

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, May 6, 2009, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Leirion Gaylor Baird, Gene Carroll, Michael Cornelius, Dick Esseks, Roger Larson, Jim Partington, Lynn Sunderman, Wendy Francis and Tommy Taylor; Steve Henrichsen, Tom Cajka, Brian Will and Jean Preister of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Gene Carroll called the meeting to order and requested a motion approving the minutes for the regular meeting held April 22, 2009. Motion for approval made by Sunderman, seconded by Larson and carried 8-0: Gaylor Baird, Carroll, Esseks, Larson, Partington, Cornelius, Sunderman and Taylor voting 'yes'; Francis abstained.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:

May 6, 2009

Members present: Gaylor Baird, Carroll, Cornelius, Esseks, Francis, Larson, Partington, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 09010, SPECIAL PERMIT NO. 09008 and STREET & ALLEY VACATION NO. 09004.**

Ex Parte Communications: None

Item 1.1, Change of Zone No. 09010, was removed from the Consent Agenda and scheduled for separate public hearing at the request of staff.

Taylor moved approval of the remaining Consent Agenda, seconded by Cornelius and carried 8-0: Francis, Sunderman, Taylor, Larson, Partington, Gaylor Baird, Esseks, and Cornelius voting 'yes'; Carroll abstained.

Note: This is final action on Special Permit No. 09008, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

CHANGE OF ZONE NO. 09010
TEXT AMENDMENT TO CHAPTER 27.70
OF THE LINCOLN MUNICIPAL CODE TO
ALLOW CHURCHES TO HOLD TEMPORARY
OR SEASONAL SALES OF GOODS AT RETAIL.
PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 6, 2009

Members present: Francis, Sunderman, Taylor, Larson, Partington, Gaylor Baird, Esseks, Cornelius and Carroll.

Ex Parte Communications: None.

Staff recommendation: Approval, as revised on May 6, 2009.

Staff presentation: **Tom Cajka of Planning staff** indicated that the specific purpose of this text amendment application began as a temporary permit for sale of fireworks. Several churches have been asking about selling fireworks as a fund-raiser. Staff had discussions as to whether this could be considered an accessory use to a church as a fund-raising project and whether or not a special permit would be necessary. Upon further discussions with the City Law Department, it was determined that a special permit was probably excessive for this use; however, the Law Department did not want to call it an accessory use and proposed providing some conditions for tent sales and temporary seasonal sales. This will apply only to churches or religious institutions and it allows for temporary or seasonal sales, either under a tent or temporary structure, or anywhere on the church premise.

Cajka submitted a proposed amendment to specify the districts in which this would be allowed, i.e. any AG, AGR, R or O Districts. These are the same districts that appear for temporary seasonal sales in the special permit section of the ordinance.

Paragraph (b) is also proposed to be amended to state: "Any outdoor sales, tent or other temporary structure used...". This would cover sale of Christmas trees, for example. Any outdoor sales would be limited to 45 days in a calendar year. The 45 days do not need to be consecutive. This does not limit sales inside the building, such as bake sales, etc.

Esseks was interested in rewording the language to include "churches, synagogues, mosques, and other institutions of religious worship". Cajka suggested that the term "church" is a generic term that has been interpreted to include all places of worship. **Steven Henrichsen of Planning Staff** added that "church" is the term used throughout the zoning ordinance in numerous places and it has been interpreted to mean any place of worship. "Church" has never been meant to be an exclusive term.

Esseks inquired whether the zoning ordinance makes that explicit interpretation. Henrichsen responded, "no". Since the word "church" is used in numerous places, he believes it might be detrimental to have the additional definition suggested just in this one place in the ordinance. Staff has had this discussion before and has never felt the need

to go forward with more clarification. Perhaps the more generic term “place of worship” could be used at the time when the entire zoning ordinance is updated.

Esseks asked how he would go about requesting that the definition clauses of the zoning ordinance reflect this interpretation. Henrichsen suggested that staff could include it in the long list of amendments for the zoning ordinance rewrite. There are lots of definitions that have been interpreted over time.

Proponents

1. Randy Bartelt, 5534 NW Tudor Lane, appeared as the applicant and clarified that he is Chaplain in the Lancaster County Jail working for the Good News Jail and Prison Ministry, a non-funded county position. As an employee of Good News, he needs to raise his own funds just as any missionary would. He believes that fireworks is a way for him to raise funds. He also clarified that he is not working on behalf of any church or any place of worship specifically. He is doing this because he needs to raise funds for the position that he has.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

May 6, 2009

Larson moved approval, as revised by staff, seconded by Francis and carried 8-0: Francis, Sunderman, Taylor, Larson, Partington, Gaylor Baird, Esseks and Cornelius voting ‘yes’; Carroll abstained. This is a recommendation to the City Council.

This was Eugene Carroll’s last meeting due to being elected to the City Council on May 5, 2009. Carroll expressed appreciation to all of the Commissioners for their help while he served on the Planning Commission.

The Commission will hold an election for a new Chair at the regular meeting on Wednesday, May 20, 2009.

There being no further business, the meeting was adjourned at 1:12 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on May 20, 2009.