

City of Excelsior  
Planning Commission Meeting  
Minutes  
Tuesday, March 5, 2013

1. CALL TO ORDER

Vice Chair Craig called the meeting to order at 7:06 p.m.

2. OATH OF OFFICE – Nicki Craig, Dan Hannah, and Anthony J. Wilson

Commissioners Craig, Hannah, and Wilson were sworn in by Mayor Gaylord.

3. ROLL CALL

Commissioners Present: Craig, Duyvejonck, Hannah, Wilson, and Wright

Commissioners Absent: Busch, and Wallace

Others Present: Richards, Braaten, and Staunton

4. APPROVAL OF MINUTES

(a) Planning Commission Meeting of February 5, 2013

Commissioner Wright moved, Duyvejonck seconded, to approve the Planning Commission Minutes of February 5, 2013 with the change discussed. Motion carried 5/0.

5. PENDING ISSUES/PROJECTS

(a) Appoint Liaison to City Council (March 18, 2013)

Craig informed the Commission that she had received an email from Mayor Gaylord stating that a Planning Commission liaison may not be needed for each City Council meeting. Richards added that the Council would only require a liaison if the Planning Commission has an item on the agenda.

City Attorney Staunton entered the meeting at 7:15 PM

The Commission briefly discussed who should attend the upcoming City Council meeting on March 18<sup>th</sup>, 2013 to discuss the continued public hearing for the proposed ordinance amendment regarding sustainable building practices. The Commission directed staff to contact Commissioner Busch since she had been an integral part of developing the proposed language. Duyvejonck will be the backup if Busch cannot attend.

6. PUBLIC HEARINGS – (Continued)

None

7. PUBLIC HEARINGS

None

8. UNFINISHED BUSINESS

(a) Formula Business Regulations (Franchises)

Richards introduced the topic. The Commission's previous direction was to regulate Formula Businesses through design standards rather than defining a formula business and regulating them directly. Richards discussed a few items currently in the design standards and asked the Commission if there were other areas where the language should be strengthened.

Wilson asked if the Formula Business discussion was in anticipation of this type of business or as a result of them. Richards explained that the conversation was a result of the redevelopment of the Mason Motors site. The proposed building on the site would lend itself to franchise businesses.

Discussion followed regarding McDonald's and how their exterior appearance has been regulated in other communities to fit the character of the city/community.

Craig stated that she may be interested in regulating formula businesses based on a square footage limit. Craig used the example in the packet regarding Bristol, Road Island which restricts formula businesses based on size. The City of Bristol allows a floor area of no more than 2500 sq ft. Richards replied that floor area may be appropriate for the Downtown Business District, but may not be appropriate in other areas of the City.

Hannah questioned how the Commission defined a formula business. Richards explained that defining what constitutes a formula business is the crux of the issue. Instead of trying to define a formula business the Commission has directed staff to find a way to use the City Design Standards to regulate the look of formula businesses so they fit in with the look of the community.

Craig liked the regulation of formula businesses by size. Craig commented that it would be easier to defend if and when the Ordinance is challenged. Craig commented that regulation by floor area would be easier than defining what constitutes a formula business. Duyvejonck remarked that a definition for formula business would still be necessary regardless if the formula businesses were regulated by quantity and/or by size. Duyvejonck felt defining formula businesses would be very tricky. Regulation by design standards would not require specific language while still regulating the look of the businesses.

Hannah asked why the Commission was discussing regulating formula businesses. Duyvejonck replied that the intent was to preserve the

8. UNFINISHED BUSINESS

(a) Formula Business Regulations (Franchises) – (Continued)

character of downtown Excelsior and protect the mom and pop business type. Craig stated that this would keep the distinct identity of the city rather than formula businesses causing Excelsior to look just like everywhere else.

Richards explained that the Excelsior Downtown District is different from some of our neighboring communities because the retail spaces along Water Street are relatively small, so formula businesses can't currently find a suitable space. The redevelopment of the Mason Motors site will have unfinished retail/commercial space which will allow flexibility to adjust to the square footage needs of the business, which our current downtown locations cannot have. Richards informed the Commission that there are currently no communities in Minnesota regulating formula businesses.

Duyvejonck asked staff if there were any suggested areas in the Design Standards that could be changed to help regulate formula businesses. Richards replied that strengthening the Franchise Design language on page 13 of the Design Standard would be the first step. Further research was necessary before any proposed language could be considered by the Commission.

Craig questioned if there were any legal concerns in regulation of formula businesses. Staunton replied that if the Commission intended to pursue regulation of formula business there is a formal process for eliciting the Attorney General's opinion. This may be an option to pursue, but Staunton requested that the Commission wait until a regulation direction has been determined.

Duyvejonck asked the other Commissioners if they preferred regulation by use the design standards or by the regulation of quantity and square footage. Duyvejonck stated that she was leaning toward design standards and that she was somewhat opposed to regulation by square footage or quantity because a formula business was difficult to define. Wright stated that he would prefer regulation through the design standards based on his experience in the southwest and how formula businesses were required to fit the character of the locality. Wilson wouldn't put a restriction on either quantity or square footage to keep as much flexibility as possible in the Ordinance. Hannah was in favor of revising the design standards. Craig agreed on regulation through the design standards. Craig stated she was still intrigued by the use of square footage to regulate formula businesses and thought that the design standard language could also take this into account.

Richards stated that the current design standards don't define franchise

8. UNFINISHED BUSINESS

(a) Formula Business Regulations (Franchises) – (Continued)

businesses and at least a basic definition may be necessary. Staff will give it some more thought and bring back some revisions to the Design Standards for the Commission to consider.

Duyvejonck wanted to make sure that the proposed language wouldn't be stricter for formula businesses than any other business in the community. Richards stated that the intent of the revised design standard language would be to make it clear that formula businesses would need to be consistent with the character of the community not to over regulate them.

Hannah informed the Commission that he had spent his professional career developing franchises throughout the world; mostly in the hospitality industry. Hannah stated that the tighter the standard or regulation the easier it was to sidestep. Hannah commented that the way the City manages the exterior appearance of the business is a lot more important than what happens within the four walls.

9. NEW BUSINESS

(a) Parking Update – Implementation

1. Parking Counts Summary

Richards informed the Commission that the City Council set the Parking Impact Fee at \$1200 per space and that 53 parking spaces were available for 2013. Richards gave a quick explanation of the Parking Impact Fee for the new Commissioners. Staff will start parking counts again in May.

2. Parking Options for Water Street/Design Standards for 50-foot Setback Requirement on Water Street

Richards introduced the topic. Richards explained that the B-1, Central Business District does not allow parking within 50 ft. of Water Street, the B-2, General Business District is silent on a parking setback requirement, and the Design Standards require a 50 ft. setback along the entire length of Water Street. The inconsistency needs to be resolved. The Commission has previously discussed where the transition to allow parking within 50 ft. of Water Street should be. In the past discussions the Commission has commented that George Street should be the transition point.

Discussion followed regarding existing zoning and uses along Water Street between Third Street and Oak Street.

The Commission discussed retention of the cottage commercial

9. NEW BUSINESS

(a) Parking Update – Implementation

2. Parking Options for Water Street/Design Standards for 50-foot Setback Requirement on Water Street – (Continued)

and allowing some parking within 50 ft. of Water Street between George Street and Oak Street, but developing criteria in the design standards which would still make this area pedestrian friendly. Staff will begin crafting some language for the Commission to consider.

3. Shared Parking Consequences

Richards reminded the Commission that they had encouraged the City Council to reduce the Parking Impact Fee with the idea that the use of the Parking Impact Fee would increase and the use of shared parking would decrease. Richards gave the new commissioners a brief explanation of how shared parking is currently being used in the community. One of the main unforeseen consequences is that restaurants and offices using shared parking cause the restaurants to wait until 5 p.m. to open. Richards stated that one option could be to remove the shared parking option for restaurants.

Staunton stated that shared parking double dips on shared parking. The City of Excelsior does not require as much parking as a typical community. We have lower parking standards and with shared parking the community is almost giving the credit twice. Richards added that the shared parking option also reduces the use of the parking impact fee as a parking alternative to applicants/business owners.

Richards stated that he could see positive and negative aspects by keeping the shared parking language. It is always beneficial to have more tools when working on an issue, but Richards was less encouraged by shared parking the more it is used in the community.

Duyvejonck stated that she was leaning toward eliminating shared parking. Duyvejonck stated that it was almost impossible to monitor and enforce.

Craig commented that the discussion brought the Commission back to its original recommendation for the City Council to reduce the parking impact fee. Craig stated that it made sense to get rid of the shared parking allowance in the City Ordinance because of the unintended consequences.

Duyvejonck stated that she did not like to take away ordinances

9. NEW BUSINESS

(a) Parking Update – Implementation

3. Shared Parking Consequences – (Continued)

which are useful to community members, but shared parking is not working the way it was originally intended.

Staunton commented that the existing structures currently using shared parking would be grandfathered in and allowed to continue the use, but no new businesses or properties would be allowed to do so if removed from the City Ordinance.

Commissioner Duyvejonck moved, Wright seconded, to hold a public hearing for an ordinance amendment eliminating the shared parking section of the City Ordinance. Motion carried 5/0.

4. Parking Map

This is an ongoing item currently being worked on by Lisa Elliot, Planning Intern.

5. Parking Management

Richards stated that this agenda item was an ongoing project which intern Lisa Elliot is currently working on. Staff will meet with the City Finance Officer, Heidi Tumberg, in the near future to discuss existing parking meter revenues, existing costs, and the possibility of additional meters, payback, and potential revenues. Richards gave a brief explanation of existing parking meters in the city.

Discussion followed regarding current parking meter revenues and some of the advantages of an updated parking management system.

(b) Schedule Joint Work Session with the City Council

Commissioner Duyvejonck moved, Wright seconded, to schedule a Joint Work Session with the City Council on Monday, May 20<sup>th</sup> at 6:00 p.m. Motion carried 5/0.

(c) Review of Revised Development District No. 1

Staunton introduced the topic. Staunton explained that the City Council has approved the PUD General Plan and Site Plan for 10 Water Street. The Council also overturned the HPC denial of the Site Alteration Permit. The Council has split general and final plan approval of the PUD and have yet to determine the scope of the PUD as far as the public improvements are concerned. The Council has approved the

9. NEW BUSINESS

(c) Review of Revised Development District No. 1 – (Continued)

development of a TIF district to include 10 Water Street and portions of the adjacent right-of-way along Water Street and Lake Street. TIF funding is required to be expended within the TIF District or within the Development District. The proposed TIF District is located within the existing Development District. Staunton explained that the information provided in the packet described the expansion of the existing Development District, which currently includes the area surrounding the Wyer Hill Development, to include the new proposed TIF District for the hotel property at 10 Water Street. State Statute requires the City Council to consult with the Planning Commission to see if the proposed TIF District and expanded Development District are consistent with the Comprehensive Plan. Staunton explained that the City Engineer is currently exploring possible stormwater improvements which may extend outside the proposed boundaries of the TIF and Development Districts. The Planning Commission is charged with commenting on if the particular Development District is consistent with the Comprehensive Plan and if the scope of the district were slightly broader/larger to incorporate stormwater improvements would it still be consistent with the Comprehensive Plan.

Craig asked for clarity in the scale and scope of the proposed improvements for the 10 Water Street PUD. Craig stated that originally the Commission was uncomfortable with requiring the applicant to complete some public improvements, which they felt were outside the scope of what should be required by the City. Staunton explained that the scope of the TIF District would include the Lake Street road right-of-way and the Water Street road right-of-way directly adjacent to the property and the 10 Water street property itself. The Development District might include further portions of Lake and Water Streets for stormwater solutions beyond the geographic site. Staunton explained that the scope of the project in this conversation was in regard to the area of land included in the TIF and Development District and not the public improvements included in the PUD approval.

Duyvejonck stated this was opportunity for the Planning Commission to comment on the limits of the development district and to be as inclusive as possible to allow any possible regional stormwater improvements that maybe included in the area. Staunton explained that the scope of the district is where the community could spend some of the TIF money, and the area may need to be expanded depending on the stormwater solutions developed for the area.

Craig questioned the proposed configuration of the Development

9. NEW BUSINESS

(c) Review of Revised Development District No. 1 – (Continued)

District. Staunton explained that there will be one Development District with two TIF districts; the TIF District for the Wyer Hill development and the proposed TIF District for the hotel project.

Duyvejonck suggested the Development District be inclusive enough for any regional stormwater project to be included in the project.

Hannah asked what the downside would be of expanding the TIF District and/or the Development District. Staunton stated expansion of the Development District had no real downside. The expansion of the TIF District however would require that at least 70% of the buildings located within the district be deemed substandard buildings, which wouldn't go over well in the community.

Discussion followed regarding TIF funds within the port and TIF District vs. Development District.

Commissioner Duyvejonck moved, Wright seconded, to extend the boundaries of the Development District to incorporate any area needed for stormwater improvements and that the TIF District and Development District as proposed, with the possible expansion for stormwater improvements, are consistent with the Comprehensive Plan. Motion carried 5/0.

(d) Dates for Additional Works Session(s)

None.

10. ANNUAL MEETING

(a) Elect Chair and Vice-Chair

Duyvejonck nominated Craig for Planning Commission Chair. A brief discussion followed.

Wilson moved, Wright seconded, to close nominations. Motion carried 5/0.

Nicki Craig was elected Planning Commission Chair by a 5/0 vote.

Craig nominated Duyvejonck for Planning Commission Vice-Chair. A brief discussion followed.

Wilson moved, Wright seconded, to close nominations. Motion carried 5/0.

Beth Duyvejonck was elected Planning Commission Vice-Chair by a 5/0 vote.

10. ANNUAL MEETING

(b) Review By-Laws

The Commission had a brief discussion regarding their By-Laws.

Craig asked if Item 1 under Section VI (B) should be moved to Item 4 on the procedural list of the Planning Commission. Discussion followed regarding the procedure normally followed by the Planning Commission for issues brought before the Commission.

A brief discussion followed regarding Item 5 under the procedures, which allows any opponents to an agenda item or issue to make a presentation. After some consideration and deliberation the Commission decided to leave this item in with the understanding that the Chair will have the authority to manage time limits for public hearings.

Duyvejonck requested that Section VII be updated to reflect the new City Hall business hours from 7:30 a.m. to 5:30 p.m., Monday thru Thursday rather than the old Monday thru Friday hours.

Craig requested that the portion of Section IX regarding failure to attend meetings be clarified.

Wright moved, Duyvejonck seconded, to continue the review of By-Laws and direct staff to make the proposed changes for review and approval at the April 2, 2013 Planning Commission regular meeting. Motion carried 5/0.

(c) Goals and Objectives for 2013

The Commission reviewed the 2012 Goals and Objectives and the following comments were made:

1. Develop guidelines for residential areas

Richards stated that this item was currently at the Council level and would be discussed at an upcoming work session. The Commission dropped this item from their goals and objectives.

2. Review and develop green technologies/sustainable development standards and policies

This goal has been completed. The proposed Ordinance Amendment is currently being considered by the City Council.

3. Review non-conforming buildings and structures standards

This goal had been completed.

4. Review Article 62. Heritage Preservation Program and Designation of Historic District/Sites of City Code Appendix E as they relate to the Secretary of the Interior's Standards for Rehabilitation

10. ANNUAL MEETING

(c) Goals and Objectives for 2013 – (Continued)

The Commission requested that this goal remain on the list.

5. Bring the Zoning Code into conformance with the Comprehensive Plan

The Commission is still working on this goal.

6. Comprehensive training for all Commissioners

The Commission requested that this goal remain on the list.

The Commission requested that the five items to be discussed with the City Council at their upcoming joint meeting be added to the list of Goals and Objectives. The five City Council discussion items include: 1) Assess Additional Parking Recommendations, 2) Explore Modifying the PUD Review Process, 3) Review Design Standards, 4) Evaluate Application Standards for Commercial Applications, and 5) Analyze Property Storage Ordinances to Eliminate Multiple Trailers, Cars, etc.

Craig called a 5 minute break at 9:03 PM

The Commission reconvened at 9:09 PM

Richards recommended setting the Planning Commission Goals and Objectives after the scheduled joint meeting with the City Council on May 20<sup>th</sup>.

Craig added "Connectivity with the HPC" as a Goal and Objective for 2013.

Wilson moved, Hannah seconded, to continue the 2013 Goals and Objectives and direct staff to make the proposed changes for review and approval at the April 2, 2013 regular meeting. Motion carried 5/0.

(b) Code of Ethics

Braaten informed the Commission that the City Code of Ethics had been attached for review.

11. COMMUNICATIONS & REPORTS

(a) Next Planning Commission Meeting – Tuesday, April 2, 2013

Braaten informed the Commission of a possible Design Review Application for 340 Highway 7 and a Variance Application for 243 Third Street.

12. MISCELLANEOUS

(a) Recent City Council Actions

Staff updated the Commission on recent City Council actions.

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13. ADJOURNMENT

Commissioner Duyvejonck moved, Wright seconded, to adjourn the meeting at 9:30 p.m. Motion carried 5/0.

Respectfully submitted,

Lane L. Braaten  
City Planner