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CITY MANAGER



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**CITY OF BELEN  
PLANNING & ZONING COMMISSION MEETING  
MINUTES  
MARCH 31, 2014**

Chairman Tom Greer called the regular meeting of the Belen Planning and Zoning Commission meeting to order at 6:30 p.m.

**PRESENT:** Chairman Tom Greer  
Commissioner Steve Ethridge  
Commissioner Selma Martinez

**ABSENT:** Commissioner Rod Storey  
Vice-Chair Gordon Reeves

**CITY STAFF:** Steven Tomita, Planning & Zoning Director  
Lisa Miller, Sr. Code Enforcement Officer  
Jerah Cordova, City Mayor

**OTHER:** Gloria Sanchez, Citizen

**APPROVAL OF AGENDA:**

Commissioner Steve Ethridge moved to approve the Agenda.

Commissioner Selma Martinez seconded the motion.

Motion carried.

**APPROVE OF MINUTES:**

The Minutes of December 31, 2013, were reviewed.

Commissioner Steve Ethridge moved to approve the minutes.

Commissioner Selma Martinez seconded the motion.

Motion carried.

## **DISCUSSION**

### **A. Sound Ordinance.**

Chairman Tom Greer informed the Commission that the staff has turned the information that was given to them into a rough draft. They are fairly close to have the framework to have public meetings at this point. There is a lot of wiggle room in it at this time and is comfortable with getting the community input.

Lisa Miller informed the Commission that a copy of the current Sound Ordinance was provided for them to use as a comparison with the others provided as examples.

Commissioner Steve Ethridge said that it was nice and short.

Chairman Tom Greer said that it covers a lot of things that we need to address but it lacks many other things that need to be addressed.

Steven Tomita said that the existing Ordinance is basically a matter of opinion. What really brought this about was to try to come up with definable on the sound Ordinance as to what is the Police going to enforce and what would Planning & Zoning enforce. Decibel levels are probably the most enforceable in a Sound Ordinance and we will have to establish what decibel levels you will enforce for each specific zone. He suggested that engine breaks be included due to the fact that we are starting to get complaints with the big diesel trucks using their engine breaks. Another one is in dealing with auto repair noises that are outside. This should probably be done indoors. The existing Sound Ordinance is very general and needs to be more defined.

Chairman Tom Greer said that for a community of this size that using decibel levels is the easiest to measure and the easiest, particularly because it is primarily Law Enforcement that is going to enforce this. This is the kind of stuff that would be done in a workshop.

Steven Tomita said that the City of Temecula, in their Sound Ordinance, put 70 decibels across the board as their limits in the center of the lots and he felt that was unreasonable. Most sound levels recorded are based upon the edge of your property. Most people talk at about 55 decibels when speaking in a normal tone of voice.

Chairman Tom Greer said that people do not realize that with every three decibels the sound increases tremendously.

Steven Tomita said that your perspective of sound is based upon what you are hearing, the type of music you hear, the type of auto repairs you are hearing, the boom boxes, etc. A lot of people will find rap more offensive than county western music at the same sound level.

Chairman Tom Greer said it depends on sounds you want to hear and sounds that you do not want to hear.

Commissioner Selma Martinez said that it was a good start and having a workshop to let the community tell us what they want in this Ordinance is a good way to get them involved in the process.

Steven Tomita said that we would send out flyers and place phone calls over our phone system at City Hall to everybody. This seems to get the most response from the Community.

Commissioner Steve Ethridge said that this more along the lines of what he thinks. He is someone who likes things short and simple. He realizes there are things that he does not think about. He realizes that places like an auto shop have to rev up engines, use the air compressors and things of that nature and knows that there should be different decibel levels. Generally speaking, if he has to raise his voice to be heard by someone right next to him that is too loud. Public input is important and most people around here are either not interested or just don't care. Businesses need to be spoken to, the Railroad needs to be spoken to and small businesses need to be spoken to. They are also a part of this and need to have their input considered when setting the different decibel levels. He also feels that a certain time line needs to be included in the Ordinance. For example, from 8 to 5 on weekdays for certain activities and the area in which this is taking place along with the decibel levels allowable. There needs to be a quiet time, after the siren goes off it needs to be turned down. He asked if there had been any complaints about Travertine.

Steven Tomita said that there had been. He went out there and with a decibel meter tested the sound level at the edge of the property owner who had made the complaint. The decibel level at that point was 55 dbs. He said that there were also complaints when Little Caesars' grand opening when they had the music playing so loud. The Police did go over there and had them turn it down. It was very loud.

Chairman Tom Greer said we will make special events a permitted exception. People are going to have to request these events in advance so the community can be made aware of what is going on.

Steven Tomita said that the important part of the Ordinance is in section 11, the implementation portion, which is where we need to place the criteria of the Ordinance.

Chairman Tom Greer said that since there are two Ordinances they are working on that there should be two separate workshops, one for each Ordinance.

Steven Tomita said yes and feels that the use of the flyers and phone calls is very helpful on getting participation from the Community.

Commissioner Steve Ethridge said that you can also do something like pay their water bill for the month. We could approach someone like PNM or another business to offer to pay a person's water bill if they completed the survey. He feels this would be an incentive to get the Community to participate. This survey can be placed in with the water bill then the customer would fill this out and return it for a chance to have their water bill paid.

Chairman Tom Greer suggested that we have the workshops sometime towards the end of April or the beginning of May.

Lisa Miller informed the Commission that she would need to be able to place this notice in the papers at least 15 days before the workshops.

Steven Tomita asked if the Commission wanted to have these workshops during a regular meeting or on a separate date. His personal recommendation is to have them separate from the regular Planning & Zoning meeting. Have the two separate workshops and at the following regular Planning & Zoning meeting have a public hearing. He suggested that the workshops be done in mid May.

Commissioner Selma Martinez informed the Commission that graduation occurs in May and would need to be considered when scheduling the workshops.

Steven Tomita said that he would check with the Library and see what their schedule looks like then set up the dates and time then. He informed the Commission that he could set up a demonstration of the different decibel levels to give the participants a chance to say what they feel is loud.

Chairman Tom Greer said that two different ones need to be done. One outside and one inside because what is heard in a room is different than what is heard outside with the same noise.

Gloria Sanchez informed the Commission that she appreciates the fact that they are trying to make the Ordinances stronger and more enforceable. She has been living with a noise issue for seven years and during this time she has gone to court with this twice. Her neighbors are still working on vehicles at this time. It is very disappointing to her that in over the seven years and contacting Zoning, the police, etc. for their help that nothing has been done to stop this. She cannot enjoy her own home; it interferes with her personal life, causes stress, affects her blood pressure and

has to go inside instead of enjoying some time on her porch. The noisy auto mechanic equipment and the extra traffic is not allowed in an R-1 zone. She has spoken to the owner of another mobile unit and was informed that they had even sent vehicles to the neighbors. She has asked them to come forward with this information and they refused because they did not want to get involved. She has not had the chance to review the proposed Ordinance as of yet and so cannot comment of its contents but she feels that the existing Ordinance as it is now is sufficient now. The City should have taken a more assertive approach to the obvious violations that are and have been occurring. She has no problem with making the Ordinance stronger but it has to be enforced. That is where the problem is.

Chairman Tom Greer said that he appreciated her input and the problem that she seems to be having. This is the reason that the process has been started to edit the existing Ordinance. Through this edit noise limits can be written in the Ordinance so that it makes it more enforceable. The existing Ordinance does not have this.

Gloria Sanchez said that she disagrees with the Commission and feels that with the current Ordinance something could have been done already. The neighbors are still doing things that should not be done. It is not just the noise; it is other things as well. They are a very popular family with their sons in football and a relationship with someone at the City and getting away with what they want. She understands where the Commission is coming from but does not understand when something so obvious was not taken care of.

Chairman Tom Greer said that the Commission is working on trying to create a new document that will give the City more teeth to be able to deal with this type of issue more effectively.

Steven Tomita informed the Commission that the neighbors that she is referring to have been cited numerous times but Code Enforcement and the Police. We have testified in Court that the use was not compatible with the R-1 Zoning and not compatible with the neighborhood or in harmony with the neighborhood and the result was that the Court had the neighbor remove the lift and the judgment was that the noise and activity were not excessive and that they could continue that activity seven days a week from 8 AM to 5 PM.

Gloria Sanchez said that she attended the Court hearings, although she was unable to hear some of the testimony due to the fact that she was also a witness. Detective Benavidez was the one to recommend that the lift be removed and not the Judge.

Steven Tomita informed the Commission that it was the Judge who ruled on the final decision and she also stated that she would not hear this issue again. Unfortunately this was the ruling and this is the way it stands.

Gloria Sanchez said that the neighbor is a smart person. He lied a lot in Court.

Lisa Miller said that is why we were trying to get one of your witnesses to testify. The police even tried entrapment which did not work. Unless you have solid proof it is just hearsay.

Commissioner Steve Ethridge asked if they had a business license.

Lisa Miller informed the Commission that they did have a license for their mobile unit only.

Steven Tomita said that this restricts the activity to mobile unit only and is not to be done at the residence home.

Commissioner Steve Ethridge informed Ms. Sanchez that he agrees with the fact that it is the taxpayers who are the boss and they need to be listened to. Sound measurements needs to happen. He informed Ms. Sanchez that they do care and that is one of the reasons why they are working to edit the Ordinance.

Chairman Tom Greer said that the Ordinance would have sound/noise measurements so that it is more enforceable. Residential would be different than Commercial. Each Zone would have a different sound/noise level along with the hours that that level is acceptable. The Commission is going to add enforceable measurements to the Ordinance to hold them accountable for the violation.

#### **B. Art Ordinance**

Lisa Miller asked the Commission if they wanted to have a workshop on Art Ordinance also.

Chairman Tom Greer said yes since both are in the same format. All that is needed is to fine tune each and this is what the workshops will be for. He would like to see them on the same week but on different days. This way they both can be worked on at the same time.

#### **C. Boundary Consolidation Committee**

Lisa Miller informed the Commission that she has not heard back from Hollyanna or Jay who were the two still remaining members of the Boundary Committee. She informed the Commission that she would just set up a meeting date and time and then inform all concerned.

Commissioner Selma Martinez asked what the Goal of this Committee is.

Steven Tomita informed the Commission that the Goal was to decide what properties needed to be annexed into the City to straighten out our Boundary. He would like to see two Commission members participate, along with staff and a couple others.

Chairman Tom Greer asked the Mayor if any of the former Council might be interested in participating.

Mayor Jerah Cordova said that former Councilor Audrey Vallejos might still be interested in participating. She wants to stay involved with the City. The Boundary Committee was approved by a Resolution and was expected to be a one year Committee for the purpose of making recommendations to the Council on properties to be annexed into the City for the purpose of trying to straighten our Boundaries. If we are going to resurrect this Committee it needs to also be done by a Resolution.

Steven Tomita suggested that a meeting should be set up with the two members, two Councilors, and staff to discuss where the Committee stands at this time and get a commitment to move forward then take it back to the Council for the Resolution that is needed to continue.

Commissioner Selma Martinez asked how far the Committee has gone.

Lisa Miller said that they have reviewed HWY 314 and had just finished with River Rd. and were starting on the S Main area. HWY 314 was taken to the Council. River Rd had not yet been taken to the Council.

Mayor Jerah Cordova said that it did not go before Council as an action. It was brought before them as a discussion.

Steven Tomita said that the one thing that was lacking was the statutes of what is required if we want to encourage people to annex but if we need to annex them period then we can force annex them if we are following state statutes. WE also have to look at what the State Statutes say that we must provide, within a reasonable time, to make sure the cost benefits' warrant us annexing certain properties. A legal interpretation is needed for this.

Chairman Tom Greer said that is real important because we could make a huge mistake, because it is not just water and trash, it is also sewer which can be a very costly undertaking. The City does not have an annexation plan which would show infrastructure improvements and expansion and no idea where we would get the grants to put it in. The state Environment Department issues and the interest they have in ending septic permits in New Mexico. This is going to greatly impact not only County land but City land as well.

Commissioner Steve Ethridge asked to look at old minutes and documents from the previous Committee so that he would know what they were doing and how they were doing it so he would not be in the dark.

Lisa Miller informed the Commission that all this information is in her office and they can come by for it anytime they would like and she would get them a copy of this.

**D. Status Updates**

**Car Wash on Reinken Ave.**

Chairman Tom Greer said that there has been no progress over a long period of time concerning the Car Wash on Reinken Ave. and would like an update from Staff as to where it is now.

Lisa Miller informed the Commission that the owner of the Car Wash has been sent a Notice of Violation and a Citation last week and asked for them to respond immediately. Nothing has been heard of at this point.

Steven Tomita said that the owners of this and the Kuhn Hotel have been warned before and have ignored it and that is why this time she sent along a citation. It will now be taken to Court.

Lisa Miller said that we are getting a better response on the vacant structures. Most of the Banks are now aware of the Ordinance and are sending in the registrations for these structures. She is even getting ones that have a Belen Postal Code but are not in the City Limits. These she sends back to the Bank with an explanation. It is basically the private property owners that are more of an issue.

**Kuhn Hotel**

Lisa Miller informed the Commission that the owner of this building has been sent a Notice and Order along with a Citation at the same time as the Car Wash.

Chairman Tom Greer said that the concern he has on the Hotel is whether or not it is structurally sound or not. The roof has major problems and could cause damage to the insides of the structure.

Lisa Miller said that if you go over there and stand in front of the structure you will see how damaged it is. It is sinking in areas, the shingles are no good, there is mold along the soffits and the eaves and are rotting and falling apart, which shows me that it is worse shape than thought and the damage has affected the interior of the structure at this time.

Chairman Tom Greer asked if the structure looked secure and was surprised that no one else within the neighborhood has mentioned or complained about the structure.

Lisa Miller said that it did not especially through the back of the structure. Part of the structure in the back is falling down or has fallen down. The front seems secure at this time. The homes that are located next to the structure also belong to the owner



and the trailer park owner lives in Albuquerque and does not care, even about the trailers in the trailer park.

Mayor Jerah Cordova said that one of the goals of the current administration is going to be Historic Preservation and obviously the Kuhn Hotel does have a history. He wants to make sure that the administration is taking every step that it can prior to demolition. He wants to be sure that we are taking all the necessary steps before it gets to the point of taking a bulldozer to it. There are a number of historic structures in town in a similar situation. Part of the problem that we run into is that the owners do not have the means to secure the buildings much less repair. That was the exact problem with Tommy's Lounge where the wall on the North side of the building was beginning to separate from the rest of the structure and was ready to collapse at that point and there was no choice but to take it down. These are things that we want to keep in mind and if the structural integrity is there we ought to be working as hard as we can to preserve the historical structure. It would be wonderful if we could get a maintenance plan in place, as our Ordinance stipulated for vacant structure, because at that point we would be able to know in which direction that we as a City should take preserving the structure. If the property owner is not communicating with us as to what they want to do with the property then often times we have to make a decision with the information that we do have and that decision may or may not be favorable to historic preservation. It would be wonderful if the Kuhn Hotel could open up as a Hotel again. We desperately need one in our downtown area. If you want to attract tourists here you are going to need a place for them to stay and things for them to do in the area.

Chairman Tom Greer said that preservation it is the first choice. The problem that we are running into is that we are not getting any kind of response unless we send them a citation and this was an intention to at least bring the owner in to work with us on preservation. There other options that can be considered. One is us buying the building and then trying to find a purchaser for it to repair and preserve the structure. We can also see what kinds of restoration grants/funds are available if the owner is not going to do anything with it.

Mayor Jerah Cordova said that it looks well built but he is not trained to asses something like that.

Chairman Tom Greer said that we cannot go inside the structure to see if there has been any structural damage but he is hoping that the resolve that we eventually have is that the owner will come in and talk to us about this.

Steven Tomita said that if we could get permission to go into the structure and see if it is structurally sound, we could go.

Mayor Jerah Cordova would like to see the Planning & Zoning Commission keep a collective finger on the pulse of what is going on in the Community. The Kuhn Hotel

might not be one that is in the most danger of a demolition at this time if it is structurally sound. There are others, around town, that are in worse shape that you can actually see from the exterior of the structure. We need to come up with a way to prioritize these kinds of things. There is a Historic Properties Review Board now. It has not met for years and is just getting restarted at this time so that we have an understanding of what sort of assets we do have out there, what kind of condition they are in and then we can assess what ones need the attention now and which ones can wait.

Steven Tomita said that the City would have to declare a structure to be of Historic Cultural Significance and this is done through the Historic Properties Board. Once they have presented their findings to the Council the Council can declare the structure to be of Historic Cultural Significance before you can have a say so as to what is done with them and even prevent the owner from demolishing the structure.

Commissioner Steve Etheridge said that he had been in the structure about 5 or 6 years ago and he liked the way it looked. The owner is using as an art studio now. If there is some way that we can motivate the owner without making them feel threatened then that is the way we need to go. He totally approves of trying to preserve these types of structures.

Chairman Tom Greer said that one of the ways is to partnership with Main Street on this and not just the City.

Mayor Jerah Cordova said that what he has seen in the past is that the City is better at carrying the hammer and a non-profit like Main Street are more flexible on how they can work with property owners, but both need to work together with this.

#### **OPEN COMMENTS/REQUESTS**

Chairman Tom Greer mentioned the old City Hall building being broken into and asked if the City had already seen to securing the building again.

Steven Tomita said that it has already been seen to. This was done earlier today right after it was reported.

Chairman Tom Greer said that it was a concern due to the fact that whoever got in there could fall through the four foot hole in the floor upstairs or somewhere else in the building and then this person can sue the City for his injuries even though he was the one who broke in. The Court system is absolutely non-sensible on how this works.

Mayor Jerah Cordova informed the Commission that in the State of New Mexico you have to be advised that you were trespassing, even when you are trespassing, so you enter the property the first time you are warned and if you do it a second time then you can be charged with trespassing.

Chairman Tom Greer said that you have to find them to warn them and that is the problem. You have to physically catch them to warn them.

Lisa Miller informed the Commission that the Planning & Zoning office has received the plans for Family Dollar and the Dollar Tree for review. Once the Planning & Zoning office has finished the review they will be taken to CID for permitting. At that time the construction will begin.

Steven Tomita said that the developer of the Dollar Tree is already negotiating with other businesses to complete the total area where the Dollar Tree is located. The Dollar Tree only takes up a part of the area. They are also looking at other areas in Belen.

**ADJOURNMENT**

There being no further business to come before the City of Belen Planning & Zoning Commission, Commissioner Selma Martinez moved to adjourn.

Commissioner Steve Ethridge seconded the motion.

Motion carried.

The regular meeting of the City of Belen Planning & Zoning Commission adjourned at 7:52 pm.

/s/  
Tom Greer, Chairman

ATTEST:

/s/  
Steven P. Tomita, Planning and Zoning Director