

COUNCIL CONFERENCE MINUTES

September 28, 2010

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:30 p.m. in the Municipal Building Conference Room on the 28th day of September, 2010, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray, and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Atkins, Butler, Cubberley, Ezzell, Griffith, Kovach, Quinn, Mayor Rosenthal

ABSENT: Councilmember Dillingham

DISCUSSION REGARDING A PROPOSED LIGHTING ORDINANCE.

Mayor Rosenthal said, at the City Council Retreat on September 18, 2010, Council requested Staff provide information on unresolved issues regarding the commercial lighting ordinance and this meeting is an update on the subject.

Ms. Susan Connors, Director of Planning and Community Development, said in January of 2010, the Planning and Community Development Committee (PCDC) created a charge for the Planning Commission (PC) regarding the commercial lighting ordinance to assess deficiencies in the existing ordinance including review of the International Electric Code (IECC) to evaluate lighting standards, review the International Dark Sky Association (IDA) Model Lighting Code, and examining ordinances from other communities. She said the Committee also asked the PCDC to draft an ordinance that addresses the following issues:

- Lighting levels (minimum and maximum)
- Light trespass (light where not wanted)
- Glare (too much light or poorly oriented)
- Light pollution (light where not needed)
- Have easily definable or measurable outcomes

Ms. Connors said the PCDC directed that the ordinance be practicable and easily implemented; be able to measure the standards at the planning stages of the development project rather than measuring the light at night; blend in the new building energy standards; review light height limits and placement of lighting on property lines; review maximum wattage or luminaires on the property; and review full cutoff fixtures. She said Staff met with the PCDC five times regarding the ordinance and discussed the intent of the proposed ordinance; the percentage of expansion required to come into full compliance with the lighting standards; exempt lighting; security lighting; total output light for a project; time limits; and general outdoor lighting standards that include pole mounted lights, building mounted lights, canopy lights, and drive-thru lights.

Ms. Connors said in May's meeting it was realized that the technical expertise had not been found for discussion with the PC or with the PCDC and Staff began scouting for expertise and have found two. She said in the August meeting Staff was asked to look at amortization for full compliance in the future, costs, and the distinction between accent lighting versus wall pads.

Ms. Connors said issues that still remain include looking at existing conditions and existing buildings; capping the amount of light allowed; amortization, which the PC does not support; vacant buildings being fully compliant when back in service; time limits to have 75% of the lights turned off at businesses that close before dark; security lighting; updating definitions in the ordinance; costs to existing businesses if retrofitted; and costs for cutoff lights on new construction.

Ms. Connors said four generally supported elements of the ordinance are:

- Ordinance should only apply to new construction
- Retrofit should only apply to commercial properties adjacent to residential properties
- Exempt lighting with clarifications
- General lighting standards

Ms. Connors said the current proposed ordinance includes a purpose and intent statement and applicability for new construction and retrofit of existing fixtures on buildings or parking lots (re-lamped, re-aimed, and/or shielded). Currently the ordinance stipulates wall packs on all buildings must be retrofitted within two years of adoption of the ordinance and identifies exempt lighting (schools, sports fields, street lights, holiday lighting, etc.) and prohibited lighting (laser source light or high intensity lighting for outdoor advertising and operational search lights for advertising purposes).

Ms. Connors said the General Outdoor Lighting Standards include fixture standards, pole mounted lights, building mounted lights, accent lighting, and canopy lighting. The ordinance also defines overall lighting standards for projects to control total outdoor light output.

Ms. Connors said concerns have been raised regarding time limits, which refers to the requirement that 75% of lights be turned off thirty minutes after close of business. She said this could be regulated through a Photometric Lighting Plan, which is a simple way to make sure that light standards are being met. She said this is done through a computer model and could be submitted with development applications. She said the ordinance also contains additional submission requirements as a way to substitute lamp or fixtures and would require plan approval through a public hearing as part of the development process.

Mr. Doug Koscinski, Current Planning Manager, presented photos of various commercial light levels and light sources in shopping centers; food service establishments; banks; auto dealerships; churches; hospitals; and gas stations. He also presented a diagram depicting the difference between true full cutoff outdoor lighting fixtures and cutoff center drop or sag lighting fixtures. He said the PC felt Wall Pack Lights are the most objectionable lighting, but easiest to fix. He said wall packs can be shielded, which cost \$80 to \$200. He said the goal of the ordinance is to control lights by placing them where light is needed and avoid over-lighting onto abutting properties.

Councilmember Ezzell asked why the ordinance was not tailored to address actual problems. Ms. Connors said Staff was attempting to address an array of issues requested by the PCDC and PC. She said the ordinance has become narrower over time. Councilmember Ezzell felt the ordinance was too intrusive and over reaching and said he would not support it as written.

Councilmember Kovach asked why City street lights were exempt and Ms. Connors said Staff was asked to look at a commercial lighting ordinance and street lights are not a part of this ordinance; however, the City could impose that upon themselves.

Councilmember Quinn asked if Fowler Toyota met the standards of this ordinance and Mr. Koscinski said they would not. Councilmember Quinn asked if there would be a problem with the new dealership Fowler Toyota is constructing and Mr. Koscinski said no lighting plans have been submitted at this time.

Councilmember Kovach asked about the benefits to new construction as far as energy savings and Ms. Connors said, initially, it may cost businesses a little more, but there would be energy savings over a period of time, which would balance out those costs.

Mayor Rosenthal said the PCDC provided direction for the ordinance. She asked Council to recall the initial review stemmed from a fairness motivation where developers requesting Planned Unit Developments (PUD) were asked to meet certain standards, but those standards did not apply to C-1, Local Commercial Districts; C-2, General Commercial Districts; and C-3, Intensive Commercial Districts. She said there were no standards for commercial zones so that was another motivating factor. She too was concerned about retrofits and how a nuisance is determined. Ms. Connors said if you can prove that a wall pack light is trespassing, then that could be considered a nuisance. She said, in the ordinance, it would be up to the Planning Director to make that determination. Mayor Rosenthal asked if a code compliance complaint would trigger that and Ms. Connors said yes. Councilmember Atkins asked what standard is being used as far as trespass or amount of lumens. He asked if there would be a maximum amount of lumens to be considered a nuisance? Mr. Kosciński said there is not, but the ordinance establishes that once you are off your property, the light level is supposed to drop and there are different standards for residential versus non-residential. Mayor Rosenthal said she was not comfortable with the nuisance issue. Councilmember Ezzell said he is concerned about how the ordinance has evolved in the process and would be supportive of the ordinance if a commercial project adjoining a residential area had an identifiable problem. He felt the ordinance would be imposing unnecessary restrictions and costs.

Councilmember Atkins asked if Staff has evaluated what it would cost for City facilities to comply with the ordinance and Ms. Connors said no. Councilmember Atkins felt that would be important to determine.

Mayor Rosenthal asked if Council disagreed with any of the supported elements of the ordinance and Councilmember Ezzell did not support applying the standards to new construction only. He said a new construction project should not have to endure a higher regulatory cost. He said if the project is a Wal-Mart parking lot and is not near a residential area, he is not concerned how light overlaps the parking lot. Councilmember Quinn agreed and said the same thing was true about Fowler Toyota on I-35 as the lights are going toward the highway. Mr. Kosciński said there is an impact on the traveling public as well and potential to endanger drivers. Councilmember Ezzell agreed there is potential for that problem but found nothing in the slides to illustrate that problem exists. Councilmember Kovach said he knew of a business near his home that blinds you from two blocks away if you are driving in that direction and that is a hazard. He said he felt, if it was limited to new construction, the cost would be minimal and not be a problem. He said he agreed it would be a burden to businesses to retrofit and should only be retrofitted where the business is adjacent to residential property with a noted problem. Councilmember Ezzell said he would rather create an ordinance that addresses an actual nuisance or hazard and not overlay the ordinance across the entire City with no criteria other than new construction or expansion.

Mayor Rosenthal felt there needs to be some guidelines or standards on new construction to determine if a problem exists and asked for input from Council. Councilmember Atkins said he would like the PC to further review the ordinance since Ms. Connors has found someone with technical expertise that could answer questions. He felt adding technical data might provide more clarity. Councilmember Kovach wanted the PC to focus on the items that are generally supported so no time is wasted on issues that may meet resistance. Councilmember Griffith said he wants to be careful about retrofits as he feels it could impose an incredible financial burden on businesses and would like to review cost figures. Councilmember Ezzell urged Council to consider the aggregate effect of additional requirements and not just the cost of a light fixture. Councilmember Griffith agreed, but said he wanted to see if there is a significant difference in costs and he did not want the ordinance so restrictive that businesses are run out of town.

Mayor Rosenthal said Norman is unique in having an entire State Park and other state properties within its boundaries and felt the City had stewardship obligations in preserving the recreational experience. She felt that applicability of the ordinance should be regional in nature as opposed to zoning districts only.

Ms. Connors said Oklahoma City has a lighting ordinance that requires full cutoff fixtures on commercial properties. Mayor Rosenthal felt it would be useful to the PC to have a comparison of Norman's proposed ordinance to Oklahoma City's ordinance.

Items submitted for the record

1. PowerPoint presentation entitled, "Commercial Lighting Ordinance," City Council Conference September 28, 2010
2. Memorandum dated September 24, 2010, from Doug Kosciński, AICP, Manager, Current Planning Division, to Honorable Mayor and Councilmembers, Norman City Council
3. Draft ordinance
4. Price list for wall pack lighting
5. E-mails dated September 27, 2010, from H. Rainey Powell; Cindy Nashert, State Farm; Edmond W. Carlson; Jerry M. Hatter, Crimson Proud, L.L.C.; Ann Ryan; Helen Hubble, Manager, Human Resources, Sitel; Jaci Williams; Robert Ross, Interurban Restaurant; Jim Benson, formerly J.Botie's Food Store; Chris Mayes, Big Red Sports/Imports; Paul W. Smith; Staci Elder Hensley; Mark Malthaner; Julie Sparks, Sparks Clinic; Ron Murray; Ann Harcourt, Attorney; just-me@cox.net; Ben Cox, Advisor, Records and Information Management, Devon Energy Corporation; Dewight and Betty Mitchell, Betty Lou's Flowers; Sassan K. Moghadam, Precision Builders, L.L.C.; Robert Marriott; Steve Ruse, P.E., LEED AP, Electrical Engineer, Allen Consulting, Inc.; Harold Heiple; Peter Laws, Way East Body Street; John and Ginger Wetz; Tonya Gates, Sitel; Liz Cox, Director of Business Development/Owner, Hearts At Home Companion Care; Ann M. Swanson, Senior Vice President/Loan Originator, McClain Bank; Bill Sparks and Donna Sparks; Steve Kaplan, Native Roots Market; Libby Hatter, Balfour of Norman; Linda Lockett; Anthony K. Mirzaie; Mike Murphy, Executive Vice President, First American Bank; Michael Delaney, Fur Night and Day, L.L.C.; Jeff Stewart, O'Connell's Restaurant; Mikel Crowley, O'Connell's Restaurant; Chad Bartlett, Pastor; Lisa Winters, Executive Director, Crossroads Youth and Family Services; Stephen Turner, CM, LEED AP, Construction/Property Manager, and Sean M. Crandall, Consumer Loan Manager/Vice President, Arvest Bank; William H. Mattoon, Attorney; The Apothem; and Jay Cervi to Brenda Hall
6. E-mail dated September 28, 2010, from Ron and Karen Kirkpatrick, Del Rancho Restaurant, to Brenda Hall
7. E-mail dated September 28, 2010, from Mike Fowler, Fowler Holding Company, to the Norman Planning Commission

The meeting adjourned at 6:30 p.m.

ATTEST:

City Clerk

Mayor