



CITY OF ELEPHANT BUTTE PLANNING & ZONING COMMISSION
NOTICE OF REGULAR MEETING
OPEN TO THE PUBLIC
Tuesday April 3, 2018

PLANNING & ZONING MINUTES – 9:00 am

1. CALL TO ORDER AND ROLL CALL: 9:00am

- ✓ Chairman Charles Looney -present
- ✓ Vice Chairperson Cathy Vickers -present
- ✓ Commissioner Sheridan Fuss -present
- ✓ Commissioner Mario Maez -present
- ✓ Commissioner Rick Harrison -present
- ✓ Alternate Commissioner Nathan LaFont - present

2. PLEDGE OF ALLEGIANCE- Led by Commissioner Maez

3. DECLARATION OF CONFLICT OF INTEREST & STATEMENT OF OPEN MEETINGS ACT

**The Open Meetings Act is in effect and there is a three-minute limit per speaker on all non-agenda items.*

4. APPROVAL OF AGENDA – Motion to approve: 1st – Commissioner Mario Maez 2nd Commissioner Rick Harrison

5. APPROVAL OF MINUTES

- a. **Approval of Regular Meeting Minutes, Tuesday, March 6, 2018-** Motion to approve: 1st Commissioner Sheridan Fuss 2nd Commissioner Mario Maez

6. PUBLIC INPUT- No public input

7. MANAGER REPORT- Code Enforcement Officer Morgan Spencer and Fire Chief Toby Boone gave the Managers report due position of City Manager position being recently filled. The new City Manager will be starting soon and will be able to formally introduce himself at the next meeting.

8. CODE ENFORCEMENT REPORT – Code Enforcement Officer Morgan Spencer provided a copy of the March statistics for Code Enforcement related calls for service. Chairman Looney asked what the category “Public Contact” is on the report. Morgan explained this covers all phone calls to our office or people walking in to the office with a question or concern. Toby Boone explained this is how we can document our productivity.

Morgan Spencer explained a current investigation is underway about drainage issues in the Mescal Loop neighborhood. This community has had many flooding issues for years and the city is looking into remedies which the plan includes the participation from a neighboring commercial business which has their drainage pouring into the residential lots. If this is remedied as a group effort, it will decrease the amount of flooding in this area.

9. ZONING PERMIT UPDATE - Code Enforcement Officer Morgan Spencer provided a copy of the current list of permits for the month of March. Morgan and Toby Boone discussed that surveys are required for projects for re-roofing or other construction/repairs that are non-structural and not constructing new buildings. The board asked why a survey is needed for these projects? Toby read the Ordinance which explains all construction is required to have a survey. Mr. Fuss asked to have further clarification in our process for survey requirements. Mr. Maez asked if there are plats available for the city, because in the Septic business there are exceptions for plats being accepted instead of surveys in situations where surveys aren't available. Mr. Boone explained the city does have a plat with boundary measurements of lots. Mr. LaFont suggested only require a survey for things are structural changes or adding sq footage. Construction could include,

base boards or painting. He explained its difficult for the city to enforce something like that. Ms. Vickers asked if we should change the verbiage to “May”. She suggested we do research and revisit this topic. Chairman Looney requested this item be placed on the agenda for next month and Code Enforcement have a recommendation at that time for a remedy. Mr. Harrison suggested to have the recommendation be similar to what Mr. LaFont said and have plat map as an option to be used in situations with construction/repairs on non-structural nature.

10. COMMISSIONERS COMMENTS- Commissioner Fuss stated he would like Pot Holes to be addressed on Country Club specifically. Code Enforcement Officer Morgan Spencer stated she will pass along that information to Jesse Cole, the Director of Public Works.

11. PUBLIC HEARING ACTION ITEMS – No Public Hearing Action Items

12. REGULAR ITEMS

A. **Nuisance Ordinance – Discussion/possible action-** Code Enforcement Officer Morgan Spencer stated we would like to proceed with the ordinance to the next steps in the process for acceptance. Vice Chairperson Cathy Vickers moved that the board accept the recommendation of the ordinance amendments to chapter 90 General Provisions and specifically Chapter 135 Nuisances. 2nd Rick Harrison. Discussion by Commissioner LaFont stated that as a non-voting member this is now going to go to public comment and then city council for their recommendation. He requested that we verify that effort be made to review the entire ordinance to remove/or edit the other chapters so they do not reference the amended chapters.

Commissioner LaFont stated we need to verify if the commercial/construction noise ordinance conflicts with this new noise ordinance. Fire Chief Boone indicated this may be in another ordinance which needs to be verified that it is consistent with the noise ordinance.

B. **Comprehensive Plan – Discussion of Status/No Action-** Code Enforcement Officer Morgan Spencer stated the plan will be pending so the City Manager can handle the Comp Plan to put his viewpoints in it.

Morgan explained she looked into the last request by the Planning and Zoning Commission to check with the company Sites Southwest to verify if we need to add a public safety section to the current plan. This company stated it is not necessary but other cities do include this and others don't. This would be at the discretion of the city, and Site Southwest can assist with adding this to our plan for a cost. The commission decided to not pursue this change as it hasn't been in the plan in the past. Fire Chief Boone indicated our city ordinance of 192 covers the city on the state statutes for Fire Code.

13. NEW BUSINESS –

A. **Mobile Vending License: Student Education Groups- Discussion/Possible Action-** Fire Chief Boone explained a situation where he was contacted by a 4H Group to put up a lemonade stand. Its required that they get a mobile vending license with insurance. Mr. Boone requested that we be more lenient in the ordinance for this type of situation which would be an allowance for a student education use permit to be on commercial or city property without the need for the mobile vending license.

Commissioner Fuss stated if he were the commercial property owner and allowed the group to be on his property to sell lemonade, he would think the property owner's insurance would cover this type of service. He asked why the lemonade stand students' need to get additional insurance (as stated in the mobile vending permit) when a commercial property owners policy may cover it.

Vice Chairperson Vickers questioned what the requirements would be for Fundraising for children. Fire Chief Boone indicated we can add this to the same allowance. For example, a Youth Church Group having a carwash event on commercial property.

Commissioner LaFont explained if a commercial business accepts full responsibility of mobile vendor the City shouldn't be involved as there is not a permit required. For example, a company saying they allowed the person to sell fire wood on their property.

After discussion, it was determined that the standard operating procedure for Code Enforcement Officers for this type of complaint would be, if a commercial business accepts full responsibility for the mobile vendor to be on their property, then the city will not require a mobile vending permit. Commissioner LaFont recommended making a Standard Operating Procedure which addresses priority responses and non-priority responses to calls and have this be available to the public.

Fire Chief Boone explained that many violations occur over the weekend, such as building without a permit. Mr. Fuss suggested changing our schedule so that we have an available Code Enforcement Officer on the weekend.

- B. **Animal Control Ordinance-** Fire Chief Toby Boone and Code Enforcement Officer Morgan Spencer explained the proposal for an Animal Registration Tag program which will require residents of Elephant Butte to register their animals with the city to promote the safe return of animals to their owners and to lower the shelter housing of animal costs to the city. Details of the plan implementation would be to charge owners \$5 to animals that are neutered and \$15 for animals that are intact. This would include an ordinance addition to require registration of all animals. Commissioner Fuss asked if the first registration would be free of charge to citizens. Chief Boone explained the registration of animals will be free for 30 days and we will publicize this information if passed.

Morgan explained a proposal to amend the current requirement for only Dangerous breed animals be registered. She explained Rotties, Germ. Shepherds, and Pit Bulls are required to be registered with the city, have a full enclosure if they are outdoor animals, and have a concrete footing as the base of their kennel area. She explained she has contacted neighboring cities, and this type of ordinance is not a common in other cities around the state. The ordinance proposal would be to amend the current ordinance to be consistent with the state statute for Dangerous Animals.

Proposal will also include an exemption for 4H groups being allowed to have select small breed show animals within the city limits of Elephant Butte. There is an increase of young children in our area and she believes this would be a benefit to the children. Fire Chief Boone explained allowing this type of allowance helps kids with education and personal growth of responsibilities. Mr. LaFont explained citizens are doing this already.

C. **OLD BUSINESS –**

- A. **Zoning Permit Application-** Discussion/possible action on revised Land Use Application. Fire Chief Boone explained the revisions to the Application. Motion made to accept the application for use. 1st Commissioner Sheridan Fuss and 2nd Vice Chairperson Cathy Vickers.
- B. **Red Lot –** Discussion/Possible Action- Red Lot application review. Morgan discussed the newly developed form and its purpose to accompany the zoning permit application for a final review and decision by the Planning and Zoning Commission. Fire Chief Boone explained the ordinance has listed the requirements but we needed a process, which this form accomplishes. Citizen Mark

Shipley, owner of Tallins Construction, was present for this conversation and gave input on this topic. Motion made to accept the application for use. Motion by Commissioner Sheridan Fuss 2nd Vice Chairperson Cathy Vickers. This Motion was recalled by both commissioners until after Mr. Shipley gave his input on the form and process.

Mr. Shipley explained there are Red Lots in existence on Erie Ave. due to the drainage from Commercial properties from 915 block of Butte Blvd. to the 803 block Butte Blvd. He also addressed his viewpoints on topics discussed previously in the agenda. He explained he is working well with Toby and Morgan who have been really helpful in the red lot process. He has the intention of purchasing Red Lots that already have city sewer access available, to construction Single Family Homes for families moving to our area. He is able to remedy the Red Lot drainage concerns for the properties he would like to purchase. In the past, he explained that having his own engineer to provide designs and input on the remedy of drainage lots will be beneficial and streamline the process.

At this time Commissioner Fuss motioned to accept the application for use and a 2nd from Vice Chairperson Cathy Vickers.

- C. **Special Use Permit-** for Mr. Powell with Karr Trucking. We would like to issue a special uses permit with specifics as to what can or cannot be done on this property so that the City and Mr. Powell with have everything in writing.

A motion by Vice Commissioner Vickers and 2nd by Sheridan Fuss was passed to clarify the process for businesses located on special use zoned area. This will include the following:

When a business owner wants to place a business on the property:

- 1) To submit an application for a special use zone,
- 2) the Commission to review and determine which zoning restrictions need to be applied to this specific area,
- 3) and definitions of what the business will entail.

Once the documents are reviewed and approved a special uses permit may be issued to the business for this location.

- D. **Storage Containers--** Code Enforcement Officer Morgan Spencer stated we would like to proceed with the ordinance to the next steps in the process for acceptance

The amendment to this ordinance is to:

1. Add a definition for "Storage Container"
2. Add a new ordinance to allow Commercial Zones to have storage containers with regulation on their appearance.

Fire Chief Boone explained that this would also allow for Pod like businesses to be in our area. Chairman Looney questioned the amount of storage containers allowed on the commercial properties. This would be covered by the percentage in the impervious space zoning ordinance under C-2. The appearance of the storage containers will be regulated. This may be a discussion in Public Comment and city council further. Motion made to proceed with the Storage Container amendments to the next process of Council Review and possible Public Comment: 1st Vice Chairperson Cathy Vickers 2nd Commissioner Sheridan Fuss.

D. ADJOURNMENT

Motion: 10:54AM- 1st Mario Maez and 2nd Vice Chairperson Cathy Vickers