

1. CALL TO ORDER/ROLL CALL

Chairman Beal called the meeting to order at 7:00 p.m.

Members Present: Chairman John Beal and Commission members Todd Palmberg, Mark Spiers and Alternate members Bill Cook and Brian Malo

Absent: Chairman Pat Lucking, Commissioner David Paeper and Council Liaison Tom Fletcher

Others Present: City Attorney Mark Kelly and Zoning Coordinator Gus Karpas.

City Attorney Mark Kelly Administered Oath of Office to Commissioners John Beal, Bill Cook and Todd Palmberg

2. APPROVE AGENDA

Commissioner Spiers moved to accept the agenda for tonight's meeting. Commissioner Palmberg seconded the motion. Motion carried 5-0.

3. MINUTES OF November 18, 2009 and Joint Work Session Minutes of February 24, 2010

Commissioner Spiers moved to approve the minutes of November 18, 2009. Commissioner Cook seconded the motion. Motion carried 5-0.

Commissioner Spiers felt the Joint Work Session minutes did not include pertinent conversation of some zoning issues. He understands that minutes are abbreviated, but feels the discussion should be included. Chairman Beal suggested that Spiers send his proposed changes to Staff.

Commissioner Palmberg suggested adding a generic statement outlining the additional conversation. Commissioner Spiers believes the minutes should be more specific than that. He said he would send his changes to Staff so the minutes can amended and presented to the City Council.

Commissioner Cook moved to postpone approval of the Joint Work Session minutes of February 24, 2010 to the April meeting. Commissioner Spiers seconded the motion. Motion carried 5-0.

4. LIAISON REPORT

There was no Liaison Report.

5. PUBLIC HEARINGS

There were no Public Hearings.

6. OTHER BUSINESS

GREENWOOD PLANNING COMMISSION
WEDNESDAY, MARCH 17, 2010
7:00 P.M.

ORDINANCE AMENDMENT – Discuss an amendment to the Zoning Ordinance, establishing provisions regulating the placement of telecommunications towers. The proposed ordinance amendment is necessary to ensure the city’s compliance with the Telecommunications Act of 1996.

City Attorney Kelly said the proposed ordinance is fashioned after the City of Minnetonka’s ordinance and provides licensing for cell towers in two categories, Administrative approvals, providing specific conditions are met and a Special Use process for new towers. He said the ordinance permits a standard tower height of seventy feet and allows for a maximum height of ninety feet with a variance. He said it requires the placement of “stealth” towers when possible and limits towers to publicly owned properties in the R-2, C-1 and C-2 Zoning Districts. Zoning Coordinator asked if there was any publicly owned land in the C-2 district. Kelly said there is a bridge head and that the C-2 district was added for discussion purposes.

Commissioner Palmberg asked if the city owned any land near the Clear Channel billboards. City Attorney Kelly said the city owns a small area of land near the License Bureau which currently serves as a drainage area.

Chairman Beal asked if there was a way the city can force continued maintenance of a tower, citing the state of disrepair of the existing Qwest boxes in the Lake Minnetonka area. City Attorney Kelly said it could. Zoning Coordinator Karpas explained that each carrier that places a tower in the city would have to enter into a Lease Agreement with the city and maintenance would be one item addressed in the agreement.

Commissioner Spiers suggested that the city require towers to be galvanized steel and coated with duplex coating, which is more costly, but would ensure it wouldn’t peel. Chairman Beal commented that the ordinance already requires that towers be constructed on non-corrosive material.

The Planning Commission suggested minor language changes.

City Attorney Kelly asked if the Commission would like to remove the reference to the C-2 district. The Commission agreed to remove the C-2 district as a potential location for towers.

Commissioner Spiers reiterated his support for requiring a duplex coating, noting that even though galvanized steel is non-corrosive, it could take up to seven years before the tower is no longer shiny. He said duplex coating comes in a number of colors and could be modified based on a tower’s location. The Planning Commission agreed to add language requiring duplex coating to the proposed ordinance.

The Planning Commission directed Staff to schedule a public hearing on the proposed ordinance for the April meeting.

ORDINANCE AMENDMENT – Discuss an amendment to the Zoning Ordinance, establishing provisions requiring as-built surveys to ensure construction projects in the city are built in conformance to the approved building plans.

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Zoning Coordinator Karpas summarized the proposed ordinance amendment, noting it's intent is to protect the city by verifying structures are constructed as proposed and within the ordinance requirements.

Commissioner Cook felt the ordinance is onerous and requiring citizens to submit as-built surveys doesn't make sense. He feels if the survey pins are available, measurements can be taken without help of surveyors. He believes it would be a heavy burden to place on a property owner and the ordinance is a little "loose" on what can be waived by the Zoning Coordinator, which puts them at risk to being second guessed.

Chairman Beal said the cost to property owners would be approximately \$2,000 and guesses that ninety percent of all builders really try to construct what they represent to the city. He feels imposing costs on nine out of ten residents to catch those potential violators is unreasonable. He said the Building Inspector currently verifies if a structure complies. If anything looks out of order, the city could then require a survey.

Commissioner Spiers agreed and said the ordinance could include a provision that if a concern is raised by any member of the City Council, Planning Commission, Staff or any of the city's Agents, that the city reserves the right to require a survey.

Commissioner Cook said that perhaps a simple measurement should be provided to the city and not a certified survey. Commissioner Spiers agreed, but said there would also have to be a provision that requires a survey when necessary to give it some teeth.

City Attorney Kelly discussed some case law regarding non-conforming structures and said he can envision situations where Staff is concerned and would like to see a certified survey.

Commissioner Spiers reiterated that he would like to see a provision that allows for a survey if any member of the Planning Commission or Council has a concern. Zoning Coordinator Karpas said there is the issue of trespass and that Planning Commission member and City Council member didn't have a "right" to access a property even though it has been issued a building permit. He said the Commissioners and Council members had the "right" if there is an application for a variance or special use permit because it is part of the application process.

Zoning Coordinator Karpas said the proposed ordinance is consistent with what is required by other cities and felt it is a good tool to insure compliance, noting the cost associated with the additional surveys would be minimal since the initial survey for the building permit is already required.

Commissioner Cook said he had no issue with making the current ordinance more robust but is still concerned the proposed ordinance places a burden on residents. He feels if there is a situation where potential litigation may occur, the city may want to take their own measurements.

Chairman Beal didn't like the idea of requiring additional cost to the ninety percent to catch the ten percent.

Zoning Coordinator Karpas said there are situations where accurate measurement may be difficult to obtain and he doesn't feel comfortable with "eyeballing" measurements.

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Commissioner Cook said he doesn't like the idea of "eyeballing" measurements and said the ordinance should require the reasonable accommodations be made for the city to obtain accurate measurements.

Zoning Coordinator Karpas said the proposed ordinance would mainly apply to new structures since improvements such as decks and additions would be easy to measure by Staff since a certified survey is already required for the initial permit. He said, even though he supports the ordinance, any change that would give the city the right to request a survey if concerns arise is fine with him.

Commissioner Palmberg said the city shouldn't bear the cost of confirming compliance and agrees that the bulk of the cost is with the initial survey for the building permit, which is required anyways, and the additional surveying would be considerably less expensive.

Chairman Beal discussed the height measurement and felt a certified survey would be the best way to verify compliance, but feels requiring an as-built survey should be the exception and not the rule.

Zoning Coordinator Karpas said he could draft language that would provide the city the authority to require a survey when needed and suggested the language pertaining to what is required on a survey should be kept since the city doesn't currently have those requirements in the ordinance. He said he would bring the new language to the April meeting for the Commission's review before scheduling a public hearing.

7. ADJOURN

Motion by Commissioner Cook to adjourn the meeting. Commissioner Malo seconded the motion. The meeting was adjourned at 8:00 p.m.

Respectively Submitted
Gus Karpas - Zoning Coordinator