike Holt
Sandra Wood	Cyndee Probert
Josalyn Stevens	Marcia Crampton
Carrie Sigler	Wade and Katie Lemon
Stacey McClure	Wendy Ashman
Ian Adams	Tim Carling
Debi Jackson	Daniel Stevens
McKell Penney	Leisa Carling
Peter Greathouse	Brenda Stevens

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

45 **ADMINISTRATIVE BUSINESS**

46
47 Approval of Minutes

48 Minutes of the previous meeting held February 24, 2015 were accepted as written.

49
50 **REQUESTS**

51
52 Chairman Bart Adams set some ground rules for the meeting. He explained the
53 purpose of the Planning Commission and that it is a recommending body with no
54 legislative power to amend ordinances. He also summarized the appeals process.

55
56 Misty Penney – request change to residential zoning code for possible zone change
57 and to allow a home day care to have an employee that does not reside in the home.

58
59 In 2009 Mrs. Penney was granted an Administrative Conditional Use permit and a
60 city business license for a home occupation daycare for 8 children. She has renewed
61 her license each year but failed to notify the city that in 2012 she increased the
62 number of children to 16. Her state license for 16 children requires an additional
63 employee when there are more than 8 children. The state license also notes that
64 “Local ordinances may further limit the maximum allowed capacity.” Mrs. Penney
65 has employed her mother, who does not live in the home, to help with the daycare.
66 Since the change in operations was never reported to the city office, the 2012, 2013,
67 and 2014 licenses were issued based on the original application for 8 children.

68
69 The Fillmore City Zoning Ordinance limits a home daycare to 8 children and
70 requires that employees of a home occupation be residents of the home. The City
71 Recorder learned of the change in operations after Mrs. Penney applied to renew her
72 2015 license: since she in violation of city code, both in the number of children and
73 having a non-resident employee, the license was not issued.

74
75 Mrs. Penney expressed her wishes to have the ordinance changed to allow 16
76 children and an employee who does not live at her residence. She had invited
77 representatives from the State Department of Health (Child Care Licensing Division)
78 to help explain the legal differences between residential and commercial daycare
79 licensed operations and requirements. The commission asked if she was planning to
80 expand to a commercial setting, and she said that is not her intent. She is worried that
81 if clients are not allowed to take their children to her daycare, they will take them
82 into other providers’ homes that are not licensed. She expressed her feelings of the
83 unfairness of this situation.

84
85 Kyle Monroe – request change to residential zoning code to allow a home beauty
86 shop to have an employee that does not reside in the home.

88 Jamie Monroe has had a city business license for a hair salon since 2004 and has
89 worked from several different locations. She had rented space at 5 South Main for
90 several years before building her new home in 2013. The Monroes never indicated
91 on their building permit that a home salon was included. When they moved into
92 their home, Mrs. Monroe moved her hair salon business into her basement without
93 notifying the city of the change of location. When she applied to renew her license
94 for 2014 she informed the city office that she had moved her operations. On the
95 Home Occupation application she indicated there would be no employees other than
96 residents of the home. The office staff later learned that Brenda Stevens, who is
97 neither a resident of the home nor licensed to do business in Fillmore City, is
98 working one day each week at Mrs. Monroe's home. Mrs. Monroe claimed she was
99 unaware she could not have an employee. *(Note: Ms. Stevens is not actually an*
100 *employee, but is paying rent to use Mrs. Monroe's home to conduct business.)*

101
102 Jamie Monroe addressed the Commission. She asked that the zoning code be
103 changed to allow Brenda Stevens to work in her home. She explained that the type of
104 services Ms. Stevens provides are not offered anywhere else in Fillmore and having
105 her come to Fillmore is an economic benefit for the city. If clients are not able have
106 Ms. Stevens' services in Fillmore they will be forced to go out of town for her
107 services, causing money to be spent for gas, groceries, etc. outside of Fillmore. Mrs.
108 Monroe concluded that not allowing Ms. Stevens to practice her trade in the
109 Monroe's home will be detrimental to local businesses.

110
111 Public Comment

112
113 **Kyle Monroe** – Mr. Monroe stated that there are other home occupations in Fillmore
114 that circumvent the rules and will continue to if the rules don't change. He said his
115 wife's home business is much more visible than other home-based businesses in
116 Fillmore and for that reason he feels that other businesses will not be held to the
117 same standards. The commission asked for clarification on which home businesses
118 are violating the code: Mr. Monroe responded that he assumes it is going on right
119 now because of the way the codes are currently written.

120
121 **Katie Lemon** – Mrs. Lemon, owner of the Lemon Salon on Main Street, said day
122 care services are very limited in Fillmore and she does not feel that 16 children in a
123 home daycare is a problem. The women who work in her salon would not be able to
124 work without daycare services. As far as the salon business, she took a huge risk,
125 including time, effort, and finances to put her business on Main Street. Allowing
126 operators to lease space in homes would have a negative impact on her business; the
127 cheaper cost of operating out of a home creates a competitive disadvantage to her.

128
129 **Josalyn Stevens** - Misty Penney has been watching the Stevens kids since they were
130 6 weeks old. Mrs. Stevens, a school teacher, emphasized the need for quality
131 daycare.

132 The loss of Misty’s Daycare would have a critical impact on her students because she
133 would be forced to use substitute teachers more often; she believes it would also have
134 a negative impact on others’ employment as well.

135

136 **Bill Goddard** – Mr. Goddard is a former Planning Commission Chairman; he
137 encouraged the commissioners to preserve the residential zones in the city. The R-2
138 zone was created many years ago after many months of research, work, and effort.
139 The decision to keep residential and commercial uses separate was based on sound
140 reasoning, and those reasons haven’t changed. The code was adopted by the city
141 council with public support after the required public hearings. He was concerned
142 that if the city starts changing the code, it will be difficult to know when to stop. The
143 real issue is the long-term protection of the residential areas while giving citizens the
144 opportunity to work from home on a small scale. If home-based businesses want to
145 expand, they need to move to a commercial zone to conduct their business.

146

147 **Judy Huntsman** - Mrs. Huntsman, also a former Planning Commission Chair,
148 emphasized that citizens need to check with the city first to find out what home
149 businesses are allowed in a residential zone and what the restrictions are. Had this
150 been done, these two businesses would not have been allowed to conduct business as
151 they are because they violate the zoning codes. These codes are in place to protect
152 and preserve the purposes of each zone; allowing home businesses to operate outside
153 the guidelines of the codes creates problems and can hurt the Main Street businesses.

154

155 **Brenda Stevens** – Ms. Stevens has been working out of Jamie Monroe’s home. She
156 said they have made efforts to solve this problem by trying to contact the city. She
157 feels like they have been put on the back burner and that the city has not done
158 anything about it. She then stated that someone who used to work for the city told
159 them to not worry about it anymore and just keep working. Mrs. Stevens feels that
160 the city has not been able help find a solution. She thinks that the costs to run a
161 home business are similar to those of a commercial business.

162

163 **Ian Adams** – Mr. Adams said that it is comforting to know that Misty Penney is
164 licensed to provide daycare, and that she is the only one in Fillmore who is. He
165 expressed that laws are not set in stone; they are fluid in that they are meant to be
166 changed. Failure to change ordinances will prohibit people from being able to make
167 a living here and they will eventually leave.

168

169 **Andrea Madsen**- She expressed a concern about the quality of daycare that she
170 would receive if Misty’s Daycare were to be shut down. She feels that Mrs. Penney
171 provides a safer environment for the kids to be in.

172

173 **Marcia Crampton, Utah Department of Health, Day Care Licensing Specialist** –
174 Mrs. Penney is the only state licensed daycare provider in Fillmore and she is in

175 good standing. Ms. Crampton provided information in support of Misty's Daycare
176 as it relates to the type of certificate Mrs. Penney holds.

177

178 **Debi Jackson** - Mrs. Jackson served many years on the Planning Commission; she
179 pointed out that both businesses on tonight's agenda have been operating in violation
180 of the law. She expressed concern that the real issue that should be discussed is land
181 use, and that the community needs more businesses in the commercial zones. This
182 issue is not personal, it is about safety and what is best for the whole community.

183

184 **Stacy Mclure** – The home environment and setting provided by Mrs. Penney is ideal
185 for Ms. Mclure's son; she would be opposed to sending him to a daycare that has
186 more of a business feel to it.

187

188 **Trisha Foster** - Ms. Foster is in the process of opening a daycare facility in the
189 General Commercial Zone. Her target opening date is April 1, 2015. She wants
190 everyone in the community to know that there is another option to home based day
191 care that will be available shortly. She is partnering with Early Head Start for
192 educational programs and will receive some grant funding. She is opening her
193 business because she recognizes the need for quality daycare in Fillmore.

194

195 **Jeff Mitchell** – It is very difficult to make a living in Fillmore and he does not
196 understand why Mrs. Penney is not allowed to expand her business. He encouraged
197 the commission to do what they can to help Fillmore businesses.

198

199 **Carrie Sigler, Five County AOG Care About Child Care Services** – These services
200 are advocates for children and they ensure that providers are properly trained. She
201 presented some findings in support of Misty's Daycare which include:

- 202 (1) In a home-based/family environment (such as Misty's), children live together,
203 they are not confined to a classroom, and by this learn family values. This
204 results in less stress for the children.
- 205 (2) Family providers are more consistent providers in that they don't work outside
206 of the home and can be counted on to always be there.
- 207 (3) Infant care is better in a home daycare.
- 208 (4) Child turnover is less in a family care environment than in commercial
209 centers.
- 210 (5) Home centers are perceived to be safer.

211

212 **Daniel Stevens** - The BLM building is in the same area as the Penney's home; he
213 wanted to know why the BLM is allowed to have so many cars parked in front of its
214 building while adding one more employee to Misty's Daycare is a problem. It was
215 clarified that the government building is in a Quasi Public zone, which has different
216 standards than the R-2 zone.

217

218 **Judy Huntsman** – Judy Huntsman spoke a second time and reminded the
219 commission that no one was talking about commercialized daycare; the new daycare
220 center that will open soon is a relatively small operation.

221

222 **Ashley Eldredge**- She feels that a home center is better and safer for children and
223 that the children would be more at risk in a commercial center.

224

225 **Joyce Hasting, Department of Health, Child Care Licensing** –She and the other
226 child care representatives are not attending the meeting to support either centers or
227 homes. Their function is to regulate child care. Their purpose tonight is to answer
228 questions regarding licensing and regulations, not to endorse a particular provider.
229 She clarified the square footage requirements.

230

231

BUSINESS

232

233 The commission discussed the two home occupation issues and how to proceed.

234 **Motion by Commissioner Rasmussen and second by Commissioner Kunz to**
235 **consider amending the code in a manner that could facilitate the business for**
236 **child care in the home. A roll call vote was unanimous; motion carried.**

237

238 **Motion to continue the discussion to the next meeting was made by**
239 **Commissioner Kunz and seconded by Commissioner Whatcott. Motion carried**
240 **with a unanimous vote.**

241

242 The next meeting will be held March 24, 2015 at 7:00 p.m. in the council chambers.

243

244

ADJOURNMENT

245

246 **The meeting adjourned at 8:58 p.m. upon motion by Commissioner Rasmussen**
247 **and Second by Commissioner Hansen. Motion carried.**

248

- 249 **Addendum No. 1 – Planning Commission Meeting Minutes March 5, 2013**
250 **Copy of Misty Penney’s business license application**
251 **Addendum No. 2 – Copy of Misty Penney’s state daycare license**
252 **Addendum No. 3 – Copy of Jamie Monroe’s business license application**