

COUNCIL STUDY SESSION MINUTES

December 6, 2011

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a study session at 5:30 p.m. in the Municipal Building Conference Room on the 6th day of December, 2011, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray, and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers, Dillingham Gallagher, Griffith, Kovach, Lockett, Quinn, Spaulding, Mayor Rosenthal

ABSENT: Councilmember Ezzell

DISCUSSION REGARDING DUTIES AND POWERS OF THE PLANNING COMMISSION.

Ms. Susan Connors, Director of Planning and Community Development, said Article XIX, Section 1-4, of the Charter of the City of Norman cites the general power to regulate “planning, zoning, and subdivision regulations” and authorizes Council to appoint a Planning Commission, “in order to avail itself” of those powers. She said Chapter 4 of the City Code, enumerates the specific duties of the Planning Commission. It has remained unchanged since then except for one amendment in 1980 that added the duty to conduct a public hearing on any annexation or de-annexation request.

The Planning Commission requested a study session be scheduled to discuss any possible updates that would more closely align the existing language to the way the Planning Commission currently operates. Ms. Connors said the Planning Commission met on September 8, 2011, and reviewed several additions, deletions, and modifications to the various sections in Chapter 4, Section 1201. She said they also discussed updating their operating procedures, which are incorporated into a formally adopted resolution establishing how the Planning Commission conducts its regular and special session, including but not limited to the notice requirements for public hearings, the time of their meetings, the order of the agenda, the order of presentations at the public hearings, and when items may be withdrawn.

Ms. Connors said “development” is regulated by three chapters of the City Code: Chapter 19 contains Subdivision Regulations, which regulates the division of land into building lots and the provision of infrastructure; Chapter 22 contains the Zoning Ordinance which regulates the use of land; and Chapter 18 is the companion ordinance that regulates signs on private property. She said several of the changes to Section 4-1201 recognize the current role of the Planning Commission as a recommendatory body, and include the specific chapters that touch some aspect of development. She said some duties, i.e., Sections (4) and (6) were recommended to be deleted as they had historically not been performed, including citywide review of all commercial properties and reviewing the design of all public buildings, statues, boulevards, and bridges. She said the verbiage “prepare” and “investigate” were also deleted.

Ms. Connors highlighted the Planning Commission’s recommended changes which reflects the Planning Commission’s current practices for the last 15-20 years. She said Staff incorporated their recommended changes into an ordinance revision for Council consideration. Ms. Connors said the Planning Commission’s formally adopted resolution governing their general duties and powers was scheduled for action at the October 13, 2011, Planning Commission meeting and Mr. Harold Heiple, attorney representing the Developers’ Council, asked that the item be rescheduled so the Developers’ Council could provide additional input. The Planning Commission resolution is still on hold, pending Council discussion this evening regarding the general duties and powers in Chapter 4. Ms. Connors said Staff met with Mr. Heiple to discuss additional concerns regarding Section 4-1201, and the draft was modified in effort to address Mr. Heiple’s concerns. Ms. Connors distributed the re-draft ordinance to Council and stated one primary difference between the original draft and re-draft is that Section 1201(b)(5) limits the Planning Commission review of changes in Chapter 19. She said Mr. Heiple proposed that there are numerous sections of the Subdivision Regulations that should not be reviewed by the Planning Commission whenever amendments to the text of the Ordinance are proposed and

which he believes do not pertain to land use. A listing of sections is included in a letter from Mr. Heiple dated November 7, 2011, were attached to the Subdivision Regulations. Ms. Connors said Mr. Heiple felt that the Planning Commission should not have jurisdiction over the majority of Chapter 19, because the code sections do not pertain to planning for land use and/or zoning districts. She said more discussion on this issue is requested because Staff felt perhaps the code sections do pertain to land use regulations and the plats that are reviewed.

Ms. Connors said Staff has not had the opportunity to discuss each specific section with Mr. Heiple; however, general discussions have occurred. She said the proposed re-draft includes language that would allow the exclusion of review by the Planning Commission for some sections of the Subdivision Ordinance.

The second primary difference between the original draft and re-draft is that an additional section has been added that mandates action by the Planning Commission, effectively removing the possibility for a postponement for any reason other than a request for postponement by the applicant.

Ms. Connors said Staff plans to present an amended ordinance to Council at a future meeting and once an updated ordinance is adopted by Council, the Planning Commission can finalize action on their resolution governing the operation of their regular and special meetings.

Councilmember Kovach said he was concerned about the redrafted ordinance, specifically the section that does not allow the Planning Commission to postpone items on their agenda, and felt there have been occasions where the Planning Commission has needed and/or requested additional information before moving forward on an agendas item. He felt that the Planning Commission should be able to postpone items and Councilmember Griffith agreed, stating based on Mr. Heiple's suggestion, the only option would be to deny the action/agenda item.

Mayor Rosenthal was concerned with Section 4-1201(b)(5) regarding public hearings on proposed amendments to Chapter 19 and felt limiting public comment(s) would narrow the focus. She felt the goal was for the Planning Commission to hold public meetings so that the public had an opportunity to speak and Council agreed. Mr. Jeff Bryant, City Attorney, felt Mr. Heiple was more concerned about an applicant's ability to control his own application as well as narrow the focus to land use and zoning items. Councilmember Dillingham asked if there have been complaints about the Planning Commission deliberately refusing and/or delaying an application and Mr. Doug Koscinski, Current Planning Manager, said while there have been complaints about such issues in the past, many of the examples Mr. Heiple cited actually occurred before the City Council adopted the revised Subdivision Regulations. Under the old regulations the Planning Commission had the duty of approving or disapproving preliminary plats, which is no longer the case or process.

Mr. Connors asked Council for clarification when discussing Chapters 18, 19, and 22, specifically to *text* amendments rather than individual project review. She said if Council desired to change the language regarding certain sections of those chapters, the public meeting process would still remain. She said input regarding language changes would still be given to Staff; go to a public meeting at Planning Commission; and then go to a public hearing at a City Council meeting and it was the consensus of Council that process remain.

Councilmember Dillingham asked whether or not the verbiage "developments" and "improvement" should be better defined, particularly if all of Section 1201(b)(4) is to be deleted so that an issue/topic will not be missed or end up with Planning Commission when it should be handled by City Staff, i.e., Parks and Recreation, Public Works, etc. Councilmember Kovach felt it was a good idea to have the Planning Commission review and recommend what the City may plan to do with public property and felt Section 4-1201(b)(1) implies the same point in Section 4-1201(b)(4). He asked whether or not the Planning Commission should look at uses for City of Norman property and/or buildings and Ms. Connors said certainly if there was a zoning, land use change, or preliminary plat that the City needed to bring forward, the Planning Commission would bring forth reviews and/or recommendations. Councilmember Kovach asked for the rationale for not requesting the Planning Commission to provide their recommendations on issues such as multiple uses on bridges, parking lots, and/or buildings and Ms. Connors said the Planning Commission currently does *not* make such recommendations, but Council may desire for them to do so in the future. She said tonight's discussions regarding the Planning Commission's recommendation and/or resolution is to bring the language in Chapter 4 up to

date with current practices/standards. Councilmember Kovach asked Staff what might be the downside of not having the Planning Commission weighing in on these issues and Ms. Connors said from a Public Works point of view, many Staff people overlook those types of projects, particularly with federal funding. She felt there are many layers of review that she was not sure the Planning Commission would have any comments to add, particularly in Public Works projects, and was not aware or has not seen recommendations by the Planning Commission in other locations and/or cities. She said if Council desired, language can be added "...or as otherwise directed by City Council...", so that in certain circumstances, Council can request the Planning Commissions to make recommendations for multiply uses on City of Norman property. Councilmember Dillingham felt that language would be appropriate and Councilmembers Kovach and Griffith agreed.

Mayor Rosenthal asked Staff if the Planning Commission was party to discussions or if they have seen the re-drafted ordinance, (Exhibit C) and Ms. Connors stated they were not in on discussions and have not seen Exhibit C. Councilmember Griffith felt the Planning Commission should see the re-draft regarding Section 4-1201 and Councilmember Quinn agreed. Mayor Rosenthal requested Staff allow the Planning Commission the chance to review Exhibit C, as well as, the added language..."Planning Commission to review projects as assigned by City Council..." before moving forward on the proposed amendments. Councilmember Quinn said if there is concern regarding indefinite postponement at the Planning Commission level, can Staff look at limiting postponements to only one time. Mr. Steve Lewis, City Manager, said Staff researched and other cities allow only one applicant postponement, whether at the Planning Commission level or at the City Council level, but if Council desired, the language could be changed stating only one postponement at the applicant's request or at the request of the Planning Commission. He felt citizens may feel they are unfairly being "worn down" if very controversial zoning application, having a lot of neighborhood opposition, is postponed over and over again and felt limiting the postponements to only one time seems to be a fair alternative. Councilmember Dillingham felt the postponement should be limited to date certain with specific items delineated.

Items submitted for the record

1. Memorandum dated December 1, 2011, from Ms. Susan Connors, AICP, Director, Planning and Community Development Department, to Honorable Mayor and Councilmembers, Norman City Council
2. Exhibit A – Code of Ordinances, Charter: Article XIX – Planning; Zoning and Subdivision Regulations
3. Exhibit B – Planning Commission's recommendations/annotated draft of Section 4-1201, Duties and Powers of the Commission
4. Exhibit C – Modified re-draft of Section 4-1201, Duties and Powers of the Commission
5. Exhibit D – Letter dated November 7, 2011, from Mr. H.L. Heiple, Attorney, to Ms. Susan Connors, Mr. Doug Koscinski, and Norman Planning Department
6. Exhibit E – Subdivision Regulations – Table of Contents
7. PowerPoint Presentation entitled, " Duties and Powers of the Planning Commission", City Council Study Session, dated December 6, 2011

The meeting adjourned at 6:03 p.m.

ATTEST:

City Clerk

Mayor