

**PLANNING AND ZONING COMMISSION
SPECIAL CALL MEETING MINUTES
TUESDAY, JUNE 14, 2022**

Commissioners Present:

Jamie WilsonChairman
Michael Hennigan. Vice Chairman
Robert Vigil Commissioner
Tiffany Bell..... Commissioner
MaQuettia Ledet Commissioner

Commissioners Absent:

George Mortimer. Commissioner
Daryl Cowart..... Commissioner

City Council Members Present:

None

City Staff Present:

Kelvin Knauf, Director of Planning & Community Development
Wendy Lloyd, Planning Secretary
Leigh Ann Dallas, Event Manager & EDC Assistant

Vice Chair Wilson called the Planning & Zoning meeting to order at 5:30 p.m.

CITIZEN COMMENTS

None

DISCUSSION/ACTION ITEMS – PLANNING AND ZONING COMMISSION

- a. **Consider a list of capital improvements that in the opinion of the Planning and Zoning Commission are necessary or desirable during the forthcoming five year period.**

Mr. Knauf stated the City Charter requires that the Planning and Zoning Commission make recommendations to the City Manager on possible improvements over the next 5 years. We do that, the city started with its budget preparation process for the budget that comes effective October 1st. So now is a good time to look at all the considerations. In your packet I've put in there a listing of some projects that the city is currently working on through some grant funds. There's a lot that's going on in the city. I thought it'd be valuable for you just to know about those for one thing and also you have a couple of options. If those stimulate some ideas, you can bring your own ideas or if you want to just say hey we like these, you can do that too. This is your opportunity to tell the City Manager what you think the city might need over the next 5 years. Now, it's not binding on the City Manager or City Council. This is an advisory opinion from the Planning and Zoning Commission.

Chairman Wilson – Keep up with the park/recreation facility improvements, spotlight parks throughout year for events, veteran facility

Vice Chair Hennigan – look into possible donation of property near the new housing subdivisions going up north for new parks, veteran facility, drainage, streets, sidewalks

Commissioner Ledet – add to splash pad in Navy Park with more activities, add color & add parking (maybe remove boulevard area & add slanted parking- futuristic), events like food truck night at Navy Park and rotate community driven events to boost morale - community involvement budget, veteran facility for resources locally a top priority, drainage

Commissioner Bell – add parking for Navy Park, bigger splash pad, streets

Ms. Dallas – a bigger splash pad similar to Bridge City, another sand volleyball court so people could hold tournaments, possible community event funding

Chairman Wilson stated so back to our list:

- *Splash pad expansion at Navy Park & parking improvements
- *VA Facilities
- *Continue drainage improvements
- *Continue street improvements
- *Continue sidewalk improvements – historic district, downtown and maybe other areas
- *Hurricane command center

Mr. Knauf stated I think these are some good ideas.

b. Presentation and discussion on the Texas Open Meetings Act.

Mr. Knauf stated if you remember those of you that were on the planning and zoning commission last year, we did workshops on planning, platting, and zoning as part of your education. I know whenever you get on the commission we give you the video link where you take the open meetings act training and I think it's probably been a few years since some of you have taken it and they have kind of changed it. Every time the Legislature meets they seem to change it a little bit. I thought it'd be good just to have you view the video. This video the Attorney General's office produced is much better than probably what you've seen. It's an hour and 3 minutes. Take the Open Meetings Act seriously.

Vice Chair Hennigan stated we all have our cell phones out. Just be careful because the public can request to see what we're doing on our cell phones.

Video presentation.

Mr. Knauf stated due to lateness of the hour, I think we can go ahead and stop this if you'd like to. I would like for Guy to talk briefly about a walking quorum.

Ms. Dallas stated something that got brought up, there's 7 council members so 4 is a quorum and when it comes to awareness of sharing and tagging people on Facebook, they can't all comment under a Facebook post. 4 people can't

comment on a Facebook post. If there's a conversation going on and you see Mayor Spears and the council member for that district, if they don't respond, it's not that they are ignoring it. Chairman Wilson stated this is in relation to governmental business. Ms. Dallas stated oh yeah, they can say like Happy birthday to someone.

Mr. Goodson stated in a world that is complete communication, most of which I would say is minimalist in value. I am not a person involved in social media and am perfectly happy for those that do but what you put on an app of an elected or appointed government official whether that is elected or appointed and or a deliberative body's app, you take on an entirely new set of parameters relative to your conduct through written or oral communication. What Leigh Ann just mentioned is a perfect example of what people think well were all on Facebook, we all have friended each other and somebody makes a comment to Tiffany about something and then Jamie and Denise and Michael and Robert all chime in because we all have Facebook friended each other, you've just violated the Open Meetings Act when it's a subject that deliberative of you as a body. You look at this for me, my response for something that's posted to Tiffany can only really be a problem when it arises out of a planning and zoning commission meeting. Whereas your friends who have appointed you on the city council, their proliferation of information cover every aspect of their governmental duties as mayors and council members. How do I say this delicately as Kate and I are privileged to work in an area called public entity law. That constitutes 80% of our practice every day. A lot of this is from entities that are much smaller than the City of Orange and so what we're talking about and I'll just pick on my friend because nobody misses a Newton Eagles football game. You would be more chastised by a community if you were a council member and you weren't in purple and up at the game and probably half the council will sit within 50 feet of each other. I tell my city administrators all the time, I'm on a need to know basis and I make that sarcastically but to say this is that what is mentioned in this study and what happens in real life is extremely hard because of public information this is a very difficult thing to manage but at the end of the day what I tell everybody is if you're going to go on social media and you feel the need to respond think about what at you're wearing. If you're wearing a hat in there about something that's going on in the city whether that's a deliberative matter or a planning and zoning commission today or could be in the future or has been in the past, all of those expose you to criminal and civil penalties because you decide I need to clear the air on this or I need to correct this statement. Because, again you have to be extremely careful as Leigh Ann mentioned that you may create a paper trail or communication trail that puts you in the gun sites of somebody in the media, a person who's a whistleblower or whoever it is. Here's the problem for you all. People expect you to answer them. You're in the 2 inch sword of being a deliberative body that people want to interact with without realizing what they're doing to you because honestly they don't care. We are in a world of response. We want an instant response for the communication. We think Robert, Tiffany, Mike, Jamie, Denise owes it to us to give us a response immediately to a communication. If it was just Robert responding to a citizen of Orange about a deliberative matter of P&Z that would be one thing but rarely does it end there and that walking quorum doesn't mean physically walking. It means any source or movement of that communication from one member to another member that could lead to another member and another member and boom you've created a violation of the Open Meetings Act. So, to me what I tell everybody, my family, my law practice, my clients, when in doubt take a breath and don't make a keystroke. We have a lot of people in our smaller communities that just say look we're all going to be at this or that, if we go chat about this matter or that matter its no big deal because to those of us that work on this side of government, it's a big deal that we take honorably our responsibility and I know you all do. A lot of people take communication so casually and cavalier and not respectful but take a thought before you respond that we are in a role where people expect you to respond. I actually tell people this, when in doubt say this: I know you would like for me to respond and I wear a public hat but to be responsible under the Open Meetings Act it may be public information and I can't respond to this question because it might create an unlawful meeting. Don't respond to them, just give them the statement. That is something to play with but it's the best answer I can give people unless there is a very good reason for me to respond to social media about the hat you wear, it really is not because those people can come here and sit in front of the governmental body but as you can see,

we're not exactly a sell out audience. The whole idea is that they have the opportunity to come to a public forum and speak about a matter before the governing body. They don't want to do that because I'd rather sit at home and have my Twinkie and my slushie and do 50 emails to show how fast I can type and it's convenient and they don't want to be inconvenienced. At the end of the day, we tell people when in doubt respond only by because people feel like they have to respond or they get blown up all over social media that Leigh Ann hasn't responded to my email. But the best thing I tell people to do is if you can just respectfully say thank you for your interest but I can't respond because to do so could violate my role in conducting an unlawful meeting of the Open Meetings Act. People will say what is Jamie talking about. I'm just asking her a simple question about zoning about a matter of the City of Orange. I'm not trying to get into a meeting. But they do but it puts the burden on you all that I wish and he wishes we weren't doing but it does put burdens on you all and we just appreciate the fact that you understand that we are asking you to take on a burden which is not answering a question and turn it around say you need to come to our board meeting if you have something like this. Get on agenda and talk to our planning director if arises to level of deliberative action. Just do it in the best way you can and expect blow back but blow back in our opinion is better for the greater good of the city that we do not do things that create Open Meetings Act violation.

Ms. Dallas stated Mayor Spears as gotten a lot of backlash on this. He'll often say that falls under Kelvin Knauf's department please call him. Vice Chair Hennigan stated he gets tagged a lot. Commissioner Ledet stated things have gotten better over the years with people responding. I have a question. I think a common practice is that like I'm not friends with anyone on here and even at work I'm not friends with people that I work directly with because it does create conflicts. I do not answer anything on social media with the city. What happens when there was someone showing us a property and they asked for our information. It was kind of like we got tricked into it but it was a constituent and so they said hey I wanted to show you the property that we're talking about and said ok and they showed the property and I know the property but at some point they called and said they would really like this property to be used for this or that. So, I was like how the heck did this person get my number and so we just went on. Is that the same thing say if someone calls me and talks to me privately, then Jamie and talks to her privately and them privately. Is that considered a walking quorum? Mr. Goodson stated good question. Here's the difficulty because you probably could walk that around a walking quorum because you didn't deliberate with Jamie and then with Michael and then with Tiffany. But, that person did and said look I got this answer, this answer, this answer and this answer and so they say so I know what the body is going to do because they've already told me and so you all individually did not speak to each other down the chain but the impression has been given otherwise so that's one of those the white and black with good intentions going with the people and I can't tell you that it's wrong to go out there and do that and be proactive with constituents and Kelvin may encourage you to go look at properties that are on the agenda for deciding an issue. It's good for somebody to do a drive by instead of just seeing a picture. But at the end of the day, you do have to realize that people will use the communication they have with you sometimes in a way to give the impression that they already have the answer that the deliberative body will give. So if somebody calls you and wants you to come out to a property and get your impression, say I'll be happy to come out and look at it but if you want to talk to me about a deliberation, that's something that you're going to need to bring down and we'd be perfectly happy for you to come and for me to answer your question but as far as for me to give you my answer in my role, you're going to need to come and we'll have to have a discussion in front of this body. Your role here is as a body. You really have no individual authority and a planning and zoning commissioner any more than a council member does. Now I hate to tell that to council members because council members from time to time feel like I'm elected for this so I got authority in here. But at the end of the day, even the city council deliberates as a body not as an individual. I tell them you do have a role because you are a representative of that area if you're not an At-Large or Mayor. There's one class you get in junior high called Texas History. What happens we have in Texas is this video whether you finish watching it today or you decide to look at it some other time, it's a good video and she does a great job. People don't take the time to want to know. They

just decide what they think they should be able to do as opposed to what they really should be doing. It's just part of the fact that we don't educate our children and young adults in Texas about things that many of you realize are so important. We just don't educate our constituents sufficiently and so now we're in a world of fast communication. People just make assumptions that are totally inaccurate but thank you for bringing that up because that's a good example of something that can lead to something. It's not a walking quorum but creates the impression that there was.

Vice Chair Hennigan stated we live in a society now where people are looking for us to make mistakes. They want to sue the city. They want to sue us individually. They just want to sue somebody so they're looking for somebody to make mistakes so just do the best you can up here and when you get phone calls and things like that just say hey I welcome you to come to planning and zoning or welcome you to come to city council and get on the agenda and share your thoughts or information on what you want to see the city doing.

PLANNING & ZONING APPROVAL OF MINUTES

a. Approval of May 16, 2022, Planning and Zoning Commission special call meeting minutes.

Vice Chair Hennigan motioned to approve
Commissioner Vigil 2nd

Vote: 5 – 0

Motion Carries

Chairman Wilson adjourned the Planning and Zoning Commission meeting at 7:15 p.m.