

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

CITY OF LOVELAND
PLANNING COMMISSION MINUTES
April 25, 2011

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers of the Civic Center on April 25, 2011 at 6:30 p.m. Members present: Chairman Molloy; Vice Chairman Meyers; and Commissioners Dowding, Crescibene, Fancher, Krenning, Leadbetter, Middleton and Ray. City Staff present: Kerri Burchett, Current Planning; Robert Paulsen, Current Planning Manager; Sunita Sharma, Assistant City Attorney.

These minutes are a general summary of the meeting. For more detailed information, audio and videotapes of the meeting are available for review in the Community Services office.

APPROVAL OF MINUTES

Commissioner Middleton moved to approve the Minutes of the March 28, 2011 Planning Commission meeting. Upon a second by Vice Chair Meyers the motion passed unanimously (Commissioner Ray abstained).

CITIZEN REPORTS

There were no citizen reports.

COMMISSIONER COMMENTS

Vice Chair Meyers reported that he and Commissioners Krenning and Middleton recently attended the City Council hearing on the proposed code amendments concerning appeals and the associated adjustments to the Zoning Board of Adjustment chapter. He indicated that he and the other attending commissioners spoke in support of retaining the Zoning Board of Adjustment Hearing Officer. He stated that after discussion with the City Council, the Council decided to retain the ZBA hearing officer and it was agreed that a brief report regarding the outcome of hearings conducted by the hearing officer would be provided to the Planning Commission for the Commission's review.

Vice Chair Meyers also committed to the City Council that the Planning Commission would routinely review the ZBA's prior hearing actions as part of the standing agenda. He further stated that the Commission would look to the Current Planning Manager to assure that the Commission would not hear anything until it was outside the appeals timing window.

1 **Commissioner Krenning** commented on his attendance at the City Council meeting, expressing his
2 frustration that staff did not emphasize the Planning Commission's decision strongly enough when it
3 varied from staff's recommendation.

4
5 **Commissioner Crescibene** asked if the presence of the Planning Commission at the City Council
6 meeting influenced the decision of the Council. The Commissioners who attended stated that they
7 believed that their input did have an impact on the decision to retain the Hearing Officer.

8
9 **Chairman Molloy** suggested that in the future staff should report the Planning Commission's
10 recommendations and motions to the City Council.

11
12 **Commissioner Ray** stated he continues to feel that it is difficult for staff and the Planning
13 Commission to know what direction the City Council is heading.

14
15 **Assistant City Attorney Sunita Sharma** reported that she attended the City Council Study Session
16 on the appeals provisions last year and the City Council stated that they wanted to eliminate the
17 Zoning Board of Adjustment Hearing Officer. She further clarified that staff does a very good job
18 reporting to City Council on the discussion and recommendations of the Planning Commission. She
19 indicated that in this instance when staff and the Planning Commission had different
20 recommendations, she felt staff did a good job of equally presenting both versions of the ordinance
21 to City Council and explaining the reasons behind the differing versions in their staff memo to
22 Council. This allowed Council to take both views into consideration, and then make a final
23 determination. She stated that there is no value making it appear that staff and the Planning
24 Commission were at odds, and suggested that in the future staff inform the Planning Commission
25 ahead of time when, in the rare instance, they are making a different recommendation than what the
26 Commission adopted.

27
28 **Vice Chair Meyers** commented that it was important for the City Council to have a clear
29 understanding of what the Planning Commission's recommendations are.

30
31 **Commissioner Krenning** stated that he appreciates staff and he believes that they dedicated,
32 hardworking and often under-appreciated. He further commented that the recommendation to the
33 City Council did not adequately reflect the desires of the Commission.

34
35 **Chairman Molloy** stated that he too was frustrated with not understanding the direction of City
36 Council, and could understand how staff might be in a difficult position on the matter. He indicated
37 that he would support a study session with City Council on this topic.

38
39 **Mr. Paulsen** reported that staff made every effort to clearly represent to the City Council the
40 Planning Commission's preference to retain the Zoning Board of Adjustment Hearing Officer. He
41 indicated that this information was provided verbally and in the written Council packet. He
42 acknowledged, however, that he should have informed the Planning Commission that staff was

1 going to make a recommendation that was different from the Commission's. He stated that in the
2 future he would inform the Commission whenever staff was going to make a recommendation to
3 City Council that differed from that of the Planning Commission. He reiterated that it was not his
4 intention to inadequately convey the Commission's recommendation.
5

6 **Vice Chair Meyers** requested that the Commission be notified prior to a City Council hearing, if
7 there is a differing opinion between staff and the Commission.
8

9 **REGULAR AGENDA**

10 11 **1. Amendment to Title 18 of the Municipal Code regarding Off-Track Betting** 12 **Facilities.** 13

14 This is a public hearing to consider an amendment to Title 18 regarding off-track betting facilities.
15 An off-track betting (OTB) facility is considered a business that accepts wagers on horseraces and
16 greyhound races away from a racetrack. The Municipal Code is silent with respect to this land use.
17 The Planning Division has received inquiries on establishing an OTB in Loveland which has
18 prompted the need to clarify where an OTB facility is permitted. This item requires Legislative
19 Action from the Planning Commission.
20

21 **Kerri Burchett, Project Planner**, gave a brief history of this proposed code amendment. She
22 clarified the definition of an Off-Track Betting (OTB) facility and discussed the proposed zoning
23 districts where the use would be permitted:

- 24 • Be Established Business
- 25 • B Business
- 26 • MAC Mixed Activity Center
- 27 • E Employment
- 28 • I Industrial
29

30 **Ms. Burchett** reported on the special considerations for uses by special review. She clarified that an
31 OTB facility as proposed would be considered a Use by Right if located more than 300 feet from a
32 residential zone district/residential PUD. She stated that the use would be a Use by Special Review
33 if the facility would locate 300 feet or less from a residential zone district/residential PUD. She
34 stated that the 300-foot distance would allow the neighborhood opportunity for their input.
35

36 **Commissioner Dowding** asked if a residential use were to move in the proximity of an OTB site,
37 would the OTB use be forced to discontinue. She commented that she did not support gambling but
38 stating that if it is allowed she would like the districts in which the use would be allowed to be
39 significantly reduced.
40

41 **Ms. Burchett** responded to questions regarding the 300 ft. radius and stated that if an OTB facility
42 was established as a use by right, located more than 300 feet from a residential zone, and a rezoning

1 application to a residential zone was approved, the OTB facility would not be forced to discontinue.
2 She also clarified that the 300 foot radius is the city's standard distance for notification of a special
3 review.

4
5 **Commissioner Middleton** asked if the city would be receiving any tax revenues and would it
6 limited to be greyhound and horse betting only.

7
8 **Ms. Burchett** commented that she would need to further research if such a facility would be
9 required to pay sales tax on the wagers.

10
11 **Commissioner Crescibene** questioned if there would be a limited number of OTB locations.

12
13 **Ms. Burchett** reported that the State of Colorado regulates OTB and that the only criteria she was
14 aware of is that it must be a certain distance from a live race track. She stated there is one live track
15 and it is located in Aurora Colorado. She further commented that it appears to be a raffle type
16 situation if they draw the permit to open a site, then they would proceed from there. Again, she
17 reiterated that it is regulated by the Colorado Gaming Commission and that the State does regulate
18 the distance and the number of OTB facilities.

19
20 **Commissioner Krenning** questioned if they would be obtaining a liquor license.

21
22 **Ms. Burchett** commented that she would anticipate that an applicant would request a liquor license
23 and clarified that the City has not received any applications for an OTB facility, only a general
24 inquiry. She stated that since there were no provisions in the Code addressing OTB facilities, staff
25 felt it was necessary to add language addressing the issue. She further reported that in researching
26 OTB facilities, she talked with the police departments in communities that have these facilities. She
27 reported that the police departments indicated that they have not had any specific issues with
28 increased crime resulting from such a facility.

29
30 **Commissioner Middleton** stated that he was confident that there would be extremely thorough
31 background investigations on anyone wishing to open an establishment.

32
33 **Commissioner Dowding** questioned why the standard for an OTB would not be the same for a
34 liquor license and stated that she would support the amendment if it required all OTB's be a special
35 review use in all zoning districts.

36
37 **Commissioner Middleton** stated that an OTB facility is not only gambling and briefly explained
38 how it operated.

39
40 **Commissioner Crescibene** commented the issue was more of what zoning district it fits into, not
41 whether it will be allowed.

1 **Commissioners Krenning and Meyers** spoke in support of the amendment.

2
3 *Commissioner Fancher made a motion to recommend that City Council approve the amendment*
4 *to Title 18 regarding off-track betting facilities as described in this staff report and as amended on*
5 *the record. Upon a second by Vice Chair Meyers the motion was adopted 7-2. Yeas: Chair*
6 *Molloy, Vice Chair Meyers, Commissioners: Krenning, Leadbetter, Crescibene, Ray and Fancher.*
7 *Nays: Commissioners Dowding and Middleton.*
8

9 **2. Code Amendment Work Program for 2011**

10
11 The Current Planning Division has lead responsibility for development and processing of
12 amendments to the Municipal Code regarding subdivision, annexation and zoning matters. Each
13 year, a Code Amendment Work Program is developed based on priorities established by the
14 Development Services Department in collaboration with the Title 18 Committee. Staff will discuss
15 the 2011 Work Program with the Planning Commission and seek input. This item is an
16 administrative matter that does not require formal action by the Commission.
17

18 **Mr. Paulsen, Current Planning Manager**, briefly spoke of this item and asked if the Commission
19 were interested in a formal report.
20

21 **Chairman Molloy** stated that he did not need a formal presentation and asked of the Planning
22 Commission had any comments for staff.
23

24 **Mr. Paulsen** stated that the upcoming amendments to the Downtown BE Zone District are intended
25 to be integrated into the city's revitalization effort and that because of the size and the complexity of
26 the document he would be providing the information to the Title 18 Committee early for their
27 review. He further reported that staff would be making a presentation to the Chamber of Commerce
28 on May 12 regarding the Temporary Sign amendments.
29

30 **Commissioner Fancher** requested that staff report to the Planning Commission any feedback
31 received by the Chamber regarding the temporary sign amendments.
32

33 **Commissioner Krenning** commended staff and City Council for their efforts and good work on the
34 Rialto Bridge project. He commented that it was nice to see progress in the downtown.
35

36 **Mr. Paulsen** spoke of the momentum regarding downtown revitalization efforts.
37
38

