

**MINUTES
CITY OF ELKO NEW MARKET
PLANNING COMMISSION MEETING
JANUARY 22, 2020
7:00 PM**

1. CALL TO ORDER

Commissioner Smith called the meeting of the Elko New Market Planning Commission to order at 7:00 p.m.

Commission members present: Smith, Humphrey, Kruckman, Hanson and Priebe

Members absent and excused: Ex-officio member Anderson

Staff Present: City Administrator Terry, Planner Sevening, City Attorney McDowell Poehler

2. PLEDGE OF ALLEGIANCE

Commissioner Smith led the Planning Commission in the Pledge of Allegiance.

3. APPROVAL OF AGENDA

A motion was made by Humphrey and seconded by Smith to approve the agenda as submitted. Motion carried: (5-0).

4. APPOINTMENT OF CHAIR AND VICE-CHAIR

City Administrator Terry noted that with the resignation of Chairman Thompson in October 2018, the Planning Commission appointed Chairman Smith and Vice-Chairman Humphrey to fill the remainder of the appointment term, which expired on March 31, 2019. However, on an oversight by Staff, appointment of Chair and Vice-Chair at the April 2019 was not completed as required under Section 2-1 of the City Code. City Administrator Terry recommended that appointment of Chair and Vice-Chair be made to correct the oversight. After discussion, it was moved by Kruckman and seconded by Priebe to reappoint Commissioner Smith as Chairman and Commissioner Humphrey as Vice-Chairman until April 2020. Motion carried: (5-0).

5. PUBLIC COMMENT

There was no public comment.

6. ANNOUNCEMENTS

There were no announcements.

7. APPROVAL OF MINUTES

- A. It was moved by Hanson and seconded by Humphrey to approve the minutes of the December 17, 2019 meeting. Motion carried: (5-0).

8. PUBLIC HEARINGS

A. Consider Zoning Ordinance Amendments – Garbage/Refuse and Recreational Vehicle Parking

Planner Sevening presented the agenda item, which was a continuation from the September and October Planning Commission meetings. She introduced the topic noting that a citywide inventory had been completed in August regarding the storage of garbage cans and recreational vehicles on residential lots in the City. She noted that 44% of the properties in the City had violations related to storage of garbage cans, and 16% of the properties in the City had violations related to the storage of recreational vehicles. She stated that staff had decided at that time not to enforce the ordinances as currently written because there were more than 900 homes in violation of these Codes.

Alternatively, Staff inquired with the City Council regarding the matter to determine if they wanted Staff to enforce the ordinances as written, or if they wanted to consider an amendment to the ordinance. The City Council requested that the Planning Commission review the City Code related to these two items. At the September Planning Commission meeting there was discussion on the matter which resulted in the Planning Commission directing staff to draft a zoning ordinance amendment. At the October Planning Commission meeting the Commission reviewed the draft ordinance amendment and had concerns related to recreational vehicles in the right-of-way and how the length of recreational vehicles would be measured.

After Planner Sevening reviewed the history to date, she reviewed current ordinance language regarding storage of garbage containers and recreational vehicle parking. She then reviewed the proposed amendments as follows:

Section 11-4-3 – Garbage and Refuse:

- Distinguishes commercial, industrial, and multi-family residential properties from single family and two-family residential properties.
- Replaces wood with maintenance free material as an acceptable screening material (for commercial, industrial, and multi-family residential properties).
- Permits single family and two-family residential properties to store garbage cans in side or rear yard adjacent to garage without screening.
- Exempts dumpsters or refuse containers used for construction purposes from the location and screening requirements.

Section 11-2-2 – Zoning Ordinance Definitions:

- Removes definitions for specific types of recreational vehicles and defines recreational vehicle more broadly.

Section 11-8-2 - Recreational Vehicle Parking:

- Adds ATVs, dirt bikes, dune buggies, go-karts, golf carts, ice/fish houses, snowmobiles, and UTVs as recreational vehicles.
- Prohibits recreational vehicles from extending into or obstructing the public sidewalk or public right-of-way.
- Allows only one recreational vehicle exceeding 24 feet in length to be parked on a residential property and none exceeding thirty (30) feet in length.
- Identifies three seasonal classifications (warm weather season, cold weather season, or year-round) for recreational vehicles.
 - Permits up to two (2) recreational vehicles to be parked in the driveway during periods of seasonal use.
- Removes the screening requirement for recreational vehicles.
- Permits recreational vehicles to be parked in the rear or side yard on a surface of concrete, bitumen, or pavers entirely outside of buffer yards and public easements.
 - Exempts properties with existing gravel side parking areas from surfacing requirements.
- Requires recreational vehicles to be parked at least 5 feet from property lines or 10 feet from property lines on corner lots abutting a public right-of-way.
- Enumerates recreational vehicles parked on a trailer as one (1) recreational vehicle.
- Removes nonconforming location permit.

Section 11-9-8 (E) – Surfacing and Maintenance of Off Street Parking:

- Exempts properties with existing gravel side parking areas from surfacing requirements.

Chairman Smith opened the public hearing at 7:22 p.m.

Bryce Schuenke, 26645 Oak Street, thanked the Commission for their dedication and work. He asked the Commission if all sections of the City Code were punishable by misdemeanor. City Administrator Terry stated that yes, by definition any violation of City Code is automatically a misdemeanor. Schuenke stated that the amendments are well written and that being more open is good. He reiterated to the Commission that if sections are violated they are crimes and having that on their record could impact their lives. Commissioner Humphrey stated that the City's intent is not to charge residents, but rather seek compliance.

Deanna Adams, 2064 Wild Wings Pass, asked how many complaints the City has received on the topics. Planner Sevensing stated that she did not know the exact number but believes it to be between 10 to 15 complaints. Adams asked if the Commission had considered the costs associated with bring properties into compliance, especially related to screening. Commissioner Smith stated that the proposed amendments remove the screening requirement. Adams stated that screening may be more cost effective and feasible than dragging garbage cans through grass and snow. She also noted that her property is sloped on the side and would not be able to store them there. City Administrator Terry noted that under the current ordinance garbage cans would have to be in the garage and the proposed amendments allow greater flexibility. Adams asked the Commission when enforcement of the ordinances would begin. City Administrator Terry stated that the City would undergo an

informational campaign to provide time for properties to get into compliance and enforcement likely would not begin until Spring or Summer.

Eugene Meger, 41 West Louis Street, stated that he has lived in his home for 42 years. He noted that based on the Citywide inventory, 56% of residents are following current ordinances. He stated that he is not concerned about screening, but is concerned about open and overflowing garbage cans, when garbage cans are put out for pickup, and garbage cans being located in the street. He also asked that ordinances related to these topics also be looked at and enforced. Commissioner Smith suggested that when Staff begin the information campaign after adoption of the proposed ordinance, information regarding other ordinances related to garbage cans should also be included. Regarding recreational vehicles, he stated that there should be additional language added to clarify that vehicles cannot park on the grass. He also stated that the City should not grandfather properties with existing gravel side parking areas and should confirm that they are setback at least five feet from the property line.

Chris Weber, 336 Wagner Way, stated that he is against the garbage can amendments. He noted that he specifically poured an apron on his property to accommodate garbage cans and will not put them in his garage because they smell bad. In regards to recreational vehicles, he stated that there should not be a length restriction. He stated that if the driveway accommodates the recreational vehicle, it should be allowed. He also stated that the months within the warm and cold weather seasonal classifications should be expanded to overlap.

Mike Buck, 345 Wagner Way, stated that he currently stores his garbage cans in the driveway and that they would blow over if stored in the side yard. He also noted that he is an owner of a recreational vehicle and although it fits entirely within his driveway and does not extend into the right-of-way, he would not be able to have it on his property based on the length restrictions. He noted that he specifically moved to Elko New Market to get away from some of the regulations of City life. Buck suggested that the Commission should consider having a buffer space off of the right-of-way rather than a maximum length requirement.

Jaime Helgeson, 2081 Wild Wings Pass, stated that because residents are required to have garbage cans whereas recreational vehicles are a choice, the Commission should separate the topics when considering amendments. She noted that many properties have slopes in their side yards that would prevent the storage of garbage cans there. She said that she worries about the smell of garbage cans in the garage, the mice they would attract, and her kids who play in the garage during the winter.

Joe Julius, 10130 Ponds Circle, stated that the Planning Commission has a tough job when looking at and amending ordinances. He notes that most people will not be happy with the proposed changes, but that does not mean the changes should not happen. Julius thanked the Commission for their work as ordinances continue to be reviewed. Commissioner Humphrey stated that the Commission will continue to review ordinances.

Planner Sevensing stated that the City had received numerous formal comments via phone call and email. All comments received by 4:30 p.m. on January 22, 2020 were read into the record as follows:

Stacey Ireland, 1410 Overlook Court, stated that she currently keeps her garbage cans in the driveway and previously kept the garbage cans in the garage, but they attracted mice and rats. She also stated that she has safety concerns regarding her autistic son, who has in the past tipped garbage cans onto himself when stored in the garage. She stated that it should not matter where garbage cans are stored because it is private property and as long as garbage is not spilling out of garbage cans or blowing onto other properties the location should not be a problem. Finally, she stated that her property has landscaping in the side yard that would prevent her from storing the garbage cans there.

Kim Lewis, 610 Cedric Lane, stated that she is okay with garbage cans being stored in the driveway in front of the 3rd stall garage and that if the garbage/refuse ordinance is enforced, so should the recreational vehicle ordinance.

Abby Hanna, 200 Wagner Way, wrote that she was born and raised in Elko and has lived there her entire life. She noted that there are a few houses on Wager whose driveway and houses are angled. She wrote that her and her fiancé currently store their garbage cans in the front of our house but off to the side because they have an extra small two car garage and cannot fit their garbage cans inside of the garage, which essentially faces the street. She asked the Commission what their options would be.

Al Christensen, 316 Wagner Way, wrote that he does not support renewing or enforcing the garbage can ordinance as it is obviously not enforced and with over half of all houses leaving their cans visible, it would lead him to believe this is a common feeling amongst people in his neighborhood and that we are better off without it.

Margaret Lynch, 10389 Windrose Curve, wrote that most people in her neighborhood at have a three car garage for a reason - an actual 3rd car, storage for boats, and all the 'stuff' we have - bikes, snowblowers, lawnmowers, etc. She wrote that there is no room for garbage cans in that stall or the garage in general. She could not have her garbage cans on the side of her garage due to the slope. She noted that as others have expressed, putting them behind the garage and having to go across the back yard, up the side, in front of the house during the winter (or summer also for that matter) is just not feasible. She wrote as she looks and drives around other communities - Lonsdale, New Prague, Lakeville - she see's garbage cans sitting outside as well. She asked the Commission if they have looked into how those communities have their ordinances written. She also implored the Planning Commission and the City Council to approach the topic with common sense and by what would work for our community as a whole.

Barb Anderson, 10410 Windrose Curve, wrote that she agrees that there needs to be some type of ordinance regarding where garbage cans are stored. Every other city she has lived in has had an ordinance regarding garbage cans and it has never been an issue. She wrote that she works in Burnsville where this is enforced and it is totally different driving down the residential roads and not seeing garbage cans sitting out in front of

garages. She wrote that garbage cans sitting out in front of garages makes the neighborhood less appealing and that she has seen garbage cans overflowing with garbage bags sitting next to them which is totally unacceptable. She has lived in Elko New Market for 19 years and has always kept their garbage cans in their garage and they do not have a “stinky” garage and have never had any rodents in their garage.

Robinette Donahugh-Ralston, wrote that it is clear that the prior ordinance for garbage cans was not being enforced and that a quick drive through neighborhoods without separate associations makes it clear most people store their containers in front or to the side of the home. She wrote that given the recent response to the upcoming changes, she recommends having further debate on this topic. She wrote that the top issue needing addressed is what problem this ordinance is addressing. She agreed with removal of unneeded and unused ordinances, but noted that to replace them with additional unneeded and unused seems to be a waste of time and effort.

Sara Sprosty, 204 Maverick Avenue, wrote that she has lived at 204 Maverick for 9 years and takes pride in their home, but leaves their garbage cans in front of the 3rd stall and has never thought of these blue cans as blight, or an eyesore. She wrote that their garage is significantly higher than their neighbors, which means the slope of the yard is significant. It is not flat to walk on and is not built for storing trashcans, nor is there room for trashcans in the garage. She wrote that another issue is smell. Even with composting their fruit & veggie scraps, the cans inevitably stink. She also noted that she is concerned with the cost to the City to enforce this rule and the significant cost to make changes to her property to allow her to store them alongside or behind her garage. She wrote that she would love to see this removed as an ordinance, but if it is updated and enforced, she would appreciate more time to make changes.

Gordon Deuel, 2095 Wild Wings Pass, wrote that while he understands the desire for clean neighborhoods and potential concerns over trashcans being left out, driving through our residential streets he just does not see how this ordinance would be feasible in our community. He asked the Planning Commission to consider what is being reflected in our community as City ordinances are updated.

Marjorie Hilla, 340 Brady Street, wrote that her concern is more about recreational vehicles than garbage cans, although she does keep hers in the garage and thinks it looks best for the neighborhood if hidden somehow. She noted that there is a house two down from her and feels it really brings down the neighborhood to have a boat parked next to the front door. She wrote that she has a boat and pays a minimal fee to store it off-site.

Jesse Henchal, 1025 Theresa Marie Drive, asked questions regarding the enforcement of the proposed recreational vehicle parking ordinance and allowed length of recreational vehicles.

Heather Vetter, 9214 Fairway Hill Drive, wrote that she takes great pride in her property, neighborhood and City and believes that enforcing the current garbage/refuse ordinance, would keep the City aesthetically appealing for current and future citizens. She notes that aside from the aesthetics, if garbage cans are contained, there will be fewer chances

of attracting animals who use the cans as a food source, less trash that gets “spilled” throughout the neighborhood/City, and a reduction in illegal dumping, etc.

Chairman Smith closed the public hearing at 8:02 p.m.

Regarding the storage of garbage cans, discussion was as follows:

- Commissioner Humphrey acknowledged resident concerns about slope, but noted that creating an area for garbage cans does not have to be expensive. He stated that the primary purpose of this ordinance is to keep the City clean and limit aesthetic impacts of garbage cans.
- Commissioner Priebe stated that he is against regulating the placement of garbage cans. He stated that they do not cause blight and that he does not understand why we are considering amendments that will require residents to make changes to their property.
- Commissioner Smith reminded the Commission that the proposed amendments are all about lightening the requirements.
- Commissioner Kruckman agrees with lightening the requirements, but notes that certain provisions will still force people into noncompliance. She noted that the goal should be to reach compliance and that enforcing this ordinance would consume many resources. Commissioner Kruckman also stated that more focus should be on overflowing garbage.
- Commissioner Hanson states that the proposed changes will take care of a lot of the noncompliance that currently exists.
- City Administrator Terry advised the Commission that ultimately the discussion is about community values. He also stated that when a new ordinance is adopted greater resources and time will be spent on enforcement, but overtime that will decrease as compliance increases.
- Commissioner Humphrey notes that enforcement of ordinances is a culture. Commissioners agree that the culture is changing in Elko New Market. Commissioner Humphrey states that the Commission should continue to simplify ordinances.
- Commissioner Smith states that he is supportive of making the ordinance less obtrusive and that providing time to comply is good.
- Commissioner Kruckman states that violations related to garbage cans should not be a crime.
- City Administrator Terry states that if the City has a rule there has to be a consequence. Under City Code, that consequence would be a misdemeanor.
- Commissioner Humphrey suggested an informal vote on the topic. Commissioner Hanson, Humphrey, and Smith voted in support of the amendments as proposed. Commissioner Kruckman and Priebe were opposed.

Regarding recreational vehicle parking, discussion was as follows:

- Commissioner Hanson stated that the size limitations of recreational vehicles should be discussed.

- The Commission questioned whether there should be a length restriction or if there should be a setback from the right-of-way.
- City Administrator Terry stated that the Planning Commission needs to consider not just the size of recreational vehicles, but their scale within a neighborhood and visual impacts. He notes these considerations are all value questions.
- Commissioner Priebe suggested the Commission go through each provision of the proposed amendments one by one. He noted that the first change should be related to the warm and cold weather seasons. He also stated that grandfathering should stay in the ordinance.
- Commissioner Humphrey asked Staff to clarify the history behind the City allowing gravel side parking areas.
- Commissioner Smith noted that sometimes gravel is an intermediary step to asphaltting the side parking areas.
- All Commissioners stated that they support grandfathering of gravel side parking areas and changes in the warm and cold season months. Specifically, Commissioners directed Staff to change the warm weather season to April through November and the cold weather season to October through May.
- Commissioner Priebe asked for clarification on the length restrictions and asked City Administrator Terry to clarify the concerns related to the scale of recreational vehicles.
- Commissioner Smith noted that scale is innately regulated by the length of a property's driveway.
- City Administrator Terry advised the Commission that one method of minimizing the impacts of the scale or size of recreational vehicles is to have different length restrictions based on the size of the property.
- Commissioner Humphrey noted that even if a recreational vehicle fits in the driveway, it still impacts neighbors.
- Commissioner Hanson summarized proposed changes and asked if further discussion was necessary.
- Commissioner Humphrey noted that the Commission had not agreed on size restrictions of recreational vehicles. Commissioner Priebe asked the Commission if size restrictions should be included and how they would be determined.
- Commissioner Humphrey stated that there should be a length restriction, but what the length is needs to be discussed. He also asked if there should be a height restriction.
- Commissioner Priebe asked Mr. Buck what the typical height and length of recreational vehicles are. Mr. Buck stated that the tallest vehicle cannot exceed 13 ½ feet and almost none exceed 47 feet in length. Mr. Buck also stated that the maximum allowable length from bumper to bumper is 70 feet.
- The Commission discussed whether length should be measured based on the title of the vehicle or the actual physical dimensions. City Administrator Terry advised that the actual physical dimensions should be utilized.
- Commissioner Smith suggested a number of concepts that could be used for determining the size of recreational vehicles allowed: setback from property line, distance from right-of-way, and length of vehicle.

- City Administrator Terry advised that another method that could be used is conditional use permits. He also noted that if a setback from right-of-way was used it would greatly reduce the number of properties that would be able to park recreational vehicles in their driveway.
- The Commission agreed that making a resident get a conditional use permit for a recreational vehicle that fits in their driveway should not be required. They also noted that there is a substantial cost associated with a conditional use permit.
- The Commission continued discussions related to the maximum length of recreational vehicles and ultimately decided that length will be innately regulated based on the length of the property's driveway and thus no maximum length should be required.

It was moved by Hanson and seconded by Humphrey to recommend approval of the draft ordinance, subject to the following changes:

1. Expand the warm and cold weather season months so that they are overlap.
2. Remove the maximum length restriction for recreational vehicles.

Motion carried: (3-2)

The Planning Commission asked that it be noted that the two votes in opposition were specific to the amendments related to garbage cans. The Commission found consensus on all other items.

9. GENERAL BUSINESS

A. Adopt Planning Commission Goals and Priorities for 2020

Planner Sevensing introduced the agenda item and explained that at the Commission was being asked to formally adopt goals and priorities for 2020 as discussed at the December 17, 2019 Planning Commission meeting. Staff provided a list of draft goals and priorities as follows:

- Continued incremental review and simplification of Zoning and Subdivision Ordinance
- Comprehensive and proactive code enforcement
- Housing affordability and diversity (Consideration of tools such as accessory dwelling units, inclusionary zoning, TIF, Tax Abatement, etc.)
- Final adoption of the 2040 Comprehensive Plan
- Final adoption of Adelman property AUAR

City Administrator Terry recommended that “comprehensive and proactive code enforcement” be removed from the list. He stated that although the Planning Commission reviews and amends the Zoning Ordinance, enforcement of the ordinance is an administrative action. The Planning Commission agreed with Staff, but requested occasional updates on enforcement actions and common violations. A motion was made by Kruckman and seconded by Hanson to adopt the goals and priorities with removal of the code enforcement goal. Motion carried: (5-0).

10. MISCELLANEOUS

A. 2019 Planning Commission Report / Accomplishments

Staff provided a summary of Planning Commission accomplishments in 2019 to the Planning Commission.

B. 2019 Building Permit Summary Report

Staff provided the 2019 building permit summary to the Planning Commission.

C. 2020 Vacant Lot Inventory

Staff provided the 2020 vacant lot inventory to the Planning Commission.

D. Planning Commission Expectations – Attendance and Education Report

Staff reviewed expectations in regards to attendance, continuing education, and roles/responsibilities with the Planning Commission.

E. Tip of the Month – Open Meeting Law

Staff reviewed with the Commission basic information regarding open meeting law. Specifically reinforced was the purpose and application of the law and exceptions and common issues associated with open meeting law.

F. Roundabout Update

Staff provided an update on the roundabout project currently planned for the intersection of CSAH 2 and CSAH 91 to the Planning Commission.

G. Community Development Updates & Reports

A memorandum containing updates was included in the Planning Commission packet.

City Administrator Terry advised the Planning Commission that the City Council has been receiving electronic packets for a number of years. He reviewed the benefits of moving from paper packets to electronic packets and asked the Commission if they would be interested in getting laptops. All Commissioners indicated that they would be interested in getting laptops.

City Administrator Terry informed the Planning Commission that if none of the Commissioners had any objections; Staff would begin videotaping Planning Commission meetings and posting them on the City's YouTube page for public viewing. No Commissioners had any concerns so City Administrator Terry indicated that videotaping would begin at the March Planning Commission meeting.

City Administrator Terry advised the Planning Commission that Commissioner Humphrey's and Commissioner Priebe's terms would be expiring on March 31, 2020 and they would be required to reapply for the position. Following direction by the Council, it is the City's policy that all Commissioner Vacancies be posted for residents to apply.

City Administrator Terry updated the Planning Commission on the City's proposal for getting utilities extended to the CSAH 2 & I-35 interchange. He noted that on January 27, 2020 the County would be hosting a joint meeting with the County Board, Community Development Agency Board, and City Council to discuss the concept.

Planner Sevening updated the Planning Commission on rescheduling the February Planning Commission meeting. She noted that the regularly scheduled meeting falls on February 25, 2020, which is the night of precinct caucuses for the presidential election. Sevening noted that the meeting would be rescheduled to February 24, 2020 or February 26, 2020.

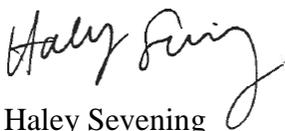
H. Planning Commission Questions and Comments

Commissioner Smith asked for an update on the apartments approved with the plat of Dakota Acres 2nd Addition. Planner Sevening stated that the developer has not yet filed the plat, so he will need to get an extension of plat approvals from the City Council. City Administrator Terry stated that the City continues to see an uptick in interest from various developers.

11. ADJOURNMENT

It was moved by Humphrey and seconded by Hanson to adjourn the meeting at 9:53 p.m.

Submitted by:



Haley Sevening
Planner I