

Minutes of Meeting
Belton Planning Commission
City Hall Annex, 520 Main Street
July 18, 2016

CALL TO ORDER

Vice-Chairman Christensen called the meeting to order at 6:00 p.m.

ATTENDANCE

Commission: Vice-Chairman Chris Christensen, Mayor Jeff Davis, Councilman Chet Trutzel, Commissioners Sally Davila, Larry Thompson, and Tim McDonough.

Staff: Jay Leipzig, Community and Economic Development Director; Megan McGuire, City Attorney; Robert Cooper, City Planner; Zach Matteo, City Engineer; Kate Patras, Assistant City Engineer; Ashley Scherer, Community Development Administrative Assistant.

Absent: Chairman Holly Girgin, Commissioners Charles Crate, and Scott Swaggart.

MINUTES

Councilman Trutzel moved to make a correction to the June 6, 2016 Planning Commission meeting minutes. The correction was "*Absent: Commissioners Chris Christensen and Larry Thompson*". The motion was seconded by Commissioner McDonough. All members present voted in favor of the correction and the motion carried.

PUBLIC HEARING- Consideration of revisions and additions to Chapter 10, Article III – Dangerous Building Ordinance of the Unified Development Code.

Mr. Leipzig present the staff report regarding Consideration of revisions and additions to Chapter 10, Article III – Dangerous Building Ordinance of the Unified Development Code. As part of the City Attorney, Ms. McGuire's administrative audit of all departments and codes she recommended a revision to the dangerous building codes. After reviewing Chapter 10, Article III - Dangerous Building Ordinance of the Unified Development Code, Ms. McGuire found items that needed revision to the Code. Chapter 10, Article III – Dangerous Building Ordinance of the Unified Development Code was reviewed by the City Council on June 21, 2016 at the work session and was presented to Building and Fire Prevention Codes Board of Adjustments on May 19, 2016. The revisions and additions were well received by both the City Council and the Building and Fire Prevention Codes Board of Adjustments. Staff would like to make revisions and additions to Chapter 10, Article III in order for the process to be more efficient and provide more property owner notification procedures.

The key changes in the Ordinance are expanded definitions and the utilization of the Building and Fire Prevention Codes Board of Adjustments with any appeals. Within the Code, expanded definitions include:

- (1) ***Building Commission*** means the Building Fire Prevention and Appeals Board

- (2) **Interested parties** means any all owner(s), occupant(s), lessee(s), mortgagee(s), agent(s), and all other persons having an interest in the building or structure at issue, as shown by the land records of the recorder of deeds office in the county where the property is located.
- (3) **Building Official** means the Building Inspectors, Code Enforcement Official, Community Development Director and any designee of the same.

Dangerous building and structure defined.

(1) Any and all buildings, structures, and/or portions thereof, which have **any or all of the conditions** listed in the following subsections, shall be deemed a "dangerous building or structure" for purposes of this code.

- (a) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (b) Those which show 33 percent or more, of damage or deterioration of the supporting member or members, or 50 percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- (c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (d) Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants or the people of the city.
- (e) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to cause or contribute to cause injury to the health, safety or general welfare of those occupying such building.
- (f) Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
- (g) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of evacuation.
- (h) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (i) Those which because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this city.

(2) The above listed conditions are hereby deemed detrimental to the health, safety, and/or welfare of the city's residents, the existence of which constitutes a public nuisance.

Mayor Davis commented some of the information within the definitions of the dangerous building and structure are subjective such as: (c) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used. Mayor Davis questioned who would be deciding if a building is a dangerous structure. Mr. Leipzig stated a Building Official or an Engineer would decide if a building meet the conditions of a dangerous structure. Mayor Davis commented on item (g) Those having inadequate facilities for egress

in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of evacuation, as to how that would be evaluated as to existing buildings. Mayor Davis asked if this ordinance covers those properties that have previously had fires. Mr. Leipzig stated this would give us additional strength to address those properties that have previously had fires. The purpose of this ordinance is to have better, more expanded definitions within the code. That would give the City the ability to streamline the process and provide consistent notification. Mr. Leipzig stated currently we are in the process of presenting an ordinance to the City Council to hire a Certified Building Official.

Councilman Trutzel commented regarding item (e) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to cause or contribute to cause injury to the health, safety or general welfare of those occupying such building. Councilman Trutzel stated he can think of several places on North Scott and other areas that would meet one of those requirements, but not all of them. Ms. McGuire commented the Building Official has the initial responsibility of making the decision that a building meets one or more of the conditions of a dangerous structure. A Building Official must be properly trained to look at the structure and make the distinction if it is a dangerous structure. At Ms. McGuire's time in Boonville, Missouri they declared almost forty buildings dangerous and did not have anyone question if the building was rising to the level of a dangerous building. Of those buildings, it was obvious from the outside of the building that they were a dangerous structure. The Building Official was not required to go inside of the building because you could see from the outside the evidence meets the criteria including windows askew, foundation crumbling or the roof sagging. In Ms. McGuire's experience she has never had a building only meet one of the conditions, they have always meet three or more conditions. This is not an ordinance that would be used a lot, you would probably see three to four buildings come forth per year. This ordinance is not about "ordinary property maintenance violations", the building must rise to the level to meet dangerous building requirements. Not only is it dangerous, it is dangerous because it is a public nuisance. For example, a child could enter the building and then fall through the floor or a child could walk through the yard and have something fall on them. The building must rise to the level that it is a structure that could hurt someone.

Mayor Davis stated that cleaning up the Code will help us to address some of the dangerous buildings within the City. Ms. McGuire stated we must put this ordinance in context, as a property owner you have certain rights. We have to ensure we are not improperly infringing upon those rights and we must ensure all due process requirements are met. As a property owner you have the right to due process. In the previous ordinance Ms. McGuire did not feel as though we had all the triggers in the ordinance that she felt comfortable with. If not done properly, the City could be sued for wrongful demolition. The new code meets all legal requirements for notices and due process.

Councilman Trutzel questioned about the time frame to rectify a problem. Ms. McGuire commented that once a Building Official declares that a property meets the criteria, the Building Official will then do research to discover who is the true owner(s) of the property. Notices will be sent to property owner(s) and all interested parties and the process will begin according to the Code and state law. The entire process will take between ninety to one hundred and twenty days. At any point in the process the Building Official and staff can meet with the property owner(s) and all interested parties to develop a redevelopment plan on what must be done in order to bring the property to compliance.

Mr. Leipzig commented that the previous ordinance was missing many steps in terms of the procedures that need to happen legally. Mayor Davis stated that this is a lot of information and he does not want to pass any new legislation too fast. This is a big deal to him and it is a critical that we get it correct the first time. This is something that we should have done a long time ago, but he does not wish to send

anything on that has not been looked over carefully. Mr. Leipzig also pointed out that 10.99 Emergencies is still in the proposed code and we would still be able to perform an emergency abatement.

Vice-Chairman Christensen opened the public hearing at 6:30 p.m. The hearing was being held to receive public input regarding consideration of revisions and additions to Chapter 10, Article III – Dangerous Building Ordinance of the Unified Development Code. There was no one present to speak regarding consideration of revisions and additions to Chapter 10, Article III – Dangerous Building Ordinance of the Unified Development Code and the public hearing was closed at 6:31 p.m.

Vice-Chairman Christensen brought up concerns regarding the thirty-day time frames. Ms. McGuire commented that it would be up to the Building and Fire Prevention Codes Board of Adjustments, the property owner(s) and all interested parties to come up with the time frame needed in order to either demolish or renovate each property. The Building and Fire Prevention Codes Board of Adjustments is made up of members of the community that are knowledgeable about the construction and fire industries. Mr. Leipzig commented if a property owner(s) realized they were not able to get the work done in the agreed amount of time, they could ask for an extension. It was also noted that if the building has redevelopment potential, the focus will be on abating the public nuisance issues first. The property owner(s) also have the right to appeal any decisions made by the Building and Fire Prevention Codes Board of Adjustments to the Circuit Court. Then, the Circuit Court would decide if the Board followed its procedures and the procedures were constitutional and in compliance with their authority.

Commissioner McDonough motioned to approve consideration of revisions and additions to Chapter 10, Article III – Dangerous Building Ordinance of the Unified Development Code.

The motion was seconded by Commissioner Thompson. When a vote was taken the following was recorded:

Ayes, 6 - Vice-Chairman Christensen, Mayor Davis, Councilman Trutzel, Commissioners Davila, Thompson, and McDonough.

Noes, 0.

Absent, 3 - Chairman Girgin, Commissioners Crate and Swaggart.

The motion passed and the ordinance will be forwarded to the City Council for review and approval.

CONTINUATION OF DISCUSSION AND RECOMMENDATION– TA16-11 / Consideration of a Text Amendment, regarding the Keeping of Poultry.

Mr. Cooper presented the staff report regarding TA16-11 / Consideration of a Text Amendment, regarding the Keeping of Poultry. At the June 6, 2106 Planning Commission public hearing it was brought to light the many perceived benefits and detriments of raising chickens such as: raising chickens to promote a healthy lifestyle; chickens help reduce the insect population by eating bugs and insects; dogs are noisier than chickens; chicken coops produce odors and smell bad; the appearance of chicken coops are unsightly; chickens reduce property values; and chickens are noisy. Taking into account those concerns, staff came up with new proposed language / Section 6-4(g) – Keeping of Chickens:

PROPOSED LANGUAGE / SECTION 6-4(g) – Keeping of Chickens.

ARTICLE 1 – CHICKENS

DEFINITION: CHICKEN- "A domesticated fowl raised for meat or eggs."

Section 1.01 – Keeping of Chickens

Chickens are permitted only in Residential and Agricultural zoning districts and only under the following conditions:

- (a) No more than four (4) chickens allowed per lot;***
- (b) Lot size shall be no less than 8,400-square feet.***
- (c) On lots one-acre or greater, may have up to eight (8) chickens.***
- (d) Only Hens are allowed. Roosters are prohibited;*
- (e) Chickens shall be maintained and kept in the rear yard only;*
- (f) Chickens shall not be allowed to roam free;***
- (g) All chickens shall be housed in a coop between dusk and dawn.*

Section 1.02 – Enclosures.

- (a) Henhouses and chicken coops shall be kept in a clean, dry, odor free and sanitary condition at all times;*
- (b) Henhouses and chicken coops shall be designed to provide a safe and healthy living conditions for the chickens, while minimizing adverse impacts to other neighboring residents;*
 - (1) A henhouse or chicken coop shall be enclosed on all sides and shall have a roof and doors. Access doors must be shut and locked at night. Windows and vents must be covered with predator-bird proof wire of less than 1-inch openings.*
- (c) Henhouses or chicken coops shall be setback no less than five feet (5') from a property line;*
- (d) There shall be a distance of no less than ten-feet (10') between the house and the chicken coop;***
- (e) A six-foot wood privacy fence shall be installed along the rear and side property lines;***
- (f) A row of evergreen shrubs or similar plantings shall be planted between the coop and the wood fence to provide additional buffer from sound;***

(g) Henhouses, chicken coops and other accessory structures shall meet the requirements as outlined in Chapter(s) 1.5 and 4.1 of the Belton Unified Development Code.

These regulations are proposed to allow citizens the opportunity to own and maintain chickens, in a manner which preserves property values and prevents unhealthy conditions and an unsightly appearance upon the community.

Vice-Chairman Christensen questioned what the definition of house was in Section 1.02 (d). Mr. Cooper stated that it was the primary house of the owner of the chickens. Mr. Cooper explained that staff thought by adding a six-foot privacy fence with shrubs would help provide an additional buffer from the sound and the smell of the chickens. Staff thought this would help eliminate the problem of the chicken coop being too close to the neighboring house. Commissioner McDonough commented that on corner lots the chicken coop would still be close to the neighboring house. It was pointed out that even though a fence is required in the proposed ordinance, the chickens are not allowed to roam free in the rear yard. Chickens must be contained in the chicken coop. Councilman Trutzel commented that he does not see people adding a fence and shrubs to have four chickens.

Vice-Chairman Christensen commented that we do not want chickens to roam free and chickens must be kept in the coop twenty-four hours a day. Mr. Leipzig suggested that we get rid of (f) Chickens shall not be allowed to roam free because he believes that item (e) Chickens shall be maintained and kept in the rear yard only, covers it. Mr. Cooper commented that he believed from the last discussion, we did not want the chickens to roam free in the rear yard. From what Mr. Cooper understood we wanted them to be contained in the coop. Vice-Chairman Christensen commented that we could remove “from dusk till dawn” in item (g) in Section 1.01. Mrs. McGuire commented that we need to define what a chicken coop is in the ordinance.

Commissioner McDonough questioned if Cimarron Trails would be grandfathered in because those lots are smaller and do not meet the lot size requirements of the proposed ordinance. Ms. McGuire stated that the City has a non-conforming clause and we would have to determine if the non-conforming clause would apply to this situation.

Mr. Cooper clarified that we would remove “between dusk and dawn” in Section 1.01 (g) and then clarify in Section 1.02 (d) There shall be a distance of no less than ten-feet (10’) between the property owners house and the chicken coop. Mr. Leipzig commented that we would also remove Section 1.01 (f) Chickens shall not be allowed to roam free.

Mayor Davis questioned the Commission if we are going to keep chickens in a coop twenty-four hours a day and the chickens would not be allowed to roam free in the rear yard at all. Vice-Chairman Christensen commented yes, in city limits they would be required to stay in the coop. At the last meeting Mr. Giffen stated that chickens only need a foot and a half of space per chicken to be happy. Mayor Davis suggested that we may not need to worry about fences if the chickens would not be allowed to roam free. Vice-Chairman Christensen commented that the fence and the shrubs requirements should stay if you want to keep chickens in city limits. The neighbors of the chicken owners do not want to look at, hear or smell the chickens that are in the coop.

Mrs. McGuire commented that we are getting closer but she does not think we are there yet. She stated that it may not be reasonable for those property owners who own more than one acre of land to

be required to have a privacy fence and a row of shrubs. Those people we may need to look into distance requirements, instead of a fencing requirement. Mr. Cooper stated that we could put an exemption on Section 1.02 (e) and (f) regarding those whose lots more than one acre in size. Commissioner McDonough commented that we could also add if the chicken coop is closer than one hundred feet from a neighbor's primary residence then the fencing and shrubs would be required. The public hearing for this matter was closed at the June 6, 2016 Planning Commission meeting therefore no public input was allowed. All further public input may be submitted to city staff. Staff will take all additional comments presented tonight and revise the ordinance.

Commissioner Thompson moved to continue discussion of TA16-11 / Consideration of a Text Amendment, regarding the Keeping of Poultry to August 15, 2016, pending further staff review and drafting.

The motion was seconded by Mayor Davis. When a vote was taken the following was recorded:
 Ayes, 6 - Vice-Chairman Christensen, Mayor Davis, Councilman Trutzel, Commissioners Davila, Thompson, and McDonough.

Noes, 0.

Absent, 3 - Chairman Girgin, Commissioners Crate and Swaggart.

The motion passed.

DISCUSSION- Consideration of revisions and additions to Chapter 19 – Streets, Sidewalks, Right-of-Ways and Other Public Places of the Code of Ordinances, Chapter 34 – Streets and Sidewalks, Chapter 36 – Subdivision Regulations, and Appendix A – Schedule of Fees and Charges, Part II. - Unified Development Code of the Unified Development Code.

Mr. Matteo and Ms. Patras presented a PowerPoint presentation to the Commission. The purpose of the revisions and additions is the current Right-of-Way code contains some weakness and is incomplete. The current Right-of-Way Code has limited guidance, is unorganized, is inconsistent with state law and cost recovery, and does not cover restoration. The current Right-of-Way fee is five dollars and does not recover the cost to the City to provide those services. The current code also does not cover restoration of residential lawns by those who are working in the Right-of-Way. The new code will reorganize, for clarity, all Right-of-Way code from the Unified Development Code and implement into a complete Chapter 19 of the City Code. It will establish a base fee of \$62 with additional considerations to point versus linear facility, street cut, re-inspection time, and unique circumstances. The state statute explicitly considers recovering City expenses in all cases. The new code will also consider numerous circumstances and regulatory authority.

The outline of the new code in Chapter 19 – Streets, Sidewalks, Right-of-Ways and Other Public Places will be as follows:

Article	Title	Comments
Article 1	In General [repealed]	Repealed; Sections are reorganized and enhanced in Article 3 & 4.
Article 2	Abandoned Vehicles and Other Personal Property	No changes.
Article 3	In General	New; definitions, general

		standards and maintenance of public ROW including sidewalk and streets.
Article 4	Obstructions, Encroachments, Barriers, Cleaning and Management	Very little that is new; mostly incorporation and enhancement of previous Article 1 – In General (repealed above).
Article 5	Right-of-way Management, Use, Construction, Reconstruction, Improvements and Repairs; Permit/Inspection Requirements	New; purpose, registration, permitting requirements, fees, conditions, inspection, traffic control, street closures, restoration, appeals, bonding/insurance requirements.
Article 6	Right-of-way Violations and Penalties	New.
Article 7	Right-of-way Other Rights and Laws	New.
Article 8	Vacating Public Ways	Reorganized; article extracted from UDC Chapter 34 and placed into Chapter 19.
Article 9	Access Management Plan	New; not in place yet, pending further discussion.

In summary, Ms. Patras stated the current Right-of-Way code has been a long-recognized weakness. The new proposed code:

- Is consistent with KC-metro municipalities
- Is consistent with industry standards and meets contractors' expectations
- Fee is competitive with KC-metro municipalities and ensures the City recovers costs to provide services
- Provides appropriate level of oversight and enforcement of construction activities
- Better protects the community and the travelling public

The Engineering team will present the revisions and additions to Chapter 19 – Streets, Sidewalks, Right-of-Ways and Other Public Places of the Code of Ordinances, Chapter 34 – Streets and Sidewalks, Chapter 36 – Subdivision Regulations, and Appendix A – Schedule of Fees and Charges, Part II. - Unified Development Code of the Unified Development Code at the City Council work session on July 19, 2016; the Public Works Committee on July 21, 2016; and the City Council will hold a public hearing on July 26, 2016.

Councilman Trutzel questioned what Cities were looked at when coming up with the right-of-way changes. Ms. Patras commented that they looked at Lee's Summit, Boonville, and Liberty, Missouri. Councilman Trutzel also questioned if they looked at the right-of-way fees of Raymore, Missouri. Mr. Matteo stated that the fees were calculated by taking the median salary range of city staff and the median amount of time it takes staff to review permits.

Vice-Chairman Christensen thanked Mr. Matteo and Ms. Patras on the informative presentation.

DISCUSSION- Future Land Use Map Update

Mr. Leipzig stated that the Future Land Use Map is updated every five years and the current future land use map will expire in December 2016. The Future Land Use Group has been meeting every month over the last year to look at the areas where development has occurred and transportation patterns have changed that would potentially effect the Future Land Use map. The Future Land Use group has identified eight areas that need to be addressed.

AREA 1: Cunningham Industrial Parkway, between 58-Highway to Peculiar Drive. This focus area has been extended to include Mullen Road and East 173rd Street.

- Medical/Office – North side of Cunningham from VA Clinic to Outer Rd.
- Completion of E. 173rd Street – Suitable for M-1 type user.
- East side of Mullen Rd. from 173rd to 58-Hwy- Suitable for Flex-Commercial use.

AREA 2: Larkspur (Powell Avenue). Bank of America and Cedar Tree Shopping Center.

- Redevelopment of Cedar Tree
- New development of Freddy's restaurant
- Street overlay improvements
- Traffic control / congestion – extend Powell to Larkspur.

AREA 3: North Scott Avenue, between 155th Street and East North Avenue.

- Implementing the North Scott Corridor Plan.
- Flex-Industrial District: new Design Standards, Bulk Regulations and Landscaping.

AREA 4: Southview (former golf course area).

- Improved interchange at 155th Street.
- Implement Flex or PUD development to allow mixed-uses.
- Improve access points: 163rd and 155th
- Include 9.0-acres of Century Concrete, Inc.

AREA 5: Area east of Lock Lloyd, just north of 58-Highway and east of Holmes Road.

- Utilizing Holmes Road improvements
- Oil/Gas wells –potential hindrance.
- Level Of Service (LOS) – PW, PD, FD, Schools
- Sanitary sewer is lacking
- Single-Family Attached / PUD development (New Urbanism Design)

AREA 6: North Cass Interchange, between the Outer Road / Interstate 49 and Mullen Road.

- Commercial/Retail Zoning District –Priority Area
- Planned Lake Community –Large Lot Residential
- Public Utilities
- Master Transportation Plan
- Capital Improvements

AREA 7: East North Avenue, between the three-way intersection and Y-Highway.

- Re-evaluate existing zoning classification
- Implement North Scott Design Guidelines
- Identify predominate land use

AREA 8: Bel-Ray Place, including the east Outer Road from Transwest to Burger King.

- Traffic congestion and additional access options
- Platting

Mr. Leipzig stated the Future Land Use group will start meeting with different professionals, the Chamber of Commerce, the fire department and various other organizations to review the map. The Future Land Use group meets on the fourth Monday of the month and everyone is welcome to attend.

DIRECTOR'S REPORT

- Scott Swaggart has been appointed to the Planning Commission by the City Council.
- The Planning Commission meeting on August 1, 2016 has been cancelled.
- At the August 15, 2016 Planning Commission meeting we will have the election of officers.
- Staff will be meeting with a developer regarding the first project of Belton Gateway Phase II on Wednesday, July 20, 2016. Staff hopes to bring the site plan for Belton Gateway Phase II to the Planning Commission on August 15, 2016.
- The Board of Zoning Adjustments will have a legal training meeting on Wednesday, July 20, 2016.

ADJOURNMENT

Commissioner McDonough moved to adjourn the meeting. The motion was seconded by Commissioner Davila. All voted in favor and the meeting adjourned at 7:34 p.m.

Ashley Scherer
Community Development Administrative Assistant