

MINUTES
Agenda Review Meeting
Monday, November 10, 2014
City – County Building

The Knoxville/Knox County Metropolitan Planning Commission convened on Monday, November 10, 2014, a beautiful sunny day, at Noon in the Small Assembly Room of the City-County Building, 400 West Main Avenue, Knoxville, Tennessee. The Monthly Agenda Review Meeting, which is normally conducted on the Tuesday immediately preceding the second Thursday of each month, was (after appropriate notice) rescheduled by MPC Staff to the Monday immediately preceding the second Thursday of the month of November, being November 10, 2014, in order to accommodate the Veteran's Day Holiday, which finds most government offices to be closed, including specifically MPC, and perhaps the Small Assembly Room of the City-County Building

Notwithstanding the rescheduling of the Meeting to the first Monday before the second Thursday of the month of November, turnout for the meeting was excellent. In attendance were Planning Commissioners Jack Sharp, Scott Smith, Bart Carey, Len Johnson, Charles Lomax, Laura Cole, Jeff Roth, Jim Wakefield, Janice Tocher, Herb Anders, Mac Goodwin, Art Clancy, Elizabeth Eason and Rebecca Longmire, Chair of MPC. Also in attendance were Mark Donaldson, Executive Director of MPC, and various MPC staff members.

Immediately prior to the commencement of business, a large but handsome oil painting representing the Historical Recreation of the Founding of Knox County Depicting Governor William Blount Creating the Ordinance in his Office before General John Sevier (who's surname is interestingly reported to be a bastardization of the name "Xavier") and Surveyors Charles McClung and Alexander Outlaw, by William Rawson, dated January 1, 1992, was knocked awry by some person unseen by the Recording Secretary, much to the consternation of those present. In the hubbub that followed, Tom Brechko of MPC Staff proposed that the disturbance may have been merely an aftershock from seismic activity earlier in the week, and suggested that the event should best be colloquially referred to as the "Clancy Effect." No Commissioners or Staff were injured in the event.

As voices calmed, and as the Commissioners continued to dine on victuals from Holly's Eventful Dining, Mr. Donaldson called the meeting to order at 12:06 o'clock p.m. Mr. Donaldson then reported that activities of the City Council on land use matters since the last Agenda Review Meeting held on the Tuesday immediately preceding the second Thursday in October had been relatively quiet. City Council had dealt with all issues presented to their Agenda in conformity with MPC recommendations. Mr. Donaldson also reported that the Cedar Lane rezoning request for offices use acted on by MPC at the prior monthly meeting is scheduled to be entertained by City Council tomorrow, November 11, 2014. Mr. Donaldson reminded Commissioners that MPC had approved the rezoning subject to various conditions and suggested that discussion by City Council on the matter may be significant, as it was before MPC.

Mr. Donaldson then reported that County Commission's actions on land use issues since the last Agenda Review Meeting had likewise been rather quiet. He noted that several zoning issues that had been deferred in prior months had been cleared up and concluded that land use issues before both of the constituent political bodies (i.e. City Council and County Commission) looked to remain quiet heading into the holiday season.

Commissioner Longmire related to her colleagues written instructions found at her seat on the dais about flashing lights and the need to speak into the microphones. The source of the instruction was not discussed. There followed a general but brief discussion among Commissioners regarding the operation of the microphone system. Ironically, much of that discussion could not be heard by the Recording Secretary.

Mr. Donaldson thanked all the Commissioners for attending and participating in the MPC Workshop held last month. Then, as a part of his explanation of the Staff recommendation for Agenda Item 5 of the November Agenda, Mr. Donaldson began with a brief review of the history of the creation of the City's Sign Task Force by City Council, and that body's approach to the task, to wit:

1. The Task Force began by organizing and eventually reorganizing the existing Sign Ordinance into a manageable document.
2. The Sign Force attempted to identify shortcomings of the existing ordinance.
3. A study of sign ordinances from cities comparable to Knoxville was secured in order to determine how those entities had attempted to address the perceived shortcomings.

Among other discoveries, the Task Force noted the use of site triangles at intersections. The Task Force also noted methods for controlling the amount of signage that may be placed in retail business windows. As to the latter issue, Mr. Donaldson advised that MPC Staff does not make any independent recommendation, but has chosen to defer to the Task Force's approach to this matter.

Commissioner Tocher then inquired as to whether existing signage in retail windows which is greater than the 25% standard set forth in the proposed ordinance would be "grandfathered." Mr. Donaldson replied, "No."

Commissioner Tocher then inquired as to whether signage etched into glass windows in excess of the 25% percent threshold would be grandfathered. Mr. Donaldson replied that the City's enforcement officials would be expected to establish a protocol for all enforcement actions, and suggested that such protocol could commence with notification to business owners in hopes of voluntary compliance. Mr. Donaldson also suggested that in his estimation, glass etchings would probably be acceptable under the newly proposed ordinance.

Commissioner Carey inquired as to whether the ability to see through the etched signs would impact the method of measuring the percentage of window occupied by the sign. Mr. Donaldson offered that the same methodology of creating a polygon around the

etched area and measuring the area of the polygon is a likely approach.

Commissioner Anders announced his concern about the enforceability of many of the provisions of the proposed sign ordinance, and his belief that most provisions will not be enforced due to the fact that enforcement of sign ordinance violations have historically been complaint driven. Commissioner Anders expressed his concern that fees associated with the signage and with ordinance violations will be high and that the City is not ready to pursue the terms of the ordinance.

Commissioner Roth acknowledged that the Task Force and MPC Staff agree that enforcement is an issue, but reminded Commissioners that the job presented by the City to MPC was to craft a sign ordinance, and that the issues of enforcement were not part of that job. Commissioner Roth opined that it will be up to the City Administration to figure out how to enforce the sign ordinance terms.

Commissioner Anders again expressed his concern about enforcement of the proposed ordinance being complaint driven. In response Mr. Donaldson offered that complaint driven enforcement is an element of much of the City zoning ordinance, not merely the signage provisions.

Commissioner Clancy proposed that any recommendation of MPC regarding the proposed ordinance needs a statement that enforcement efforts by the City are needed, saying "complaint driven enforcement is not adequate."

Commissioner Longmire stated that such focus on enforcement will be especially important in the early days of enactment of any revised sign ordinance.

Commissioner Anders stated that the City needs to be proactive on the ordinance if enacted, or it will not be effective. Commissioner Anders offered the example of a new business that establishes itself without knowledge of the terms of the new sign ordinance. He concluded his comments with "no success without the City being proactive."

Mr. Donaldson reminded the Commissioners that the entire record of the debate and discussion among MPC Commissioners regarding the proposed ordinance at the public meeting will be forwarded verbatim to City Council.

Commissioner Carey inquired (perhaps rhetorically) whether City Council had asked MPC to prepare the new ordinance and Mr. Donaldson replied: "Yes."

Commissioner Cole spoke at this time, but her comments were not audible to the Recording Secretary.

Commissioner Smith stated that he had spoken with members of the City Sign Task Force that were business oriented, and was advised by those business oriented persons that the Task Force began their study focused only upon the height and size of signs. He also said that he was advised that consensus among the Task Force membership was

achieved only as to the height and size issue. Based on that advice, Commissioner Smith offered that MPC may be ready to move forward on the proposed sign ordinance only as to height and size, but that all other matters addressed in the proposed ordinance may need further examination.

Commissioner Roth observed that taking more time to “kick the can down the road” would not be good, and that it is unreasonable to expect to achieve 100% consensus. Commissioner Roth concluded that “it is time for MPC to say it has done its job” and offered that it is time for City Council to take up the issue.

Commissioner Cole stated that all of the Commissioners’ concerns need to be expressed for the benefit of City Council.

Commissioner Longmire encouraged Commissioner Smith to express his concerns at the public meeting.

At this point the Recording Secretary recognized for the first time that MPC Staff Member and stalwart attendant at MPC Agenda Meetings, Dan Kelly, was not present in the room. Inquiry as to his whereabouts among his colleagues at MPC were fruitless, finding only the unsupported speculation that Mr. Kelly had become confused when the meeting was reassigned to the first Monday before the second Thursday of the month in honor of Veteran’s Day. We note that Mr. Kelly is a veteran, having served as an officer and pilot in the U.S. Air Force at a time when military service was difficult and risk-laden. His services remain appreciated a third of a century late.

Commissioner Tocher inquired of Staff as to the options available to City Council if the proposed ordinances are recommended for approval by MPC to that body. Mr. Donaldson replied that City Council will have access to the entire record and can act upon anything discussed.

Commissioner Johnson pointed out that City Council also has the authority to return the matter to MPC.

Commissioner Longmire inquired as to whether City Council could convert the terms to a recommendation as opposed to a directive. Mr. Donaldson advised that Agenda Item 5 in an ordinance proposal as opposed to a plan proposal, and as such, if adopted, would carry the weight of the law.

Commissioner Longmire asked Mr. Donaldson if the Knox County government had shown any interest in sign ordinance revisions and was advised that the Task Force and MPC Staff had not heard from anyone with the County regarding the matter.

Commissioner Carey stated that it was very interesting to see the comparison between the proposed ordinance and the existing sign ordinance, particularly with regard to the enforcement provisions. Commissioner Carey also advised that some of the Task Force Members had expressed to him the thought that it would have been easier to scrap

the entire existing ordinance and start from scratch. Mr. Donaldson expressed his agreement with that sentiment. Mr. Donaldson then pointed out that one of the key issues of potential debate is the treatment of abandoned signs as found in "Section D" of the revised Staff recommendation. To that end, Mr. Donaldson highlighted the exception to the one year time frame to remove abandoned signs when the sign is used to market the associated property.

Mr. Donaldson read verbatim portions of those new provisions and explained how the new language was drafted in cooperation with City Staff. The new language regarding the exception is found in Exhibit M to the Staff recommendation.

There followed a general rumbling among Commissioners as they sorted through the Agenda Packets contained in their electronic tablets in search of the illusive Exhibit M. Tim Kuhn of MPC Staff, primarily responsible for acclimating the Commissioners to their electronic tablets was seen consulting and consoling various Commissioners at this time.

Commissioner Smith inquired of Staff as to whether non-compliance on abandoned signs would be calculated, based on height or setback or both. Mr. Donaldson replied that both parameters would be employed but pointed out that other remedies to any aggrieved sign owners are available under the proposed ordinance, including seeking of a variance from the Board of Zoning Appeals.

Commissioner Smith inquired as to whether the proposed ordinance could make accommodation for monument signs containing spaces for multiple tenants in order to allow an increase the size of the sign. Mr. Donaldson responded that on two separate occasions he drafted such language for consideration by the City Sign Task Force, but his suggestions went unheeded. Mr. Donaldson offered that the draft language remains available for review. Upon inquiry from Commissioner Longmire as to whether Commissioner Smith would care to see the draft language for monument signs, Mr. Smith stated that he would, indeed, like to see it. Mr. Donaldson advised that he would include that draft language in a revised Staff recommendation to be identified as Exhibit O. Commissioner Clancy announced that he was still struggling to locate Exhibit M. Mr. Kuhn sighed audibly, as discussion of the proposed sign ordinance (Agenda Item 5) came to a welcome conclusion.

Mr. Donaldson the explained the Staff recommendation for Agenda Item 6 regarding pet grooming and day care in the downtown area. The impetus for this Item originated from the office of the immediate past City Mayor, Daniel Brown. Upon examination of the municipal ordinances from other jurisdictions, it appears that there is a need for such provisions. Commissioner Longmire offered that in excess of \$5,000,000,000.00 per year is now spent on pets. No one challenged that assertion. A quick Google search pegs the number at \$55,700,000,000.00! Mr. Donaldson informed Commissioners that the new proposed ordinance creates definitions for indoor and outdoor pet facilities but was drafted carefully to exclude kennels and pet boarding facilities. Nonetheless, he suggested that those facilities may need to be revisited in the future. The proposed ordinance establishes standards for screening and identifies appropriate zones for such facilities. Perhaps

exhausted by the sign ordinance discussion, there were no questions from the Commissioners regarding Agenda Item 6.

Mr. Donaldson then advised the Commissioners that proposed revisions to the City zoning ordinance regarding floor/area ratios that are out of character and inconsistent with other provisions of the ordinance or perhaps inconsistent with modern planning principals will soon be posted on the MPC webpage.

Michael Brusseau of MPC Staff, who under normal circumstances would be seating immediately to the right of Dan Kelly, then explained the Staff recommendation for Agenda Item 36. In that item, the applicant seeks rezoning to R-2 of property on Garden Drive in Fountain City. Such a request would require a revision to both the Sector Plan and the City's One Year Plan. Mr. Brusseau related the history of the zoning of the parcel which was changed from R-2 in 1994, and advised that the applicant's intended use of multi-family housing would be available under the current zone, but subject to a use-on-review application. He noted that all of the surrounding parcels are single family or vacant, and that a portion of the property is subject to the Hillside and Ridge-Top protection policies. As a result Staff recommends denial of all three requests. Mr. Brusseau noted that there was a Sector Plan review of this area in 2007, and that no changes were recommended at that time.

Commissioner Clancy, having abandoned all effort to locate Exhibit M, asked Mr. Brusseau if MDR completely surrounds the property at issue, and was informed that was the case. Commissioner Longmire inquired as to whether the property is adjacent to Savage Gardens. Someone, either Staff or one of the Commissioners, confirmed the relationship to Savage Garden by stating "Yes it is," but the Recording Secretary was unable to determine the party responsible for the reply. The Recording Secretary can, however, confirm that the response is correct.

Mr. Brusseau then explained the Staff recommendation for Agenda Item 41 regarding property located off of Middlebrook Pike in a cul-de-sac community, currently zoned I-2. Mr. Brusseau advised that the existing structure looks like a residence, but is likely used as a garage of some ilk. The applicant wants to convert the use of the property to a private club. Commissioner Lomax inquired at this point if there exists a definition for a private club. Mr. Brusseau assured him that such definition exists and that such a use would not be permitted in either the existing I-2 zone or the proposed I-3 zone regardless. Go figure. Nonetheless, the applicant elected to pursue rezoning in conjunction with a Similar Use Determination application found at Agenda Item 53 in the November Packet. That application would purport to establish a private club as a similar use to an eating and drinking establishment under the zoning ordinance. Mr. Brusseau offered that unless the Similar Use Determination (Agenda Item 54) is granted, the proposed rezoning set forth in Agenda Item 41 would not benefit the applicant. Mr. Brusseau also pointed out that the property in any event could not meet the setback requirements and that the industrial uses are not compatible with the surrounding residential uses. Mr. Brusseau announced that the application would be present at the public meeting, to argue his case.

Commissioner Longmire then directed Mr. Brusseau to proceed with the Staff recommendation for the related Agenda Item 54. In response to that directive, Mr. Brusseau advised the Commissioners that the City Codes Office had already advised the applicant that a private club is not permissible in the existing I-2 zone. The City Officials may have suggested that the applicant seek an opinion from MPC that a private club is similar in effect to an eating or drinking establishment, which could be allowed in the I-3 zone. Both private clubs and eating and drinking establishments are defined in the zoning ordinance, and there are specific zones identified in which private clubs are permitted. The I-3 zone is not one of them. Staff is of the opinion that a private club is not sufficiently similar to an eating or drinking establishment so as to constitute a similar use.

Tom Brechko of MPC Staff, sitting to the immediate right of Mr. Brusseau, then explained the Staff recommendation for Agenda Item 43 being a use-on-review application for commercial use as part of a planned residential development. Mr. Brechko explained that 22,000 square feet of commercial use was approved on two triangle parcels of property in 1994 as part of a greater residential subdivision development. A realignment of Amherst Road resulted in the isolation of 1.3 acres of that property on which the applicant now desires to construct a 9,100 square foot Dollar General Store. The application was postponed at last month's Meeting to allow the applicant an opportunity to deal with signage issues. A revised sign plan has been submitted which deals with the signage issue and proposes a permissible direction sign of 9 square feet. Mr. Brechko advised the Commission that Staff will recommend approval but opposition from the neighborhood is expected.

Commissioner Clancy inquired as to how many residences exist. Mr. Brechko replied: "41."

Commissioner Tocher asked "Both sides of the street?" Mr. Brechko responded "Only the west side."

Commissioner Longmire inquired as to whether the impact of tractor-trailer traffic on the streetways surrounding the property was considered. Mr. Brechko replied that no traffic analysis was required but that County Engineering should have addressed the matter in their analysis.

Commissioner Clancy asked "do we have to have a reason to deny?" Mr. Brechko responded that the owner already has approval for a commercial building on the site which was split by the realignment of the road. Commissioner Clancy expressed his concern that a Dollar General Store may not be the best use of this property for the neighborhood. Commissioner Goodwin asked Staff if MPC could require a traffic study. Mr. Donaldson replied that if the Commission identified the movement of truck traffic on the existing road ways as an issue, it could reasonably ask for a study of those aspects.

Commissioner Longmire described the types of trucks that typically serve a Dollar General Store and Commissioner Carey described the existing uses of property in the neighborhood of the parcel at issue. Commissioner Smith asked Staff what options would

be available to the applicant if the proposal was denied. In response, Mr. Brechko stated that any proposed use of the property would require a review by MPC as part of a planned zone. Mr. Brechko concluded by explaining the standards typically employed in determining whether a traffic study would be required.

Commissioner Clancy averred that the proposed screening and lighting restrictions due not address the fact that the property is at the entrance to a subdivision. Commissioner Roth noted that there were multiple non-residential uses surrounding the subdivision. Commissioner Smith declared that the plan includes plenty of screening. Several Commissioner spoke at this time with the result that discrete remarks could not be heard, understood or recorded by the Recording Secretary, who apologizes for that failing.

Commissioner Johnson asked how much property was taken from the applicant when the road was realigned and Mr. Brechko advised that the realignment was anticipated at the time of the 1994 approval and taken into consideration at that time.

Commissioner Longmire stated that Amherst Road is a “narrow and intimidating road.”

Tim Kuhn of MPC Staff was observed assisting Commissioner Carey with his tablet at this time.

Mr. Brechko then explained the Staff recommendation for Agenda Item 41 by including a discussion of revisions by the applicant/church of its previous layout of the property, the reduction in size of the planned buildings, the conversion of uses, and anticipated improvements to Washington Pike by the City.

Commissioner Longmire offered that the property should have no access to McCampbell Lane and pointed out that Lifespring Lane as shown on the Plat does not exist. Mr. Brechko responded that Lifespring Lane would have to be completed before building permits could be issued.

Commissioner Smith inquired about the presence of lighting on the proposed ball fields and was informed by Mr. Brechko that there were no plans for lighting.

Mr. Donaldson then explained the Staff recommendation for Agenda Item 50 in which the applicant, having moved from the first floor to the second floor of its building, wants to retain the address of Suite 101, notwithstanding the City’s addressing policies. Commissioner Longmire informed the Commission that the issue arose when the U.S. Postal Service declared that it would not deliver postage addressed to Suite 101 to the second floor of the building. There was a general discussion among Commissioner for the need for conformity in addressing for safety purposes.

Commissioner Tocher announced to the Commission and others that the South Knoxville Business Association has planned a meeting to address the redevelopment of the old Baptist Hospital property and pending variance requests, as well as a refresher on the

Form Based Zones applicable to the South Knox Waterfront. The Meeting will be held at Flenniken Landing on Thursday evening, November 13. After a short but non-confrontational debate between Commissioner Tocher and Commissioner Johnson, it was agreed that the meeting would commence at 6:00 o'clock p.m. The inference from this announcement was that all in hearing were invited to attend. Commissioner Longmire requested that Commissioner Tocher forward an email to each of the Commissioners as a reminder.

Commissioner Clancy asked that all members of the nominating committee conclave with him immediately following conclusion of the Agenda Review Meeting. There appeared to be a bit of confusion as to who actually serves on that committee, but the matter resolved itself shortly to the satisfaction of all.

It was noted at this point that the handsome oil painting of a Historic Recreation of the Founding of Knox County located on the front wall of the Small Assembly Room of the City-County Building remained askew.

There being no further business to come before the Agenda Review Meeting, it was duly adjourned.

This 10th day of November, 2014.

Recording Secretary