

Planning & Zoning Minutes  
P/Z Room South City Hall  
360 Rio Communities Blvd  
August 2, 2018

**Call to Order**

- Jim Winters called the meeting to order at 6:34 p.m.

**Roll Call**

- Present: Jim Winters, Dennis Kintzler, Robert Teague, Tom Scroggins, John Thompson and LE Rubin
- Present: City Manager Bob Skerry and Deputy Clerk Pam Johnson
- Absent: Lawrence Gordon (excused)

**Approval of Minutes – July 19, 2018**

- Tom Scroggins moved to accept the minutes of the July 19, 2018 as submitted. Dennis Kintzler seconded the motion and the minutes were approved on 6-0.

**General Discussion**

- Jim Winters said there is a rumor circulating in the City that the Oasis restaurant is defunct, but it is only delayed.
- John Thompson said we should suggest to the owners that the dumpsters between the street and front door should be moved.
- Jim Winters said Western Spirit is installing a transmission line from the wind turbines on the other side of the hills. He said the line will come from the Mountainair area across the Hwy 60 and Hwy 47 intersection and go south of Bosque across the river and north through the intermodal and Facebook in Los Lunas and wind up west of Albuquerque.
- Bob Skerry said one reason the transmission is needed is that there is not enough transmission capacity and they've had brown outs at the industrial park.
- Dennis Kintzler said he talked to Chris at Big Mike's and he said there is a rumor that he is leaving here but he isn't. He said Chris told him he is opening another restaurant at the old Jake and Andre's location but he's keeping his restaurant in Rio Communities.

**Discussion on pre-application for variance – no discussion at this meeting**

**Due Process – Ethics**

- Jim Winters distributed copies of information from MRCOG regarding Due Process. He said due process is a notification method more than anything else and is the number one area where people get sued. He said it's part of the 14<sup>th</sup> Amendment that property can't be taken, or the value altered without proper notification.
- Jim Winters said it is important to remember that notices be sent to VIA and any homeowners associations in the area fifteen days before the hearing. He also explained that zoning changes involving a large area owned by several people can be done by legislative change which is what was used to zone all of Rio Communities. He said we can't use that process for a single person's property which has to follow the notification process. He also said adequate space has to be provided for people at the hearings. He said if it's necessary to move some people to another room, audio access to the hearing proceedings has to be provided.
- L.E. Rubin asked what the process would be if a single owner has 500 lots and wants to rezone all of them.
- Jim Winters said P & Z could probably consider that a legislative change. He said it has more to do with how we notify people than anything else.

- Jim Winters said he drafted a form for people to sign if they want to speak at a hearing. He said since all hearings are quasi-judicial people who want to talk should swear to tell the truth and they do that by signing the form. He also said when P & Z makes a judgment at the hearing, a report should be written and sent to Council. He said the Comprehensive Plan can be used as the basis for a decision on a variance.
- Tom Scroggins asked if we are required to explain a dissenting opinion.
- Jim Winters said he would explain what the vote was and if there are dissensions, he would explain the points that were made. He also said minutes can be used as a report. He said if P & Z does not grant a variance, the appeal process is to Council first then to District Court.
- Tom Scroggins asked if the legislative process can be used to grant variances on large areas.
- Jim Winters said requests for change in zoning for property zoned PD has to come to P & Z first and we would be doing a legislative change for that particular property. He said property currently zoned PD can be used for anything we think is in the City's best interest. He said special use permits should not be valid when the property is not being used for the approved purpose any longer. He said special use permits have a time limit and the zoning reverts to the original zoning when the time limit expires.
- Jim Winters began an explanation of ex parte contacts. He said individual members of P & Z can't go see a property or be contacted by someone regarding a land use matter that will come before the commission. He said if we do and get any information, we are required to tell everyone on the commission what was said in detail. He also said if someone has to recuse himself for any reason, he must leave the room during discussion.

#### **Subdivisions updates and possible vote**

- Jim Winters distributed copies of draft #6 of the Subdivisions Ordinance and started a discussion on changes made at the last meeting. A copy of this draft is attached and made a part of this record.
- John Thompson moved to accept Draft #6 of Chapter 6 Subdivisions in its entirety as presented for submission to City Council. Robert Teague seconded, and the motion passed on vote 6-0 vote.
- Jim Winters said the document will go to Council and they'll decide if it should go for fourteen-day review. He said it will be a new ordinance rather than another amendment.

#### **Zoning Issues/Updates –**

- Jim Winters distributed copies of financial information on the industrial park including companies that are there now, vacant land owners, the number of acres, the land value, improvements and total assessed value. He said the amount of property tax that would be generated is also noted and continued the discussion. He explained that when considering annexation, we have to do what is in the best interest of the City. He said we can consider the increase in revenue, but we would have to explain what we'll do with the money and we'll have to provide some improvements. He said the industrial park will require fire and police protection and some road work.
- Jim Winters distributed copies of "distribution of housing" from the Land Use Plan which is part of the Comprehensive Plan showing how land in the City will be used. He said we don't have enough commercial land in the City, and we have no land zoned I-1 or I-2 for industrial use at all. He said the owner of the property from Goode Road to Stables Road along Hwy 304 is owned by a developer who is interested in converting that to I1-I2 zoning. He said the advantage of this property is that it has very good access to sewer. He said the rule is that we should use the land that exists in the City and when there is a deficiency, we should annex to acquire land. He said the question is whether we should annex property if we already enough property in the city.
- Bob Skerry said the infrastructure has to be in before land can be sold and that's the reason for subdivision regulations.
- Jim Winters distributed copies of Article 14 Chapter 4 Annexation from the Zoning Code. He said annexation procedures came from State Statute and refer to the Comprehensive Plan. He said P & Z makes recommendations to Council, but annexation has to be approved by the Department of Finance Administration.

**Solid Waste Ordinance discussion**

- Jim Winters said the ordinance has been through Council and has gotten down to just a few issues. He started a discussion regarding the remaining issues and said Council wants the ordinance to go to public forum before we finalize it. He said the forum is scheduled for 6:00 p.m. on August 21<sup>st</sup>.
- Bob Skerry said someone should state at the beginning of the forum what the P & Z recommended.
- Jim Winters said the list P & Z put together and the proposed ordinance should be distributed at the forum.

**ADJOURN –**

- L.E. Rubin moved to adjourn. John Thompson seconded the motion and the meeting adjourned at 8:32 p.m.

Respectfully submitted,

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Pam Johnson, Deputy Clerk

Approved

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Robert Teague, Chairman

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Dennis Kintzler

\_\_\_\_\_  
John Thompson, Vice Chairman

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Lawrence Gordon

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L.E. Rubin, Secretary

\_\_\_\_\_  
Jim Winters

Date \_\_\_\_\_

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Tom Scroggins