

CALL TO ORDER: Chairman Linder called the meeting to order at 7:00 p.m.

PRESENT: Acting Chairman Walter Linder, Commissioners Barbarajean Brandt, Kent Carlson and Pete Onstad

ABSENT: Commissioners Scott Hemink, John McGary and Bob Werneiwski.

OTHERS PRESENT: Council Liaison Josh Hackney and Zoning Coordinator Gus Karpas

MINUTES OF March 15, 2011

Chairman Linder suggested a change to the minutes on a comment he made regarding the city being unable to restrict fences, since it technically does through regulation. What he meant to say is the city couldn't ban fences. Motion by Commissioner Carlson seconded by Commissioner Brandt, to approve the minutes of March 15, 2011 as amended. Motion carried 3-0-1. Commissioner Onstad abstained.

Ordinance Amendment – Discuss Liquor Ordinance.

Zoning Coordinator Karpas said the ordinance before them included the amendments made by the Commission at their March meeting along with comments from the City Attorney.

The Commission discussed the use of the term “Alcoholic Beverages” inserted by the City Attorney. They agreed that a definition should be added to the ordinance. They agreed to remove the definition for “Financial Interest” since it is not used in the ordinance. Commissioner Brandt asked if non-profits were exempt from the ordinance. It was determined that non-profits were not exempt.

Commissioner Onstad asked about the requirements for an application noting the term “may” was used in the Council's determination of required information. He believed that term should be replaced with “shall” which would require all applicants to provide the same information. The Commission agreed to the change.

The Commission discussed the percentage of ownership change which would facilitate a new license application. Commissioner Carlson noted the City Attorney set the level at ten percent. Chairman Linder felt that was not an unreasonable number, especially for larger corporations. Carlson feels the city will end up dealing with smaller partnerships.

The Commission reviewed the changes submitted by the City Attorney and felt they were reasonable. Staff was directed to place the ordinance on the May agenda for a final review prior to making a recommendation to the Council.

NEW BUSINESS

Discussion – Discuss existing fence ordinance.

Zoning Coordinator Karpas presented his memo to the Commission outlining the concerns Commissioner Brandt feels should be addressed. They include the location of boundary line fences and retaining walls, the impact of fences on visibility and views and the length of fences.

Commissioner Brandt believes the issues she has outlined are a concern to a number of residents. She said there a number of fences that have been installed in Cottagewood and elsewhere in the city that have negatively impacted a number of properties regardless if they are directly adjacent to the property or located elsewhere but have a view of the fence. She believes all those that would be impacted by the installation of a fence should have input prior to its installation, much like a special use permit. Chairman Linder clarified that Brandt would like neighbors to have the ability to comment on a property they are not directly adjacent to. She said yes because they are still impacted.

Commissioner Brandt acknowledged that there may be some areas in the city where her desired changes wouldn't work, but she feels that the impacts of fences are felt in more dense areas. She feels those people should have input.

Zoning Coordinator Karpas clarified that the proposed language would require a minimum setback of three feet and limit the height to forty-two inches. Commissioner Brandt said that was correct.

Commissioner Carlson said allowing neighbors to comment on issues such as fencing when they're not even adjacent to the property could open up for more conflict. Commissioner Brandt said the current ordinance creates conflict between neighbors. Carlson said he hasn't heard any outcry about the existing ordinance. Brandt said people have spoken with her about fences and she feels their needs to be some considerations made to their concerns.

Chairman Linder said as a general resident he would be upset if a desired view of his was blocked by a fence, but he questions his right to that view. He feels the city has a pretty restrictive fence ordinance as it is. Commissioner Brandt believes in property rights for both those installing the fence and those impacted by it. She said the property owner not making the change should have their opinion accounted for. Linder feels they are through the height restrictions of the current ordinance. Brandt said a forty-two inch fence on a property line forces a neighbor, if they don't like the fence, to lose some of their property in order to screen the fence from their view. She described a couple of situations currently in Cottagewood. She said she's just trying to give an adjoining neighbor more space between the common line and a fence. Linder said by doing that you are taking rights away from one neighbor and giving them to another, including the potential use of property by requiring a setback for smaller fences. He feels the existing ordinance balances the issues well and before he would be willing to make any changes he would have to have more specifics on what changes are needed. Brandt said she raised the issue to gauge the feeling of the Commission whether or not they would consider changes to the fence ordinance. Linder said he has his own issues with the ordinance as written and would not be opposed to reviewing the ordinance provided there were more specifics.

Commissioner Brandt asked if the Commission was willing to review the ordinance as it pertains to boundary line fences. Linder clarified that meant any fence, Brandt said yes. Commissioner Onstad asked for further clarification in that the thought was all fences needed approval. Brandt

said yes. Brandt said both property owners own the property line. Linder said as a property owner he would be upset to find out there is a required setback for a forty-two inch fence.

Commissioner Brandt asked if the Commission was willing to consider limiting the length of fences. Chairman Linder questioned the need to limit the length of fences. He said many times fences are used to contain pets and children. Brandt agreed but said that impacted neighbors should be heard.

Commissioner Onstad said one of the concerns he has had with fences is how the height is measured. Zoning Coordinator Karpas said he could provide an example from another city that clearly defines how a fence is measured.

The Commission discussed an approval process agreeing that due to recent changes on how variances could be granted it would be difficult to grant a variance for a fence.

Chairman Linder is concerned that too radical of a change to the ordinance would alter the presumptions of most people on what they can do with fences. He asked what the other Commissioners felt about requiring a three foot setback for fences on property lines. Commissioner Onstad said he would be opposed to such a requirement since it would create an unfair loss to the use of property for anyone installing a fence, plus a three foot setback on a narrow lot could be impossible to achieve.

Chairman Linder asked what the feeling was about limiting the height of fences to forty-two inches in front yards. Commissioner Brandt said another option was to not permit fences in front yards. Linder commented there may be instances, such as location to busy streets, where a larger fence may be required.

Council Liaison Hackney said there may be a need to further define certain items in the existing ordinance.

Commissioner Brandt said she thought there would be a lot more opposition to regulating fences in front yards, though she said she has seen a number of decorative fences in front yards. She said the taller a fence is permitted to be installed; the more work an adjacent neighbor needs to do to screen it. Chairman Linder asked if it would be fair to require a property owner to ask his neighbor's neighbor if it is alright that they install a fence. Brandt believed it was and though they may not have an issue with it, they were at least given an opportunity to comment on it.

Commissioner Carlson said he hasn't seen an outcry to change the ordinance. Commissioner Brandt said it wouldn't be noted if there hasn't been any record keeping on the issue. Zoning Coordinator Karpas said he has received a handful of complaints over the years, but most of them came in situations where there is already underlying issues between the neighbors.

Chairman Linder commented if the Commission is being asked to change the status quo of the existing ordinance, he would like to see more specifics on proposed changes. He feels the current ordinance has a pretty good balance, but that doesn't mean there are no changes needed. Commissioner Brandt would like to address boundary line fences and fences in front yards. Commissioner Onstad would like to see clarification on how to measure the height of a fence. Linder said he would like to address outside storage along a fence line.

Commissioner Brandt said she would bring more specifics to the next meeting. Commissioner Onstad said he's not sure the existing ordinance needs to be revamped, but that it may need some tweaking.

LIAISON REPORT

Council Liaison Hackney had no report.

ADJOURNMENT

Motion by Commissioner Onstad to adjourn the meeting. Commissioner Carlson seconded. The motion carried 4-0. The meeting adjourned at 8:30 p.m.

Respectfully submitted,
Gus Karpas
Zoning Coordinator