

**Planning and Zoning Commission Work Session Minutes**  
**July 20, 2017**  
**Conference Room 1-B - 1<sup>st</sup> Floor City Hall**

**ATTENDANCE:**

Members Present: Burns, Harder, Loe, MacMann, Rushing, Stanton, Toohey

Members Absent: Russell, Strodtman

Staff: Caldera, Palmer, Teddy, Zenner

Guests: None

**ADJUSTMENTS TO AGENDA:** None.

**TOPICS DISCUSSED – New Business:**

- Corrective Rezoning - C-2 zoned parcels

Mr. Zenner provided the June 2017 building permit report to the Commissioners for information purposes. There was discussion regarding the variations in the permit revenues from this month and the same months in the 3 year comparison. Mr. Zenner provided an explanation that was offered by the BSD staff that appeared to indicate the variation was a result of the mild winter and the ability to pull permits throughout the year. It was also discussed that there is a limited supply of housing in the less than \$200,000 price range due to the limited profit. Housing sales for homes less than that are very brisk.

Mr. Zenner noted that there were no other multi-family projects in the pipeline; however, several recently approved projects may be permitted before the end of the fiscal year which would boost yearly revenue. It was also noted that there may be a permit bump before the end of the fiscal year due to the planned increase in sewer connection fees. Mr. Zenner noted he would be happy to ask a representative from the BSD Division to join our next meeting if necessary.

- Protest Petitions

Mr. Zenner gave an overview of the topic and a brief explanation for what prompted the matter to be placed on the PZC agenda. He requested that Mr. MacMann provide any additional details regarding the topic and his concerns about how such matters were being handled by the staff and Commission.

Mr. MacMann noted that he was trying to determine if it was necessary to have a more standardized format for protest petitions so there would be less opportunity for legal challenges with PZC recommendations. Mr. Zenner explained that petitions submitted by the public to the Commission were to provide opportunity for the public to be heard. However, petitions submitted to the Commission did not have a legal implication since the Commission was a recommending body to City Council. Petitions submitted to Council have the potential to require a super-majority vote. To have this occur, Mr. Zenner explained, would require that certain criteria regarding property ownership be met - not a specific petition format be followed.

Mr. Zenner explained that the City Clerk has a form that is provided to those seeking to file a protest petition and that it is advisory only. The real effort in any submitted protest petition is verifying that the signatures on them are correct. This is a manual exercise that the City staff

performs. Mr. Caldera indicated that the type of formatting issues that Mr. MacMann was referring to were not required of the City like they were for other State petition initiatives. He noted that the lack of a format actually promotes more inclusion than exclusion like some State petitions can result in. It was Mr. Caldera's position that creating a specific form for PZC protest petitions would not be necessary and may be viewed as a deterrent to public input.

There was additional discussion by the Commission regarding the matter. The Commission determined a sample form could be prepared and posted on the website, but that may not be necessary. The petitions submitted by the public at this time are organic and are normally directly to the point. To have a form that would need to be followed was viewed as an encumbrance. The Commission determined that it was not necessary.

Mr. Zenner asked if additional action needed to be taken on this matter. The Commission indicated that it was comfortable with the current process and that no additional action was required.

- Ex-Parte Communication & Conflict of Interest

Mr. Zenner introduced the next topic and indicated why this had been placed on the agenda. He noted that Chairman Strodman was not present this evening and would have liked to have made comments regarding the topic. As such, there may be some follow up at the next work session.

Mr. Zenner stated that this issue was placed on the agenda as continuation of the prior presentation regarding ex-parte commutation. The hope for the discussion was to arrive at a consensus on how the issue could be best dealt with at Commission meetings to ensure that the Commission's actions would be viewed as impartial and under what circumstances ex-parte communication could lead to disqualification from taking part in discussion and voting on certain PZC cases. Mr. Zenner further noted that depending on the outcome of the conversation a revision to the Commission's Rules of Procedure may be necessary.

Mr. Caldera provided a refresher on the basics of ex-parte communication and that the best way to avoid appearance of conflict was to avoid engaging in discussion of pending PZC items with the public. There was extensive Commission discussion dealing with specific examples of situations where Commissioners were engaged by members of the public without first engaging them. Commissioners were concerned that they could not control the actions of others.

Mr. Caldera indicated the real crux of the issue was, could Commissioners be impartial after being approached by members of the public expressing their views. There was again significant discussion amongst the Commission and Commissioners concluded that they could be impartial. Several Commissioners gave examples of situations where there was an issue before the PZC for which they may have been contacted by someone, but viewed that contact as insignificant in arriving at their decision.

Commissioner's questioned how they were supposed to interact with the public when asked about planning related matters - not necessarily a pending PZC item. Mr. Zenner noted that the Commissioners, in his view, were an extension of staff. They have unique knowledge due to their involvement in the planning and regulatory process. He noted that

Commissioner's need to be careful about how information is provided so that they don't appear biased toward one outcome verses another. There was Commission discussion regarding this advice and it was generally concluded that members of the public engaging with a Commissioner on a planning topic should be redirected to the Planning staff to ensure that the correct information is being provided. Such redirection shields the Commission from potential criticism that they are trying to influence a particular outcome.

Mr. Zenner noted that work session time had run out and that the conclusion of this topic would need to be on the August 10 work session. Commissioners agreed.

- PD District Discussion (Public Comment Follow-up)

Due to time constraints this item was not addressed. The topic will be carried forward for discussion at the August 10 work session.

**ACTION(S) TAKEN:** The July 6, 2017, minutes were approval. No other votes or motions were made.

Meeting adjourned approximately 6:55 p.m.