

**CITY OF KINGMAN
 REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION
 Council Chambers
 310 N. 4th Street
 Kingman, Arizona**

6:00 P.M.

Minutes

Tuesday March 8, 2016

Members Present:	Staff Present:	Visitors Signing In:
Mike Blair, Commission Vice-Chair	Gary Jeppson, Development Services Director	See attached list
Mark Bailey, Commission Member	Rich Ruggles, Principal Planner	
Gary Fredrickson, Commission Member	Sandi Fellows, Recording Secretary	
Vickie Kress, Commission Member	Sydney Muhle, City Clerk	
Dustin Lewis, Commission Member		
Council Liaison Present:		
Stuart Yocum, Council Member		

REGULAR MEETING MINUTES

CALL TO ORDER & ROLL CALL

Vice-Chair Blair called the meeting to order at 6:00 P.M. The Pledge of Allegiance was led by Commissioner Lewis and recited in unison. The Recording Secretary called the roll. Chair Mossberg was excused; all other Commission members were present.

- 1. APPROVAL OF MINUTES:** The Regular Meeting Minutes of February 9, 2016 and the Special Meeting Minutes of February 16, 2016.

Commissioner Kress made a MOTION to APPROVE the Regular Meeting Minutes of February 9, 2016 and the Special Meeting Minutes of February 16, 2016 as written. The MOTION was SECONDED by Commissioner Lewis and the MOTION CARRIED with UNANIMOUS (5-0) APPROVAL to the affirmative.

2. CALL TO THE PUBLIC:

There were no comments.

3. PAST COUNCIL ACTION:

- A. ABANDONMENT CASE AB16-0001:** A request from KC Orr Builders, Inc., applicant, and Loyal Order of Moose #1704, abutting property owner, for approval of the vacation (abandonment) of a portion of the right-of-way for Monroe Street located between Marlene Avenue and Karen Avenue. The applicant has requested to abandon a 2,125 square foot portion of the right-of-way for Monroe Street adjacent to Lot 1, Block 17 of Cecil Davis Addition, Unit 3, and an 8,008 square foot portion of the right-of-way for Monroe Street adjacent to Lot 15, Block 17 of Cecil Davis Addition, Unit 3. The proposal would reserve a 12-foot wide public utility easement along the east side of Monroe Street between Marlene Avenue and a 20-foot wide alley located to the south. The request is to facilitate construction of a parking lot, landscaping,

retention area, and street improvements associated with the renovation of the fire damaged lodge facilities.

Development Services Director Gary Jeppson addressed the Commission and reported that there was no one at the Council meeting representing the Moose Lodge, and Council had questions regarding the recommended waiving of the \$6,000 fee and the relationship to the Arizona Constitution concerning the gifting clause. Mr. Jeppson stated that the City Council tabled the item until their March 15th meeting to allow the applicants to be present.

4. OLD BUSINESS:

There is no Old Business.

5. NEW BUSINESS:

- A. **SUBDIVISION CASE SB16-0001:** A request from Kingman Associates Three, LLC, applicant and property owner, for approval of the vacation (abandonment) of **Granite Bluffs III, Tract 1996-A**. The proposal would abandon to acreage an undeveloped residential subdivision consisting of 27 lots and several unimproved public streets located on 8.83 acres. The property is located along the west side of Mission Boulevard, northwest of Granite Bluffs Drive and is zoned R-1-10: Residential, Single Family, 10,000 square foot lot minimum. The property is further described as Granite Bluffs III, Tract 1996-A, Block 1, Lots 1-10, inclusive and 21-24 inclusive, Block 2, Lots 1-7 inclusive, and Block 3, Lots 1-5 inclusive.

Principal Planner Rich Ruggles addressed the Commission stating that this was a request for approval of the abandonment of the subdivision plat of Granite Bluffs III, Tract 1996-A. The proposal would abandon to acreage an undeveloped subdivision consisting of 27 lots and several unimproved public streets located on 8.83 acres. The property is located along the west side of Mission Boulevard, northwest of Granite Bluffs Drive. Mr. Ruggles noted that if the subdivision is abandoned, only one single family residence could be constructed on the 8.83 acre property.

Mr. Ruggles stated that the applicant and property owners, Kingman Associates III, LLC have stated that the reason they are requesting the parcel abandonment is so that they can receive a release on the performance bond that was required to assure completion of the improvements in order to file the final plat. Mr. Ruggles stated that the applicant has no intention to complete the subdivision at this time.

The performance bond is in the amount of \$407,933.00 which was equal to the approved Engineer's Cost Estimate of the time of final plat approval in 2007. He said that if the subdivision is vacated, the City Council would release the bond, by resolution, since the subdivision improvements would no longer be required.

Mr. Ruggles stated that the vacation of this subdivision to acreage would reduce the overall density of the area, since just one dwelling could be constructed on the property, but it would remain consistent with the projections of the General Plan.

Mr. Ruggles went on to state that the abandonment of the subject site should not have a direct effect on existing development in the area or any adjacent or nearby development proposals. He acknowledged that the existing R-1-10 zoning would remain in place.

Mr. Ruggles further stated that there is a public utility easement along the northwest side of Granite Bluffs Drive which was dedicated with the subdivision plat for Granite Bluffs III Tract 1996-A. All three utility companies have said they want this easement to remain in effect or a new easement granted. Planning staff has suggested to the applicant that they grant a new public utility easement (PUE) in the same location as the current easement. In addition it was noted by staff that a 60-foot wide right-of-way for Granite Bluffs Drive was to be dedicated with the second phase of the subdivision. The preliminary plat has lapsed for the second phase as the final plat was never approved. In order to provide access to the five-foot wide PUE it is staff's suggestion that the applicant dedicate the 60-foot wide right-of-way for Granite Bluffs Drive to the western property line. The dedication of a new public utility easement and right-of-way for Granite Bluffs Drive will require the preparation of the legal descriptions by the applicant's engineer/surveyor.

The site has been posted and surrounding property owners notified. One neighboring property owner has inquired about the proposed abandonment. Two letters were received by staff from Granite Bluffs residents Robert and Ronatta Stewart and John and Karen Marzley, both of whom are opposed to the abandonment request. Planning staff has received two e-mails in opposition of the request from Granite Bluffs residents Virlynn Tinnell and Daniel and Drusilla Bloodworth. Staff has also received a petition against the Subdivision Abandonment Case SB16-0001 that has been signed by 26 residents of the Granite Bluffs subdivision. The petition stated that "If this abandonment is allowed it will dissolve a well thought out subdivision. The land will be zoned R-1-10, but the abandonment will do away with the covenants, conditions and restrictions which makes Granite Bluffs a premier subdivision offering a unique lifestyle. The well-conceived covenants were designed to protect the value of the homes and the interests of current and future owners. Abandoning the covenants will have a negative impact on homeowners who rely on government to protect their investment and lifestyle."

City Fire and Engineering Departments have been notified and they have no objection to the request. UniSource Gas has no issue with the proposed abandonment. UniSource Electric has facilities in Mission Boulevard and Granite Bluffs Drive that currently serve customers. They have stated that as long as these facilities are properly addressed they have no objection to the abandonment. Suddenlink Communications has services on the border of this tract located in the 10-foot public utility easement on Mission and Granite Bluffs Drive. They have stated that any cost associated in relocation of these facilities would be the responsibility of the requestor. Frontier Communications has cable and cable structures in the area and stated that they need the PUE's to remain in effect or the full cost to relocate the facilities will be the responsibility of the requesting party.

Mr. Ruggles stated that staff is recommending approval of the abandonment of Granite Bluffs III Tract 1996-A as requested with the following conditions:

- a. A 60-foot wide right-of-way shall be dedicated for Granite Bluffs Drive extending from the intersection of Caprock Avenue to the western boundary of the subdivision property.
- b. A public utility easement shall be dedicated along the northwest side of Granite Bluffs Drive from Mission Boulevard to the western boundary of the subject property. The PUE shall be wide enough to accommodate any existing facilities.

Vice-Chair Blair asked if this request was basically to release the \$407,933 performance bond. Mr. Ruggles stated that the applicant was looking for a way to release the bond. Other options were to put up a different type of assurance, such as cash or a letter-of-credit, but they did not want to do that. The only other option was to vacate the subdivision and return in the future with a new development when it was viable.

Vice-Chair Blair noted that this was the third or fourth time rededications have been requested to different sections of this property to previous owners. He suggested leaving the bond in place to protect the City. Mr. Ruggles explained that the bond was intended to ensure water and sewer lines and street improvements were completed to City standards, and if the property is vacated, the improvements would no longer be necessary.

Commissioner Frederickson asked if there were CC&R's attached to the subdivision. Mr. Ruggles stated that there were CC&R's specific to the existing Granite Bluffs subdivision that will remain with the subdivision, as each plat is recorded with their own list of CC&R's.

Vice-Chair Blair called the applicant, Kingman Associates III, LLC to address the Commission. The applicant was not present.

John Marzley, resident of Granite Bluffs, addressed the Commission stating that they had purchased their home in 2008, in an area advertised as Kingman's Premier Neighborhood for privacy and custom homes. The developers had attempted to rezone areas of Granite Bluffs to Commercial and Multiple Family R-2-PDD in 2009, which is not what they expected in what was advertised as a master planned community.

Granite Bluffs resident Kelly Lang addressed the Commission stating that the developer had been deceitful with the City Council and residents of Granite Bluffs. She urged the Commission to oppose the abandonment.

Granite Bluffs resident Rick Lambert addressed the Commission and stated that they were told the surrounding area was to be built out in subdivisions exactly like the existing Granite Bluffs subdivision, which is what the plat maps also showed. He stated that the developer was relentless in his efforts, and should not be allowed to vacate the project. Mr. Lambert asked the Commission to support the residents and oppose the request.

Granite Bluffs resident Robert Stewart addressed the Commission stating that to allow the abandonment would make way for the possibility of substandard housing and development, with CC&R's different from those of Granite Bluffs. He urged the Commission to deny the abandonment.

Granite Bluffs resident Junia Aksamic addressed the Commission and stated that if the zoning changes in Granite Bluffs it would negate the reason they purchased their home. She stated that any homes built in Granite Bluffs should be comparable to the existing homes.

Commissioner Kress asked if the amount of the bond would cover the cost of the facilities today. Mr. Ruggles acknowledged that the bond was set up in 2007 and would cover the Engineer's estimated cost at the time. He stated that the City no longer accepts bonds, and adds a thirty-percent additional charge in case there is an extended period between the bond being accepted and the improvements completed. Mr. Ruggles went on to state that there are a number of

subdivisions that have been platted for years and remain vacant. If the subdivision is not completed as approved and the City has to sue the insurance company for the cost of improvements, the City may have to put the improvements in and try to recoup the cost of the infrastructure, while the bond may not be sufficient to cover the cost. Mr. Ruggles explained that is why it is in the City's best interest to see the improvements go forth and see the subdivision completed, or have it go away and a more viable development be brought forth.

Vice-Chair Blair stated that he would like to see the bond stay in place and the developer build the subdivision as agreed.

Commissioner Lewis stated that the residents of Granite Bluffs did their homework before purchasing in the area, and they expected the entire area to be built out into a subdivision similar to theirs, and with comparable CC&R's. He stated that he could not support the abandonment.

Commissioner Kress thanked residents for showing up and stated that she appreciated their interest. Commissioner Kress went on to state that she does not believe the bond will cover the cost of improvements, and does not want to see the City suffer the liability. She stated that the zoning will remain the same, and the developer should not have to be held hostage for the bond, she stated that she supported the request for abandonment.

Commissioner Lewis made a MOTION to recommend DENIAL of the request and to not relinquish the bond. The motion was SECONDED by Vice-Chair Blair. The motion DID NOT CARRY, with Commissioners Kress, Fredrickson and Bailey casting opposing votes (2-3).

Commissioner Kress made a MOTION to recommend APPROVAL of the abandonment of Granite Bluffs III Tract 1996-A as requested with conditions 'A' and 'B' as recommended by staff. The motion was SECONDED by Commissioner Bailey, and the MOTION CARRIED with a vote of (3-2), with Vice-Chair Blair and Commissioner Lewis casting the opposing votes.

Vice-Chair Blair noted that SB16-0001 would be heard by the City Council on April 5, 2016.

B. OPEN MEETING LAW TRAINING: Presented by City Clerk Sydney Muhle.

City Clerk Sydney Muhle addressed the Commission to present the annual State mandated discussion on Arizona's Open Meeting Law (A.R.S. §38-431 to §431-09). Ms. Muhle stated that the Open Meeting Law is a set of laws intended to maximize public access to the governmental process and to make certain that deliberations and proceedings are open to the public so everybody has a chance to participate and to keep public bodies from making decisions in private.

Ms. Muhle stated that Councils, Commissions and Boards of any city or town are public bodies and any laws that apply to the City Council or any commission or board also apply to subcommittees as well. She noted that a meeting means a gathering of a quorum of a public body at which they discuss, propose, or take legal action, including deliberations. She stated that meetings of the governmental body can be attended by technological devices including telephone and e-mail communications, if the plans to attend using this technology are stated beforehand in the agenda. A meeting can also be constituted by members using Facebook, Blogs, Tweets and other similar technologies.

Ms. Muhle stated that the public body may only discuss, consider, or decide on those matters listed

on the agenda and other matters related thereto. She advised that if an item that is not listed on the agenda is brought up during a meeting, the better practice is to defer discussion or decisions on the matter to a later meeting date. Ms. Muhle said that the "Call to the Public" agenda item found on agendas is not required by State Statute and public bodies may impose reasonable time, place and manner restrictions on speakers.

The Commission was told that a quorum is a majority of the members of the public body, which is four for the Planning and Zoning Commission, because there are seven members on the Commission. Ms. Muhle told the Commission that if there is a quorum of Commission members present at a social event or gathering of any kind, City business may not be discussed. Vacant positions do not reduce the quorum requirements.

Ms. Muhle stated that Commissioners may be disqualified from voting on particular matters if they have a conflict of interest. A disqualified Commissioner, although present, cannot be counted in determining a quorum.

Ms. Muhle stated that caution must be used when communicating to other Commissioners by telephone or other social media. She said a Commissioner cannot communicate to three or more Commissioners outside of an official meeting about matters to be considered by the Commission. She said the staff can communicate to the Commissioners outside of an official meeting, but cannot convey the position of other Commissioners in that communication. Ms. Muhle advised that there are penalties associated with these violations of the Open Meeting Law that would be the responsibility of the individual and not to the City. These penalties may be up to \$500 per occurrence, and the individual may also be removed from the Commission.

Ms. Muhle stated that the Open Meeting Law protects the public and preserves their right to participate in government, protects public officials and maintains integrity of government, and ensures a better informed citizenry that builds trust between government and citizenry.

C. CONSIDERATION OF A RECOMMENDATION TO THE CITY COUNCIL CONCERNING THE APPOINTMENT OF A CANDIDATE TO FILL THE UNEXPIRED TERM OF COMMISSIONER TYLER ANGLE: Commissioner Angle has moved out of the corporate limits of the City and has resigned his position on the Planning and Zoning Commission. His term will end December 31, 2017. There are five applicants for the Planning and Zoning Commission in the Talent Bank.

Vice-Chair Blair acknowledged that there were five applicants for the Planning and Zoning Commission. Burt Dubin, Harley Pettit and Brooke Fix were not in attendance. Applicants Terry Shores and Thomas Schulte were present.

Applicant Terry Shores addressed the Commission stating that she submitted an application for the Planning and Zoning Commission because she felt she could make a difference. She stated that she is vested in Kingman having raised two children here, and now has six grandchildren here as well. Ms. Shores acknowledged that she has a good idea what Kingman is about, and has the time to invest in the community now that she is retired.

Applicant Thomas Schulte addressed the Commission stating that he was now retired and has lived in Kingman for two years, but was involved with planning during his years with corporations. He stated that he has dealt with regulations and the unintended consequences of decisions as well as understanding rules and how to apply them.

Mr. Schulte went on to state that he grew up in a small town and watched what could happen with a lack of consistency and planning and the problems that could be caused. Mr. Schulte noted that he had been in the military and worked for law enforcement, learning to be part of a team, yet still maintain his independence. He acknowledged that he has been involved with non-profit and charitable organization throughout his career in order to improve the community he lived in and stated that he would like to do the same with Kingman, making it a thriving community. Mr. Schulte stated that he was offered a position on other City commissions but felt that the Planning and Zoning Commission would be interesting and a good fit for him. He thanked the Commission for their consideration.

Commissioner Lewis made a MOTION to recommend candidates Terry Shores and Thomas Schulte to City Council for consideration to fill Tyler Angle's unexpired term on the Planning and Zoning Commission. The motion was SECONDED by Commissioner Fredrickson, and CARRIED UNANIMOUSLY (5-0).

6. COMMISSIONERS COMMENTS: Limited to announcements, availability/attendance at conferences and seminars, requests for agenda items for future meetings and requests for reports from staff.

Commissioner Kress acknowledged that Commissioner Angle was very much appreciated and added great value to the Commission.

Commissioner Kress made a MOTION to adjourn. The motion was SECONDED by Commissioner Bailey and UNANIMOUSLY (5-0) APPROVED. Vice-Chair Blair declared the meeting adjourned at 7:16:53 P.M.

ADJOURNMENT 7:16:53 PM

ATTEST:

APPROVED:

Sandi Fellows
Recording Secretary

Gary Jeppson
Development Services Director

STATE OF ARIZONA)
COUNTY OF MOHAVE)ss:
CITY OF KINGMAN)

CERTIFICATE OF PLANNING AND ZONING COMMISSION MINUTES:

I, Sandi Fellows, Planning and Zoning Administrative Assistant and Recording Secretary of the City of Kingman, Arizona, hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the Planning and Zoning Commission of the City of Kingman held on March 8, 2016.

April 12, 2016