

City of Scottsbluff, Nebraska
Monday, April 10, 2023
Regular Meeting

Item Appr. Min.1

March 13, 2023

Staff Contact:

PLANNING COMMISSION MINUTES
REGULAR SCHEDULED MEETING
March 13, 2023
SCOTTSBLUFF, NEBRASKA

The Planning Commission for the City of Scottsbluff met in regular scheduled meeting on Monday, March 13, 2023 at 6:00 PM in the Scottsbluff City Council Chambers at 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting was published in the Star-Herald, a newspaper of general circulation in the city, on March 2, 2023. The notice stated the date, time, and location of the meeting, that the meeting was open to the public, and that anyone with a disability desiring reasonable accommodation to attend should contact the Development Services office. An agenda was kept current and available for public inspection at the Development Services office, provided the Planning Commission can modify the agenda at the meeting if it is determined that an emergency so required. A copy of the agenda packet was delivered to each Planning Commission member.

- 1 Chair Becky Estrada called the meeting to order at 6:00 PM. Roll call consisted of the following members being present, Becky Estrada, Dave Gompert, Callan Wayman, Angie Aguallo, Kendall Palu, Henry Huber, Jim Zitterkopf, Jerry Stricker, Linda Redfern (present-excused). "Absent": Dana Weber. City Officials present were Zachary Glaubius, Planning Administrator, Taylor Stephens, GIS Analyst, Katie Quintana, Fire Marshal, Kent Hadenfeldt, City Attorney, and Gary Batt, Code Administrator II.
- 2 Estrada informed those present of the Nebraska Open Meetings Act and that a copy was located on the south wall of the Council Chambers.
- 3 Acknowledgement of any changes in the agenda: None.
- 4 Business not on the agenda: None.
- 5 The minutes from the February 13, 2023 meeting were reviewed. **Conclusion:** a motion was made by Aguallo and seconded by Stricker to approve the minutes from February 13, 2023 meeting. Becky Estrada, Dave Gompert, Callan Wayman, Angie Aguallo, Kendall Palu, Henry Huber, Jim Zitterkopf, Jerry Stricker, Linda Redfern (present-excused). "Absent": Dana Weber. The motion carried.
- 6 Estrada introduced Item 6A regarding a staff report on the 2023 Nebraska Planning and Zoning Conference. Glaubius stated he attended the NPZA Conference in Kearney, Nebraska on March 8, 2023. Glaubius stated he attended presentations on proposed TIF legislation, economic development incentives, and commercial building design.
- 7 Estrada introduced Item 6B regarding an update on the code revisions to Chapter 21 and Chapter 25 of the municipal code. Glaubius stated not much has changed since the last meeting. Glaubius stated the main change was revising the minimum lot size to a minimum district size for the PBC Planned Business Center District. Glaubius stated the mall owners are interested in this change in order to subdivide outlots. Glaubius stated revisions to Chapter 21 regarding replatting and plat vacations are being worked on. Glaubius stated definitions in Chapter 21 are being reviewed, and highlighted the updated definitions to streets as a primary access and alleys as secondary access. Glaubius stated references to CD-ROMs in Chapter 21 are proposed to be replaced with electronic versions.
- 8 Estrada introduced Item 7A regarding a discussion on the Planning Commission's role as the City of Scottsbluff Fair Housing Commission. Glaubius stated he had sent out the relevant section of code, Chapter 4 Article 7) to the Planning Commission members, and provided the members with a 2015 memo regarding the code change which reassigned the Fair Housing Commission

role to the Planning Commission. Glaubius stated previously a Fair Housing Complaint would be submitted to the City who would then forward it to the Nebraska Equal Opportunity Commission. Glaubius stated the current process is for a complaint to go directly to the NEOC, who may forward the complaint to the City for investigation. City Attorney Kent Hadenfeldt stated the Planning Commission's role as the Fair Housing Commission is fairly limited as the NEOC serves as the primary contact for these types of complaints. Hadenfeldt stated all violations found in Chapter 20 of the Nebraska State Statutes are referred to the NEOC. Hadenfeldt stated in 2015, the City changed Community Development Advisory Committee who previously was designated the Fair Housing Commission. Hadenfeldt stated in 2015 an ordinance was considered to either designate another Fair Housing Commission or to repeal the Fair Housing Commission. Hadenfeldt stated the City Council minutes from July 2015 show the decision was referred back to the Planning Commission, and in December 2015 the Planning Commission was designated as the Fair Housing Commission. Wayman inquired if Hadenfeldt felt the NEOC did a good job. Hadenfeldt stated he did feel they do a good job and also have an office located in Scottsbluff.

- 9 Redfern stated she recalled an individual who filed Fair Housing complaints when she served on City Council. Redfern stated the City addressed the complaints by the individual. Estrada inquired how the City expected the Planning Commission to act as a quasi-judicial committee without training. Hadenfeldt stated staff and legal counsel would be trained when a complaint is filed. Hadenfeldt stated since the City of Scottsbluff is a city manager-council form of government, the complaints are sent to the City Manager. Hadenfeldt stated the complaints are first addressed and attempted to be solved administratively. Hadenfeldt stated the Planning Commission may never see the complaint as the City will have addressed the complaint before it needing to go before the Planning Commission or if the complaint go directly NEOC and bypass the City. Palu asked Hadenfeldt what would be the best course of action regarding the Planning Commission's role as the Fair Housing Commission. Palu inquired whether it be best to keep the role and regulations as is or change. Hadenfeldt stated any proposal to change the role would need to be considered by the City Manager. Hadenfeldt stated the City Manager could speak with City Council to see if there was support to change or repeal the Fair Housing Commission. Redfern stated she did not see the current setup as hurting anything. Redfern stated it would be a can of worms if the City was to repeal the Fair Housing Commission. Hadenfeldt stated CDBG required recipient cities to have a Fair Housing Commission, which the city was involved with in the past. Redfern stated she felt it would be best to the leave the Fair Housing Commission as is. Stricker stated he reviewed the municipal code section on Fair Housing and found it be focused on handicap accessibility even though many other aspects are included with Fair Housing. Stricker stated he read the state statute regarding Fair Housing and stated he believed it said a City needs to be certified to address complaints, and NEOC gives that certification.
- 10 Stricker stated the statute said the complaint is to first go to the local jurisdiction and then the local jurisdiction has 30 days to address it. Stricker stated if the local jurisdiction does not handle the complaint within 30 days, it is forwarded on to the NEOC. Hadenfeldt confirmed there were two paths for complaints to be addressed as it could be via local or state. Stricker stated the City is suppose to have a form for an individual to use to file a complaint, and no form exists to his knowledge. Stricker stated he believed a process should be set for the Planning Commission in the event the Planning Commission is required to act as a quasi-judicial committee. Stricker stated he hoped the City Attorney would provide guidance in the event the Planning Commission needs to hold a hearing on a Fair Housing complaint. Stricker stated he wanted to reread the statute and code as he interpreted them different than Hadenfeldt. Stricker stated he still would like to see a process established for how the Fair Housing Commission handles

complaints. Hadenfeldt stated the process has already been established by municipal code. Hadenfeldt stated an individual would file a complaint in writing, and the city would then investigate and address the complaint. Stricker stated that instead of having the process written on a napkin, it would be beneficial to have the process formally created so it addressed the critical elements. Hadenfeldt stated the City would not tell an individual how to write a complaint. Hadenfeldt stated it would not matter what the complaint was written on so long as it is written, and the City would not tell the individual what and what not to say. Stricker stated he agreed that he did not want to tell the individual what to say, but a designated form with required information would assist in the process and show the individual that the Planning Commission was not dragging its feet. Gompert inquired if Stricker was wanting a form that required basic information. Stricker confirmed. Stricker stated he was concerned about the impression of the City dragging its feet on addressing complaints. Redfern stated the City already has a process, and she did not feel a special form was necessary. Redfern stated the existing process asks for the individuals name and address, and the Planning Commission would not need anymore information than that. Redfern stated it may be a waste of time to develop a form for something that has not happened. Wayman stated that as a realtor, he forwards complaints directly to NEOC or to HUD. Wayman asked Stricker for clarity on his request. Stricker stated a form would not be necessarily necessary, but at least a roadmap on how to handle complaints. Stricker stated he assumed the standard complaint form is different than what is necessary for a Fair Housing complaint. Redfern stated the optimal method is to address issues before a complaint is submitted. Wayman stated in the scenario NEOC forwards a Fair Housing complaint to the City which needs to be addressed by a quasi-judicial committee, it would be sent to the Planning Commission instead of City Council. Hadenfeldt confirmed. Wayman stated he read in code that the Planning Commission can issue subpoenas and other procedures. Stricker stated he wanted to ensure the public did not get the perception that the Planning Commission did not know what to do, and for a procedure be established. Stricker stated he encourage the other commissions to review the code and state statutes. Hadenfeldt stated Fair Housing is covered in code under Chapter 4 Article 7.

- 11 Gompert stated if NEOC were to send a complaint to the City, then it would be a good idea to communicate with NEOC on what they need and how it should be done. Stricker stated that would be wonderful. Aguallo stated the need and process may be dependent on what the complaint is as not all complaints are similar. Gompert stated it would be beneficial to know what NEOC's expectation of the City is. Wayman asked if the Fair Housing Commission exists in order to receive a grant. Hadenfeldt stated he had to believe it was part of the reason. Wayman stated he had not been aware of this role of the Planning Commission. Hadenfeldt stated that fortunately there has not been a reason for the Planning Commission to act as the Fair Housing Commission. Wayman stated that it seemed the City Council handled the most recent complaints in 2015. Stricker stated he would like to discuss the Fair Housing Commission role at the next meeting as if the City is certified, complaints are to come to the City first rather than NEOC. Hadenfeldt stated a complaint can be filed with either the City or NEOC, and most people go directly to NEOC. Palu stated he would like to know what City Council expects from the Planning Commission on the Fair Housing Commission. Palu stated he agreed with Stricker that even though a complaint has not come up, the Planning Commission should be prepared. Gompert stated he believed the reason most complaints go directly to NEOC is because NEOC is trained on how to address and resolve these complaints. Stricker stated his concern is if the City keeps the Fair Housing Commission and is certified, then the NEOC will require complaints go through the City. Aguallo stated the process for these complaints is to go to NEOC who can elect to send it the Fair Housing Commission who then schedules a hearing and makes a

recommendation to City Council, who then decides. Gompert and Aguallo stated the best course of action is to let City Hall handle the complaint to see if it can be addressed without a hearing. Wayman stated NEOC handles these complaints all the time and knows how to address them. Aguallo stated that in the even the Planning Commission must act as the Fair Housing Commission she expected the City's legal counsel to provide guidance.

12 Item 9: Planning Commission confirmed the next meeting date of April 10, 2023.

13 Item 10: Adjournment

14 Adjournment: Motion by Aguallo, seconded by Wayman to adjourn the meeting at 6:38 PM. Becky Estrada, Dave Gompert, Callan Wayman, Angie Aguallo, Kendall Palu, Henry Huber, Jim Zitterkopf, Jerry Stricker, Linda Redfern (present-excused). "Absent": Dana Weber The motion carried.

Becky Estrada, Chairperson

Zachary Glaubius, Secretary