AGENDA SESSION
MAY 10, 2011
3:00 P.M.

Chairman Ladd called the meeting of the Agenda Session to order with Councilmen Murphy, Rico, Robinson, Berz, Gilbert and Benson present. Councilwoman Scott joined the meeting later. City Attorney Michael McMahan; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.


Mr. Johnson proceeded with agenda matters, noting that Ordinances—First Reading were all zoning matters. He noted that Ordinance (a) might warrant some discussion.

Councilman Benson asked Councilman Murphy if he wanted this discussed now or later in Legal and Legislative Committee? Councilman Murphy responded that matters in Councilman Benson’s district “were first in his heart”. Councilman Benson asked Allen Jones to come forward, stating that he was a resident of Channing Creek; that when he purchased his townhome there were no horses next door, now there are horses, and the Jones were unable to sit on their patio.

Mr. Jones read a prepared letter and presented pictures to the Council. He mentioned, along with the horses, free roaming chickens and stated that his patio was 19 ft. from the next door property line and only 35 ft. from horse manure—that the odors and flies made his patio unusable; that when he purchased the property in 2009, there were no horses; that the horses arrived after he moved in, and this was hurting his property value. He explained that the absence of horses was well over 100 days, and they had lost their grandfather status; that Councilman Benson had visited and had seen the situation; that recently they had cleaned up the manure, which was just a band aid approach; that they wanted the horses removed permanently. He invited Councilmembers to visit and view the situation. He reiterated that he was 19 ft. from the fence and 35 ft. from the clump of trees where the horses defecated. He ended by saying that chickens are free roaming now, in the manure, and the chickens even come on his patio.

Councilwoman Robinson asked if the horses were a permitted use? She wanted to know if the 100 days had elapsed? Councilman Benson responded that it was not a permitted use, and they had lost their grandfather clause. Councilwoman Robinson stated that it seemed that we should just enforce the law and wanted to know why we were not enforcing it? Councilman Benson stated because of “compassion”. Councilwoman Robinson stated that it was not “compassion” for the Jones. Councilman Benson asked Dickie Hutsell to respond as to why the horses were still there.
Mr. Hutsell explained that when this issue was brought to his office, there was much discussion with the property owners and the RPA Staff; that they reviewed the Code and were under the assumption that horses are permitted by right on five acres; that the Code does not address this, and they discussed an amendment that would allow horses in certain areas with a Special Permit that would allow conditions and would protect the adjoining property owners; that the property in question would be allowed to keep the horses, if they kept them further away, in the interim, and they agreed not to take any enforcement action and give them a chance to comply.

Councilman Murphy had a question for the residents. He asked if the main objection was not the beauty of the horses but the smell and waste? He asked if they had ever been around hogs—that their odor was worse or the same.

Mr. Jones stated that he was raised in the country and had been around pigs, but we were not here today to talk about pigs.

Councilman Murphy responded that pigs are allowed; that the land use issue is the odor of animals and flies; that the answer lies somewhere in between; that maybe we should not allow pigs either.

Mr. Jones stated that he would prefer that we not allow pigs either.

Councilman Murphy stated that we had to look at this holistically—that none be allowed or somewhere in between; that the rule for pigs is five acres, but five acres might not be enough for horses or mules. He questioned why we did not tell them to take the horses and get out?

Councilman Benson noted that they had lost their grandfather clause. He asked Mr. Hutsell if he was telling him that because they had five acres, they did not lose their grandfather clause?

Mr. Hutsell stated that was not what he said.

Councilman Benson reiterated that these people bought this house when there were no horses, but now they were only 19 ft. away from them, and they could not sit out on their patio at night; that the people either needed to move their horses back or move them out; that we needed to enforce the law that we have now.

Mr. Hutsell stated that he might need to defer to the City Attorney; that in land use we allow due process; that we could remove them today, and this could go to court and be tied up; that the property might be appropriate for large animals, and they were trying to address this; that a Special Permit would allow large animals, and there would be a public hearing with conditions placed.
Councilwoman Scott asked if the property with the horses involved the property owner or a renter? It was noted that it is a tenant. She asked the City Attorney if horses were permitted on the property currently?

Attorney McMahan responded that horses are not presently a lawful use; that the property had them originally, but if they went longer than 100 days without horses, then they lost their legal, non-conforming use.

Councilwoman Scott noted that if the Council approves the proposed equine Special Permit, this individual could request a Special Permit—she asked if it would be in the best interest of anyone if this were the case—that we could have them remove the horses and then bring them back with a Special Permit.

Attorney McMahan stated that if this Ordinance did not pass tonight, the only place horses would be allowed would be in the A-1 Agricultural Zone.

Councilwoman Scott stated this might not be the best choice, noting that the street where she lived has horses on it. She stated that it sounded like everyone was saying that they were in agreement that it was not a conforming use now; that the horses could be removed, and they could come back and ask for a Special Permit. She asked if this was correct and Attorney McMahan responded “correct”.

Councilwoman Robinson stated that the permit has expired to allow horses on this property; that adjacent houses have been developed; that it is an expired permit, and these homeowners bought their property thinking that the City would enforce the laws that are on the books; that it is over 100 days, and this is a non-conforming use.

Councilman Benson stated that Councilwoman Robinson had wrapped this up and was right; that he thought we had a responsibility to enforce the law right now and give them five days to remove the horses; that we can pass this Ordinance for a Special Permit, and they can come back and comply with the new Ordinance; that we need to give these people some relief because they bought their property in good faith.

Councilwoman Scott asked if when RPA wrote the proposed Special Permit for equines, did they feel confident that horse owners felt this was what was needed in regards to the future. She wanted to know if horse owners were at the meetings?

Ms. Rennich noted that some of the people on the Planning Commission were horse owners; that this was prepared along with a peer review of other communities.
Councilwoman Scott explained she was just trying to see if this was realistic in this area; that she did not see this from a horse owner’s perspective, but it looked fine to her.

Ms. Rennich stated that they sent this to Public Works and to McKamey; that McKamey’s only comment was that they would like the opportunity to be aware so that they could review the application.

Mr. Johnson proceeded with agenda items, stating that Resolution (a) had been discussed and would be discussed again in committee meeting.

Resolution (b) was a Special Exceptions Permit for a home for the mentally handicapped and/or aged persons operated on a commercial basis on property located at 1318 Arlington Ave. Mr. Johnson noted that there was a split decision on this between the Planning Commission and Staff.

Resolution (c) concerned an eminent domain, and the issue has been settled.

Resolution (d) authorizes a Personal Services Agreement with Morris & McDaniel, Inc. for the development and administration of exams for promotional testing for the positions of Fire Lieutenant and Fire Captain in the amount of $71,500 as an encumbrance to the Personnel Dept. Mr. Johnson stated that we would do the Police Dept. next year.

**AGENDA ITEMS FOR MAY 17TH**

Resolution (a) proclaims May 21, 2011 as National Kids to Parks Day.

Resolution (b) pertains to General Services entering into a Lease Agreement with Eastgate Town Center, LLC for the use of Suite D6, 5600 Brainerd Rd. by the Office of Multicultural Affairs. This will make room for IS on the third floor of the annex. Councilwoman Scott wanted to know the major demographics of the groups that use Multicultural Affairs and wanted to know if this new location would be more accessible? Mr. Page stated that it was his understanding that accessibility would be equal.

Councilwoman Berz stated that this matter came to her as a request from the OMA Board and had to do with accessibility; that all kinds of folks use these services; that diversity is happening at Eastgate; that they ran this by her first, and she absolutely approved of this; that Multicultural Affairs wants this, and it makes sense; that this is the focal point of the bus line and as far as demographics, this is the most diverse area of the city. She further added that the Partnership with Eastgate prompted this action.
Councilwoman Scott asked how the public will know that Multicultural Affairs will not be where the rest of City government is?

Councilwoman Berz stated that notification would be up to Multicultural Affairs and not the legislative branch; that this had been given careful thought, and the office here was not that accessible; that they had a campaign and Ms. Cosley could address this; that it was a good use of space.

Resolution (c) authorizes Parks and Recreation to enter into an agreement with J. W. Wilkerson Construction Co., Inc. to renovate the arch bridges at the City’s Aquarium Plaza in an amount not to exceed $168,194. Mr. Zehnder stated that the Council would be given a copy of the contract; that they needed this on the agenda as soon as possible; that it was done through the Purchasing Dept., and he felt comfortable with this; that they needed it as soon as possible. Councilwoman Scott asked if it were a dangerous situation and was told “yes”.

Resolution (d) will be discussed in Personnel Committee later.

Mr. Johnson went over four purchases for tonight’s meeting. The first was with Mt. View Ford; the second one was for IS furniture; the third was also for IS; and the last one involved gas for the Fire Dept. Councilwoman Scott asked about the third purchase for IS. Mr. Keil explained that it was neutral equipment and a blanket contract for anything in the City. Councilwoman Scott noted that it was a change order for the contract, with Mr. Keil explaining that it was to extend the dollar amount. Councilwoman Scott also asked about the gas for the Fire Dept. Chief Parker explained that it was for hazardous meth calls.

Councilman Benson wanted to go back to Resolution (d), concerning the new employee health center. Mr. Johnson explained that this would be discussed in committee, with Councilman Benson questioning the wording of “new employees”.

Chairman Ladd stated that the Council has appointed four names for the Downtown Review Committee through RiverCity. She noted that another name had been submitted—Betty Lynn Smith; that with the four original names, there was no diversity and Ms. Smith would accomplish this. She asked if the Council wanted to submit the four original names or consider this fifth name—that this was holding up orientation for the Committee.

Councilman Murphy stated that he had tried to interview the four original people and Ms. Smith; that he could not reach all of the four; that he would try again to reach them; that he was delighted with the ones that he had reached; that this is exceptional, and it is important that we do it correctly; that it was important that the Downtown Review Committee have some representation from the minority community.
Councilwoman Berz stated that we handled this before by presenting all of the names. She asked Councilwoman Robinson about a person she had mentioned. Councilwoman Robinson stated that this person had contacted her by e-mail about an at-large member. Councilwoman Berz noted that we have limited slots and people over and above; that we could submit the four this afternoon—that she did not have the four names with her. She asked if Carol O’Neal could provide the list and we could mark it accordingly during the dinner hour.

Councilman Gilbert questioned if the names turned in met the guidelines and if all of them had given Resumes? Chairman Ladd noted that four had met the deadline, but she had nothing regarding the last name submitted—Ms. Smith.

Councilman Rico stated that Councilman Murphy had talked to him about Ms. Smith.

Councilman Murphy stated that he had thought he could get something from Community Impact and had given this name to Councilman Rico, when he was Chairman; that he could make a phone call and get information before his committee. Chairman Ladd stated that she thought this would be advisable in order to give everyone a fair opportunity.

Councilwoman Scott asked if we could just submit the five names and let RiverCity pick the four? Chairman Ladd felt that this was the Council’s responsibility and that we needed to finish our “homework” assignment.

Councilman Rico asked if this was pressing matter? Chairman Ladd responded “yes”—that they were holding up their orientation and there needed to be a decision.

Councilman Benson asked if the City Attorney was not supposed to bring something to the Council concerning billboards; that there were people here now about this issue; that the property in question was out of conformance with our Ordinance.

Chairman Ladd noted that this would be covered in Legal and Legislative Committee. She added that she would have names for Councilmembers to check and turn in—the best four that we have.

At this point, Councilman Rico stated that he had to leave early and asked Chairman Ladd to chair the Public Works Committee.

The meeting adjourned at 3:40 P.M.