

EL PASO



COUNTY

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission (PC) Meeting  
Tuesday, October 17, 2017  
El Paso County Planning and Community Development Department  
2880 International Circle, Hearing Room  
Colorado Springs, Colorado 80910

**PRESENT AND VOTING: JIM EGBERT, SABRINA RAINEY, ALLAN CREELY,  
BRIAN RISLEY, KEVIN CURRY, JOAN LUCIA-TREESE, AND JANE DILLON**

**ABSENT: TONY GIOIA, KEVIN MASTIN, LAWRENCE WOOD, MITCHELL SMITH,  
AND SHARON FRIEDMAN**

**STAFF PRESENT: CRAIG DOSSEY, NINA RUIZ, ELIZABETH NIJKAMP, MINDY  
MADDEN, MICHAEL SHANNON, JOE LETKE, AND EL PASO COUNTY ATTORNEY  
KENNETH HODGES**

**OTHERS PRESENT: BEN VALDEZ**

## 1. Report Items

- A. Planning and Community Development Department – Mr. Craig Dossey** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting. The Water Master Plan Steering Committee member list goes to the Board of County Commissioners in November. Tiny House and general cleanup Land Development Code amendments will be coming to the Planning Commission soon. Early Assistance meeting applications will be available on EDARP within the month, and other submittal applications will follow suit within the next few months such as driveways, septic, and site development plans.

## 2. Consent Items

- A. Approval of the Minutes – October 3, 2017**  
The minutes were approved as presented. (7-0)

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**APPROVAL OF LOCATION  
WINDMILL MESA PARK**

A request by Widefield School District No. 3 for approval of location to allow for the expansion of an existing public park. The site is located on the east side of Bradley Road, south of Marabou Way. (Parcel No. 65121-00-012)

**Mr. Egbert** -- Right now this park is just a grassy area, is that correct? Also, is there closing hours to the park and closing gates to parking lots with security? Answer from **Mr. Valdez** – No, we have a pavilion and porta potty, and approximately 28 parking spaces. The hours are generally open sunrise to sunset. It'll be monitored by local police on a regular basis and we've hired weekend security as well.

**PC ACTION: RAINEY MOVED/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM NO. 2B, U-17-002 FOR APPROVAL OF LOCATION FOR WINDMILL MESA PARK. UTILIZING RESOLUTION PAGE 9 (MORE PARTICULARY DESCRIBED ON PAGE 17-038) WITH THREE (3) CONDITIONS AND ONE (1) NOTATION. THE MOTION WAS APPROVED UNANIMOUSLY (7-0).**

**Regular Items:**

3. LDC-17-010

MADDEN

**EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT  
ENFORCEMENT PROCEDURES**

A request by El Paso County Planning and Community Development to amend the enforcement procedures in Chapter 11 of the El Paso County Land Development Code (2016). The proposed amendments remove the requirement for an enforcement action show cause hearing before the Board of County Commissioners, instead allowing for the Executive Director of the Planning and Community Development Department to issue an executive determination authorizing the County Attorney's Office to pursue litigation and provide procedures for appeals of the Director's executive determination to be heard before the Board of County Commissioners.

**Mr. Risley** – Is this a typical process for other counties to not take cases to the Board of County Commissioners? Property owner rights are important. Are we doing due process by not taking it before the County Commissioners? Answer from **Mr. Dossey** – With a County the size of El Paso County, the idea of taking every single case to the Board is very rare. There is more of an administrative process in place, which is what we need with only three Code Enforcement Officers. The County is statutory where the City of Colorado Springs is home rule.

**Ms. Mindy Madden** gave her presentation to the Planning Commission and answered questions.

**Mr. Hodges** gave an overview of the review criteria for code amendments.

**Mr. Risley** – Once the attorney’s office is authorized to pursue litigation, what does that process look like? I just want to be sure there are a lot of opportunities for the homeowners to resolve any violation before it gets to litigation. Answer from **Ms.**

**Madden** – The County Attorney’s Office does not send a letter to the property owner to inform them of their intent to file with the court, but will just move forward with court action. We continue to work towards compliance with the homeowner throughout the process. There are plenty of opportunities to resolve it before it gets to litigation.

**Mr. Hodges** – A summons of complaint will be served, they have 21 days to answer. If they don’t answer, an order by default is placed. A contempt hearing is necessary to enforce the order and can force the homeowner to rectify this situation, or they could even face jail time and/or fines. It can take months or years once involved in litigation.

**Mr. Risley** – One of the solutions aside from litigation is to come before this body to make changes to zoning. At what point would any of those cases come to this Commission. Answer from **Ms. Madden** – we would start with the same notice of violation. Once they make application and they are actively pursuing approval, stay any further enforcement action. If we have no activity or get no response, those cases go to the Board.

**Mr. Curry** – I try to take this from the perspective of someone who could have a code violation and I try to see if it is unfair. I don’t see where this is unfair. However, if someone were to file an appeal and show just cause, nothing in the Code states that the County Attorney’s Office stops action. I don’t see anything in the amendments that state the action stops the litigation process. Answer from **Ms. Madden** -- If we receive a proper appeal within the 10 days, then it goes to the Board as an appeal. The County Attorney’s Office doesn’t get the authorization until after the 10 days provided in the executive determination from the Planning and Community Development Director has expired.

**Ms. Dillon** – If through the Code Enforcement and County Attorney’s Office and there is still no response from the homeowner, what relief is there for those neighbors who still have those violations in place next to their properties? Answer from **Ms. Madden** – the County can request an entry warrant from the Court to abate the violation and as **Mr. Dossey** mentioned, we do at funds available now to go in and offer that cleanup relief. **Mr. Dossey** – Those funds are available through the General Fund and paid back through the General Fund. It’s not a fund specific to Planning and Community Development.

**Mr. Creely** – I was on the Planning Board in Texas, and I worked a day with the Code Enforcement folks. We had to have security on those trips. Do you have a security or safety plan in place? Answer from **Ms. Madden** – We work closely with the El Paso County Sheriff's Office. For the most part, people are cooperative and open to what needs to be done. We have been very fortunate to not have to encounter any unsafe situations.

**Mr. Creely** – Is there a long delay in the process? Answer from **Mr. Hodges** – Things move quickly to get the court's approval, and then we can proceed with incarceration or fines. There are several hearings involved including a contempt hearing. So, it could take months or years in reality.

**Mr. Dossey** – Generally, we don't go out looking for problems. Most of our cases are complaint driven.

**Ms. Madden** – We are up to about 900-1,000 cases just this year for complaints, for both Land Development Code and County ordinances.

**Mr. Egbert** – How do you get the cleanup costs recovered? Answer from **Mr. Hodges** – We would have to file a judgement on the homeowner or possible place a lien on the property.

**Mr. Hodges** – At the bottom of page 5 of your packet, there is a statement "if no appeal is received within ten (10) days after that date of the PCD Director's executive determination, then the PCD Director's executive determination shall be final and the OCA may proceed with litigation to seek remedies pursuant to Parts (D)(2) or (3) of this Section." I believe that covers Mr. Curry's concern. **Mr. Curry** – I'm satisfied with that statement.

**PC ACTION: CREELY MOVED/CURRY SECONDED TO APPROVE REGULAR ITEM NO. 3, LDC-17-010 FOR APPROVAL OF LAND DEVELOPMENT CODE AMENDMENTS REGARDING ENFORCEMENT PROCEDURES UTILIZING RESOLUTION PAGE 7 (MORE PARTICULARLY DESCRIBED ON PAGE 17-039) AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED (7-0).**

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at [www.elpasoco.com](http://www.elpasoco.com) to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/ Planner processing the request.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.

Approved at the November 7, 2017 meeting.