



ONEIDA COUNTY COMMISSIONERS

Bill Lewis, Chairman – Ken Eliason – Brian Jeppsen

10 Court Street, Malad, Idaho 83252

SPECIAL MEETING

27 OCTOBER 2023 7:00PM – 9:00PM

IN ATTENDANCE

Commissioners Bill Lewis, Ken Eliason, and Brian Jeppsen (in person)

AGENDA ITEMS

Developers Allen and Vilate Nielson wish to discuss why they believe their application should be reviewed under the old development code vs the new development code.

Proposal to hire Legal Secretary Leah Hunt as a part-time, interim employee until her position can be filled.

The special meeting was called to order by Commissioner Bill Lewis.

The purpose tonight is a fact-finding meeting to determine which code should be used. Legal counsel Cody Brower tasked the Commissioners with determining if an appeal from Mr. and Mrs. Nielson would be appropriate. Mr. Brower also discussed vested rights as they pertain to whether someone has done enough on the front end to have vest rights based on the list of requirements on the old code (pp 28-29). Verification would include determining if the interested party filed within the time allotted, had things recorded properly, and assessing if the permit was a class 1 or class 2, etc.

Mr. Brower also briefly referenced Appeal Procedures (p. 36) and discussed the proper way to file a complete notice of appeal.

Documents for tonight's meeting were submitted by the developers, Allen and Vilate Nielson. Mrs. Nielson also questioned when the clock starts running for the application process. County prosecutor Cody Brower reviewed the old code.

The Nielson's stated that on multiple occasions they asked for, and were denied, an application from the Planning and Zoning office and contest they need a new hearing

regarding their denied application based on changes made to the development code on July 25, 2022. Mr. Brower clarified that the special hearing tonight is for the public to hear, but it would not invalidate the code changes. The Nielson's also present a new exhibit (Idaho State Government Code, title 67, p.4) and its intent and meaning was clarified by Mr. Brower as not pertaining to the Nielson's situation/issue. The Nielson's rest with a plea for a ruling in their favor.

Rhonda Neal, Planning & Zoning Administrator clarified and address questions from the Commissioners and Attorney Cody Brower regarding the Nielson's application and presentation. A certified letter was sent to the Nielson's on August 22, 2022. They had submitted a Class 2 application and Mrs. Neal stated that Mic Udy (formerly with Planning & Zoning) had told her it was "a non-binding meeting" after he spoke with the Nielson's. In August, the Nielson's file and 2-3 others were placed in a "dead file" drawer because they were incomplete (i.e. no application, no concept plan for review or approval, etc.). The Nielson's say their concept plan from Great Basin was complete when submitted on 8/16/2022 and that the Nielson's wanted to move forward with the development. Mrs. Neal also stated that Mr. Udy told her that he had asked the Nielson's to bring back more info, specifically a development plan. On March 6, 2023 Rhonda received the Nielson's concept plan and sent it out to the other agencies in the county for review. A Notice to Proceed was on March 14, 2023. On April 1, 2023 there was a neighborhood meeting in the Planning & Zoning Annex office. Mrs. Neal read the minutes from that meeting and ended her presentation by saying that the Nielson's application was received and accepted on April 6, 2023.

Mrs. Niel then answered questions from Attorney Cody Brower, and stated that the Nielson's application process was considered incomplete under the guidelines of the old code and that criteria was not met under the new code because their application was not deemed complete until April 6, 2023 at which point they had submitted a new, approved concept plan that met criteria, completed the pre-approval process, and after letters to each agency were sent out because of those county agency's vested interest with the development.

Steve Daniels, a member of the Planning & Zoning Commission Board stated the new code 7A-2 application requirements and fees. The pre-application meeting most likely requires more than one meeting. He noted that Item C refers to the date of application submission, which would include the form, fees, and info required from the form and checklist.

Josh Paskett, Chairman of the Planning & Zoning Commission Board clarified the "non-binding" statement from Mic Udy (formerly with Planning & Zoning) that was mentioned by the developers, Mr. and Mrs. Nielson. Mr. Paskett stated that Planning & Zoning had not seen anything [from the Nielson's] under the old code. Attorney Cody Brower clarifies that "non-binding" is not actually part of the code, but that it likely referenced a "pre-application" process.

Commissioner Jeppsen asked Planning & Zoning Administrator Rhonda Neal if the actual application was complete prior to the new code and she stated the Nielson's application

did not meet the required criteria; it was considered "incomplete" and placed in the "dead file" drawer with 2-3 other applications.

Wrapping up the discussion, Attorney Cody Brower re-clarified Vested Rights under the old code and advised the Commissioners to base their decisions on the law when deciding if the Nielson's met the requirements to have their application reviewed under the old code.

No Motion was made in favor of the Nielson's request to have their application reviewed under the old code.

AGENDA ITEM

Oneida County Legal Secretary to the County Prosecutor has submitted a formal resignation, effective November 3, 2023. Timing is important since both the County Prosecutor and County Legal Secretary positions will be open, leaving the county without and experienced attorney or legal secretary for a time. Leah Hunt, exiting Legal Secretary, is willing to remain after her resignation date to help on a part-time basis until a new employee can be brought up to speed.

Commissioner Lewis motions the county re-hire Leah Hunt part-time (no more than 30 hours a week) as a legal secretary at her current wage with no benefits.

The motion is seconded and the motion carries (unanimously).

Commissioners agree to discuss bringing in an Interim Prosecuting Attorney until the county can hire a replacement [for Cody Brower, exiting Prosecuting Attorney]. Franklin County's Prosecuting Attorney Vic Pearson may be an option. A special meeting will be held on November 3, 2023 to discuss this issue.

The meeting adjourned just before 9:00pm.



Bill Lewis, Chairman



Shanci Dorius, Deputy Clerk