

Minutes
Planning Board Regular Meeting
August 1st, 2023

The Village of Capitan Planning Board met in a Regular Meeting on Tuesday, August 1st, 2023 at the Village Hall in Capitan, New Mexico at 5:30 PM.

Peggy Wilson called the meeting to order at 5:34 PM.

Roll Call: Peggy Wilson – Present, JR Castaneda – Present, Dan Bolin – Present, Nema Spear – Present, Tracy Jones – Present. Mayor – Ron Lowrance, Village Clerk - Al Cavazos, Deputy Clerk – Angela Autrey were also present.

Item #1 on the Agenda: Approval of the Agenda.

All were in favor, Motion carried.

Discussion:

Dan Bolin – I have some discussion on the minutes.

Roll Call: All were in favor, Motion carried.

Item #2 on the Agenda: Discussion/Action – Approval of the Minutes Regular Meeting June 6, 2023.

Approval of the minutes were approved with the clarifications in the discussion. All were in favor.
Motion carried.

Discussion:

Dan Bolin – On item 3 & 9.

Peggy Wilson – Okay

Dan Bolin – On item 3, because it's coming up again, it was very vague. The comment was, vague details of why it was rejected, and the details are very clear. One, it's not allowed according to code 197-8 E 1. That's very clear. Two, according to our code 10-3 I believe we have to apply the most restrictive covenant. That subdivision doesn't allow subdivisions. I brought that up. I know I couldn't be heard on the phone.

Peggy Wilson – It was hard.

Dan Bolin – But, it's important that we bring these up. This is the second or third time they came up here, and not understanding what. I think the City needs to give a little bit more clear direction and requirement when we fill out these applications, that they are complete and as strict. By doing that, she wouldn't have been here two or three times. You can give references to the code for them to read. It's not like, they didn't ask the right question. We can't tell them. So, we get the code, it's right there up on the internet. It's very clear, she could have read the application and it was very clear what the requirements were. Very frustrating experience for her, and she paid a surveyor, two times at least, to do this thing. It is very clear why we rejected it. And giving a comment like that, will lead to confusion like the one we are going to have today. Very same, similar situation. So, I'm asking for that to be clarified. I've seen that happen multiple times, in the last year. Not the comment, but the person coming up when they didn't meet the requirements.

Peggy Wilson – Are you asking for an amendment correction to the...

Dan Bolin – I'm asking for an amendment.. because it was clear, and also state why.

Deputy Clerk Autrey – So, on which number?

Dan Bolin – Item 3, because this is a re occurring event. It's not just one time. It's happened over, and over again. Someone wanted to re divide a piece of property, when they didn't have the stuff there.

Deputy Clerk Autrey – And what was the other one?

Dan Bolin – The next one I'm getting to is #9. He came in without, the plat was really cloudy, and he didn't have a contractor. I wanted to make sure that he had... He came in with the plat, that was appropriate and a contractor.

Deputy Clerk Autrey – He did actually, he didn't have it at the time that he sent it out, but he did give it to us that night.

Dan Bolin – Okay. I was really having a hard time hearing, but there was a good plat and with a good contractor.

Deputy Clerk Autrey – Yes

Dan Bolin – Okay those were the two issues I had.

Deputy Clerk Autrey – He gave us copies that night.

Dan Bolin – Okay good deal

Peggy Wilson – There was some discussion, I know it was hard for you to hear, and it was hard to hear you, that by state law, someone correct me if I'm wrong or miss quoting this, that we can't require them to have a contractor.

Mayor Lowrance – It's not a state law, but we don't have an inspector. When they do all this, they have to file with CID to get their permits, and they become the chief inspector to make sure everything is right.

Dan Bolin – On our application, it says for a contractor. Also, when you are installing a manufactured home, you need a licensed permit or a contractor. So, one or the other. I'm stating to be corrected, because you do need one for manufactured home. You need a permit or licensed person.

Mayor Lowrance – It's usually the manufactured home that has to get the license.

Dan Bolin – In correct. Solitare keeps passing these people down, and customers coming in, buying this stuff, not knowing what they are doing. I called the mobile home division, and through their direction, they gave me the inspectors names saying, well they have any problems give me a call. Solitare has done this, 3 times in the last quarter. They are walking out of there, not knowing what to do. They don't know they need to get a permit, they don't know they need to get a licensed person. They think Solitare is doing it. Solitare doesn't do that. Having a licensed permit on there, solves that problem. Or we are going to have these discussions month after month like we've had for the last 6 months. I sent you a document how Ruidoso solved this problem, and we also have it on our own document asking for a licensee and a permit number. The question in itself is, I don't have one. Well get one.

Mayor Lowrance – You're talking about a permit to move the thing or....

Dan Bolin – Well you have multiple permits. You have water, moving, blocking, setting, but you have one person that is running it. They have a portal. The person with the license opens the portal and they enter all this stuff. You don't have the tag on the pole anymore. The different contractors go in there and register, but the one person with the permit does it. We need that.

Mayor Lowrance – Okay

Peggy Wilson – I am looking at our permit application, we do ask for contractor, license number. So if we are asking for it, does that lead the people to think they have to?

Mayor Lowrance – They can still file for homeowners permit.

Dan Bolin – Correct. They will have a number with that.

Mayor Lowrance – That’s when we get to the issue, when they file for a homeowner’s permit, it takes jurisdiction away from us and puts it on the State. They still have to call in their inspections, they have to pay the social security and all that stuff.

Dan Bolin – They take a 3-hour test and their given a permit for the manufactured home. I’ve talked to both inspectors. You have a permit. They either go up and take a test, it’s quite expensive, or they have a licensed contractor. If they don’t have a permit number, then they haven’t done it. That’s the information I sent you on that Ruidoso form, and they require that. We reject it if we don’t have it.

Mayor Lowrance – That’s an easy fix but there are a lot of jurisdiction that...

Dan Bolin – Do I need to re send that Ruidoso form, in what they have on mobile homes?

Mayor Lowrance – Yes

Dan Bolin – It’s detailed, we don’t have to do everything but it’s really good. Just us enforcing, where is you permit number, where is your license number. I’m not saying we have to investigate. You can go on line and find out if they are really licensed or not, they can have sub-contractors with license. Most of these people around here will do that because they will be dealing with WINK in this area and it not give them the appropriate measures. So, it’s one or the other. Permit or License.

Public attendee Ed Reeve – Does it matter if it is brand new or used?

Dan Bolin – No sir, anything that is a manufactured home. It could be as old as dirt. If it’s coming down that highway, they want it.

Public attendee Ed Reeve – Okay. No matter if it’s brand new or 40 years old, you still have to go through the process.

Dan Bolin – Yes

Mayor Lowrance – They should have a permit from the state to set it. I didn’t know that about Solitare, but if you buy from anybody else, they get the tags...

Dan Bolin – Solitare used to, but the new sales guys are not that helpful.

Mayor Lowrance – They get their crews to come out and block it according to the Molly and VA specks. If they go get the permit, then it’s not in our hands anymore.

Public attendee Ed Reeve – I can see it on brand new, I just wondered how you handled one that’s... Or moving one in on an empty lot.

Mayor Lowrance – That is up to the subdivision.

Dan Bolin – If you are in Capitan, it’s going to require it.

Peggy Wilson – It looks like we’ve had clarified the items. I would like a vote to accept the minutes with those two clarifications and discussion.

Roll Call: All in favor, Motion carried.

Item #3 on the Agenda: Discussion/Action – Approve Recommendation of Application for Mobile/Manufactured Home at 112 Straightway Rd. Mt. Capitan Subdivision Lot Number 7A, Block 6 – Kenny Espinosa

All were in favor for the approval. Motion carried.

Discussion:

Dan Bolin – This is done well. It was three lots, related into one. It was appropriate. I didn’t see any wrongs with it.

Roll Call: JR Castaneda, Tracy Jones, Nema Spear, Dan Bolin, Peggy Wilson

Item #4 on the Agenda: Discussion/Action – Approve Recommendation of Application for Annexation for 8412 Us Hwy 380, Capitan Nm 88316 – Kathleen McDonald

Tracy Jones made a motion to Approve this Annexation into the Village with the idea that the Water Board is going to verify or investigate this 15,400 gallons of water per day that she has indicated. **Dan Bolin** seconded the motion.

Discussion:

Dan Bolin – Is Kathleen here?

Peggy Wilson – By the description of what it looks like is that, it used to be one parcel of land, divided into 3 lots. The two on either side, have already been annexed. She is in the middle. I didn't see any reason for it not to be annexed to the Village.

Dan Bolin – I'm looking at this. What I found peculiar was, and we have appropriateness because it was on the application, and we also have appropriateness through code 10 out of welfare of the community. I'm concerned with 15,000 gallons a day for residential use. That is not residential use. I don't know why she marked it as that. So that is 5 ½ acres feet of water a year. She could have been doing it because she had 5 acres, 5 ½ acres and she was thinking it that way. But I don't think that is a residential use, and I recommend that the Water Board looks at this because that is excessive. And we need to know why she wants 5.5 acres.

Mayor Lowrance – It will be going before the Water Board, because there are different tiers in our ordinances and if she is not using it for growth, vegetables...

Dan Bolin – She marked it as residential. I saw no problem with the application other than the amount of water she was asking.

Mayor Lowrance – That's not before the board.

Dan Bolin – Well, it is.

Mayor Lowrance – No, it's not. It's for the annexation. If you don't want to annex it, then you call roll call then you vote no.

Dan Bolin - But we bring up these concerns that highlight the issues, and you are addressing that issue. It is a part of our Board here to be concerned about the health and welfare of our community, and that's one of those.

Mayor Lowrance – Alright, but the water.....

Dan Bolin – 10-3

Mayor Lowrance – Okay

Peggy Wilson – What I'm hearing is that, I need a motion to approve this with the idea that the Village Water Board is going to look at this, 15,400 gallon a day water usage for the property, but we will Annex.

Dan Bolin – We have to evaluate that.

Tracey Jones – It wasn't a day.

Peggy Wilson – She says a day. She may have written that incorrectly, but....

Dan Bolin – Look at her application. I think she was thinking that she could get 1 acre of water per acre.

Peggy Wilson – Do we have a motion?

Dan Bolin – Could you re state it?

Peggy Wilson – Move that we approve this Annexation into the Village with the idea that the Water Board is going to verify or investigate this 15,400 gallons of water per day that she has indicated.

Roll Call: JR Castaneda - Yes, Dan Bolin – Yes, Peggy Wilson – Yes, Tracy Jones - Yes, Nema Spear – Recuse

Item #5 on the Agenda: Discussion /Action – Approve Recommendations of Applications for Replat of a tract of land in the SW/4 of Section 17, T9S, R14E, NMPM Capitan, Lincoln County, New Mexico –

Marsha Keown

Dan Bolin made a motion to Deny. **JR Castaneda** seconded the motion.

Discussion:

Dan Bolin – This doesn't meet the requirements of the city. It's a half acre, it should be 2 acres and sewer is not available.

Peggy Wilson – Anybody have any further discussion on that?

Marsha Keown – I called and was told it was a half acre.

Dan Bolin – Half acre if you have sewer and water. If you only have one or the other, it has to be 2 acres. You need 2 acres to subdivide. Each parcel needs to be 2 acres.

Marsha Keown – I've called several times (in audible)

Peggy Wilson – Staff, do we have any input on this one?

Marsha Keown – She is not putting a building on it, she is going to have a tent.

Dan Bolin – But, the subdivision rules...

Marsha Keown – My property is not in the subdivision.

Dan Bolin – Yes ma'am. It is on....(researching on the laptop) You own one piece of property, correct?

Marsha Keown – Right, and it's the only piece of property in that area... It's west Deer Trail

Dan Bolin – Yes, West Deer Trail. Thank you. That is in, I'll tell you what subdivision that is in....

Marsha Keown – It actually is not in the subdivision. The subdivision goes around that piece of property. It's not part of the subdivision.

Dan Bolin – Did you have a deed in there?

Marsha Keown – I gave it to Dennis Rich the Surveyor. He said he sent you everything in that column.

Dan Bolin – I'm pulling up the tax records. I can look up the lot, because looked up the tax records on that.

Peggy Wilson – I'm not showing a subdivision.

Angela Autrey – The Subdivision is Thunderbird Hills

Peggy Wilson – Yes, I've got Thunderbird Hills

Dan Bolin – There it is. Thunderbird Hills.

Marsha Keown – I talked to several people, including here, and said it was not.

Peggy Wilson – It's showing lot 11,13,14 of Thunderbird Hills. That's what I'm looking at.

Dan Bolin – I'm going to get the tax ID code on that

Marsha Keown – I'm trying to look it up on my phone.

Peggy Wilson – I don't see a copy of your tax record. You've paid your taxes on this property?

Marsha Keown – Right

Dan Bolin – Even if it's not in a subdivision, it's in the city limits.

Marsha Keown – Right

Dan Bolin – So you have to have two acres. Do you have sewer and water? Or use septic?

Marsha Keown – I have septic.

Dan Bolin – You have to have them both. Sewer and water.

Marsha Keown – To sell?

Dan Bolin – To divide it to a half an acre. If you have sewer and water, you can divide it into a half an acre. But just water, you can't do it. It's a city code.

Marsha Keown – Okay, so people are going to have to (in audible) same spot.

Dan Bolin – Yes ma'am. Let me pull it up. The mapping program says its lot 2. I was wondering why they didn't put that on there. But even without that, it's not 2 acres. Each piece has to be 2 acres, if you were to subdivide it.

Marsha Keown – I just want to say that I've called several times, and I just paid \$600 for the survey.

Dan Bolin – Yes ma'am.

Marsha Keown – Based on false information that I was given.

Dan Bolin – I am sorry about that.

Marsha Keown – Because they looked on the address and said, oh yea, you just need a half acre.

Dan Bolin – I'm trying to pull up your tax stuff because

Peggy Wilson – How large is the entire property?

Marsha Keown – The entire property is 2 acres.

Peggy Wilson – Okay here's a question Dan. If she puts septic on the other one, does that rule go away?

Dan Bolin – No, it's code number,

Mayor Lowrance – The code or?

Dan Bolin – No, it's a code.

Peggy Wilson – I was trying to figure out a way if she could do something.

Dan Bolin – I wish we could but, without sewer and water, we have denied multiple people this year for the same reason. Because they don't have sewer and water. They have water, but not sewer.

Mayor Lowrance – I know what the ordinance says.

Dan Bolin – We are going to have to deny that.

JR Castaneda – So if she would have had sewer and water she could sell it back?

Peggy Wilson – Yes

Dan Bolin – Yes

Mayor Lowrance – You say you're not in the subdivision?

Marsha Keown – No. This property is not.

Peggy Wilson – Does that change it if she's not in the subdivision?

Tracy Jones – No

Mayor Lowrance – Do you have the deed for it?

Marsha Keown – Yes

Mayor Lowrance – Look on there and see if it states if it's in that subdivision. It should say.

Nema Spears – This does

Mayor Lowrance – That's just the plat.

Dan Bolin – I could be incorrect on one but correct on the two acres. I want to read that code. Do you know which one I'm referring to Ron? You quoted it to me in the past.

Mayor Lowrance – It's the same one we are fighting over right now.

Dan Bolin – MmHm. I'll pull it up.

Peggy Wilson – It's okay, just give the code number it's self so that we can read it into the record.

Dan Bolin – 197-8-E1 Do you have that one available?

Mayor Lowrance – No.

Dan Bolin – I've got it bookmarked. I'll read it out loud.

Angela Autrey – Are you in the land use?

Dan Bolin – Yes

Angela Autrey – It's right here. Which one are you wanting?

Dan Bolin – Subdivision, there we go. It's 197-8-E Subdivision. Half acre, or two acres.

Peggy Wilson – Can we make a copy of the code available to her so that she understands. We are not in a position to deny and make your life miserable but we've got to follow what the rules, ordinances, and codes say.

Marsha Keown – Who should I have asked to talk to get the proper information?

Peggy Wilson – According to Dan what I understood was, even if you're not in the subdivision it does not change that rule. So, you have to have two acres each in order to subdivide and or sewer, which what I understand is quite a long way from your property.

Marsha Keown – I understand. I was asking who should I talk to when I call to....

Dan Bolin – We can't make suggestions on those.

Peggy Wilson – I think possibly the deed should show exactly where your property is located and if it is or is not in a subdivision, it should be referenced in the deed.

Dan Bolin – If I remember right, it's on the application, correct?

Marsha Keown – You should have the deed.

Angela Autrey – I did not come with the plat. Denis didn't send it.

Peggy Wilson – We don't have a copy of it.

Marsha Keown – The deed says it's not in the subdivision, but that doesn't sound like that's the problem.

Dan Bolin – I'd like to read this to her.

Lot's in any subdivision or replat that have access to city/village sewer and water, should be no less than a half an acre. Any lot that does not have access to village sewer and water shall be a minimum of two acres.

Marsha Keown – I thought I heard you say subdivision.

Dan Bolin – Two acres and you'll provide the infrastructure on it.

Marsha Keown – Can you read that to me once more?

Dan Bolin – Sure. Any lot that that does not have any access to Village sewer and water shall be a minimum of 2 acres.

Marsha Keown – Okay, so it didn't say anything about subdivision?

Dan Bolin – No, that part was different. You don't have 2 acres. You'd have to have 4 acres, and divide in half. We've had many come before us asking the same thing, and we have to say no.

Marsha Keown – Okay, so my question was, in the future. Is there a way that we can talk to, how will they....

Dan Bolin – I agree, this is frustrating. I'd like to see that addressed. Even if the City would referencing the code. Can we do that. Can't we? The codes available online? We can do that correct? So that's a great change. We can put it right there. Codes available on line. Put it right on the application.

Angela Autrey – We've been putting the land use and the building codes with all of the applications. We haven't been putting them with the replats.

Dan Bolin – So they can go up there and search it. Now, typically surveyors will know these rules, or who ever you hired, will know these rules.

Marsha Keown – Right.

Dan Bolin – Maybe we can make a motion to put that up there. This code on the application for more reference because we are not telling them anything, we're not giving them advice. We tell them where the info is.

Marsha Keown – Could I get a copy of that? How do I get it?

Dan Bolin – It's online.

Marsha Keown – Oh.

Dan Bolin – Type, Village of Capitan Codes. There will be multiple places it pops up. I have a harder time finding it through the Village than,

Tracy Jones – Can we give her that code number? That particular one?

Dan Bolin – Yes. The number is 197-3

Mayor Lowrance – We can give her a copy. In other words, what the ordinance says. If you only have 2 acres, you can't plat it at a half acre because that would only give you 1 ½ acres and a ½ acre. It says that if it is hazardous to the water and sewer and stuff, I can understand that part, but the minimum of a replat has to be 2 acres.

Marsha Keown – So, if it were anywhere in Capitan City Limits then that would be the rule.

Mayor Lowrance – In the City of Capitan, it depends on what you are re-plating for because if you are trying to put another home on it, then it has to be at least an acre for a replat. If you have three acres then you can keep the two and have the one.

Dan Bolin – She has a total of two acres.

Mayor Lowrance – Give us time, because we are going through all this and getting stuff worked out. We are almost ready to do revisions on these. There is a lot of stuff in there that doesn't go with Capitan's situation. It's been brought up before. There is a water one we don't like and there is this one we don't like. If we can get those changed. Have a public meeting, have public input, then we can change the ordinance but you are looking at one section so we'll have to change the whole ordinance. Does that make sense to you? That's what we are fighting right now. We will have to get a legal opinion, send it to the codifiers, they codify it, we come back and have a public meeting, then have the next board meeting to approve it, then it would be changed. But for now, it's what we are stuck with.

Marsha Keown – So you can't sell it as an unbuildable lot. You don't have unbuildable lots here?

Mayor Lowrance – I didn't understand the question. It's what?

Marsha Keown – You can't sell anything as an unbuildable lot? You can't sell a property without building on it?

Mayor Lowrance – Where do you get an unbuildable lot from?

JR Castaneda – Because she can't get water or sewer to it.

Marsha Keown – Because the person that I'm selling it to, has no intentions of building on it. So it's sold as an unbuildable lot. But you are saying that in Capitan, there is no such thing.

Mayor Lowrance – There is nothing against fences, and I guess if you want to circumvent it, I'd lease it to them for a 100 years and then it's just a lease.

Peggy Willson – Okay, we are going to move on. The rule is, we have to go by what is in effect today. Not what we hope to change in the future. All we can do on this one, and I'm assuming I'm going to get a motion for denial because of the ordinance that are written and in affect today. In the future, we hope, that that will change but there is no time frame we can give you. I'm calling for a motion now on this agenda item.

Dan Bolin – I move that we deny it. Let me make sure I repeat that code correctly.

Mayor Lowrance – 197-8-E section 1,2,&3.

Roll Call: JR Castaneda - Yes, Dan Bolin – Yes, Peggy Wilson – Yes, Tracy Jones - Yes, Nema Spear – Yes

Dan Bolin – In the minutes, wouldn't it be good if we actually put that code in there?

Mayor Lowrance – You said it.

Peggy Wilson – It was referenced to it will be in the minutes.

Dan Bolin – This has come up so many times.

Clerk Al Cavazos – It will be clearly in the minutes. For future reference, but we are in the process. We have actually gone through all of the ordinances. We've made notes in the areas. Those ordinances have been in affect for 25 years. So, we have actually physically gone through all of the ordinances and made notes.

Mayor Lowrance – Not just us though. Let me clarify it. We've had the supervisors on each one. They have looked at it, and know the in's and out's and what needs to be done. We've had 2 people look at it with legal aspect of it. We are just trying to get it all solidified. Trustee's will get their complete deal. They can look at it and make their changes to it. Then we have to send it to a lawyer, to make sure we are not defying any state or federal law. Then we send it up to the codifiers, they reassure that we aren't stepping on toes. When we get it back, we will have a public meeting to make the changes and vote on it.

Peggy Wilson – Any comments from anyone in the audience? No?

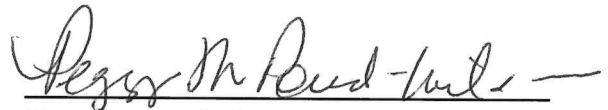
ADJOURNMENT:

Dan Bolin made a motion to Adjourn. **JR Castaneda** seconded the motion.

Discussion: No discussion

Roll Call: All were in favor, the Motion carried.

Peggy Wilson adjourned the meeting at 6:11 PM.



Planning Board Chairman, Village of Capitan

Attest:



Planning Board Secretary, Village of Capitan

5:30 PM

[illegible]