PLANNING & ZONING COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
PUBLIC HEARING  

Action Minutes  

Monday, May 9, 2011

Being a member of the Moose Lodge, Bill Howell Chairman recused himself, and appointed Lee Foerstner to conduct the Special meeting regarding the Moose Lodge variance request.

Lee Foerstner, Chairman Pro-tem opened the Public Hearing with reading the Legal Notice as follows:

NOTICE is hereby given that the Planning & Zoning Commission will hold a Public Hearing on Tuesday, May 3, 2011 at 5:30 P.M. in the Commission Chambers, 405 W. Third, Truth or Consequences, New Mexico to receive input regarding the following:

1. Variance Request – Installation of a pole, and electric service to 202 Smith St. Applicant is Moose Lodge #2050.

Lee Foerstner, Chairman Pro-tem administered the oath to Ron Fenn, Brad Grower, Bill Laswell (Moose Lodge Representative), and David Pool (Moose Lodge Representative).

Dave Weiser, City Manager began his staff presentation regarding the Variance Request for the Moose Lodge.

Ron Fenn interrupted City Manager Weiser’s staff report, and stated the meeting cannot discuss anything except for what is on the agenda, and according to the Attorney General’s Office, the Law states that under F: Agenda: Meeting notices shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting, or information on how the public may obtain a copy of such an agenda. Therefore Mr. Fenn believed that the meeting was being held illegally, and it is a violation of the open meetings act.

City Manager Weiser continued with his staff presentation, he noted that when the idea was brought to City staff regarding the pole installation, he went through the Code to find where it would fit in the City code. The only area City Staff could come up with was an RV park, and in discussing with several members of the Moose Club they are not interested in an RV park that rents spaces out to the general public, they are looking for a place that traveling Moose Members can park their RV’s while spending a day or two in T. or C., as they are traveling from place to place. (Complete copy attached hereto and made part hereof.)

Lee Foerstner, Chairman Pro-tem asked if it was the Moose Lodge’s intention to install a pole, and then later install an RV park themselves.

Dave Weiser City Manager replied that they plan to install an electrical pole, and water faucets be installed at all of the ten spots. He stated the code is very specific when it comes to RV parks so he would like the board to determine whether or not they would consider this as an RV park.

Lee Foerstner, Chairman Pro-tem asked is there anything in the code that would exempt something like this because they are not going to have a cash business going.
Dave Weiser, City Manager stated that was not mentioned in the 3 sections of the code that he read.

January Roberts, Member stated that she did walk the property, and talked to the applicant regarding what their intentions were for the application, and she cannot understand since it is their property why they would need a variance request in the first place, she asked why not just get a permit for the electrical installation. She then went on to ask which water source they were going to be using.

City Manager Weiser stated there was nothing in the code that specifically allows, or denies what they are asking to do. That’s why they brought the variance request application before the Board so that the Board can determine whether to consider it as a full RV Park.

Bill Laswell approached the podium, and answered the board’s questions. He stated the water will come from the Moose Lodge’s existing water service, and that they are requesting to provide water, and electrical services to traveling Moose Members only. They are not proposing an RV park for the general public. They have 300 ft. of land to install the poles, and they usually have up to 7 RV’s stay at one time. That’s how they came up with the 10 spaces for the electrical, and water hook up.

James Jacobs stated that once you install water, and electric that’s when it starts to be considered as an RV park.

Dave Weiser, City Manager asked Mr. Laswell how non Moose Club Members would know whether or not they would be able to park in one of the spaces. For instance if they came in from out of town in the middle of the night, and decided to park in one of the spaces how would that be handled.

Bill Laswell stated that they have surveillance cameras that monitor’s the parking lot daily, so if there were to be a non Moose Club Member parked in one of the spaces, that person would be asked to leave the next morning.

January Roberts suggested that they should put up some kind of signage that shows the parking is for Moose Club members only.

Mr. Laswell stated there is already an existing sign that states the Moose Lodge is a private organization.

Lee Foerstner, Chairman Pro-tem stated that City Manager Weiser mentioned that Smith Street is not a legal entrance for such vehicles. Lee’s concern is that there will be safety issues if the entrance remains on Smith Street.

Dave Weiser, City Manager stated that he did not mean to give the impression that it is an illegal entrance on Smith Street. If there is going to be an RV park placed on the property then RV park entrances require entrances from arterial’s or major collectors, and Smith Street is not an arterial nor a major collector. If the board decides that they would have to go through the steps of an RV park then there will have to be a variance request for that portion.

The Board Members, City Manager Weiser, and Mr. Laswell further discussed the entrance way to the Moose Lodge.

Ron Fenn approached the podium, and stated that he is opposed due to the fact the meeting is a violation of the open meetings act. Nothing except for a pole should be discussed at this meeting or else the agendas, and notifications should be changed. He then read from the Code regarding RV parks, and Utilities. Mr. Fenn listed many other different reasons why he opposed to the variance request.
Brad Grower stated he is not opposed to private property owners developing their land, but when the City intentionally creates a notification which does not meet the requirements of the State Law they are in violation, and he believes the City was intentionally trying to discourage people from attending the meeting because items that were mentioned at tonight’s meeting was not mentioned on the notice to the public. He asked that the City change their process for meetings.

Lee Foerstner Chairman Pro-tem stated all the board is going to do is make a decision on a variance with a pole. He appreciates that City Staff, and the Moose Members have been forthcoming to give them some background on their intentions regarding installation of the pole.

Ron Fenn approached the podium and mentioned more reasons on why he believes the variance shall not be granted.

Lee Foerstner Chairman Pro-tem swore in Joe Lopez, (Moose Lodge Representative).

Joe Lopez approached the podium, and stated the Hospital has requested the Moose Lodge donate land for the road up to the new Hospital which would create an entrance there, if they would need to make another entrance opening that would not be a problem. He noted that if it takes them going down to 8 spaces for it not to be considered an RV park they are willing to do so. There only intention is to make a convenient place for the Moose Members to park their RV’s overnight. He noted that is all the application is intended for.

David Pool approached the podium, stating a pole for the transformer and the service was needed. The spaces will all be underground. Technically RV parks are considered places where people pay to use the spaces. This is only going to be spaces for Members to come, and spend a little time.

Brad Grower and Ron Fenn commented on Mr. Pool’s definition of an RV park.
PLANNING & ZONING COMMISSION  
CITY OF TRUTH OR CONSEQUENCES, NEW MEXICO  
SPECIAL MEETING  
Monday, May 09, 2011  

TIME & PLACE:  
The Planning & Zoning Commission of the City of Truth or Consequences, New Mexico, met in Special Session in full conformity with the law and ordinances of said Commission, at the Commission Chambers of said City on Monday, the 09th day of May, A.D., 2011.

PRESIDING OFFICER:  
The meeting was called to order by Lee Foerstner, Chairman Pro-tem.  
Angela A. Torres acted as Secretary.

ATTENDANCE:  
Upon calling the roll the following members were reported present:

Lee Foerstner, Member  
James Jacobs, Member  
January Roberts, Member

Absent:  
Bill Howell, Chairman  
Joey Perry, Vice Chairman

Also Present:  
Dave Weiser, City Manager  
Charlie Friberg, Building Inspector  
Angela A. Torres, Deputy City Clerk

QUORUM:  
There being a quorum present the Commission proceeded with the business at hand.

APPROVAL OF AGENDA:  
Lee Foerstner, Chairman Pro-tem called for approval of the agenda.

"James Jacobs moved approval of the Agenda as submitted."

Seconded by January Roberts  
Motion carried unanimously.

COMMENTS FROM THE PUBLIC:  
Ron Fenn approached the podium, and stated now that the agenda is approved he would like the board to remember that under the open meeting act all that they can discuss is the one item, and it cannot have anything to do with RV parks or anything else.

STAFF PRESENTATION BY CITY MANAGER DAVE WEISER:  
Dave Weiser City Manager stated that the variance request is to allow a pole to be set within the parking lot of the Moose Lodge. He did not have anything more to add than what he had said in the earlier portion of the meeting.
DISCUSSION/ ACTION- VARIANCE REQUEST - MOOSE LODGE:

1. Variance Request – Installation of a pole, and electric service to 202 Smith St. Applicant is Moose Lodge #2050.

James Jacobs asked City Manager Weiser if a variance is needed to install a power pole, or do you only need a permit?

Dave Weiser City Manager stated that the variance request is to install a power pole.

January Roberts asked if someone in T. or C. needed to add electrical to their property would they need to get a permit, or a variance request.

Dave Weiser City Manager stated it depends on what they are going to be doing with the power. The two main sections in the code that he is going by for this particular variance request is section 11-14, and section 11-11-5, those sections discuss RV parks, and what is considered to be an RV park.

Lee Foerstner, Chairman Pro-tem went over the code for a variance request. He stated that it is an ill conceived idea to approve a variance just for a pole. He encourages an RV park.

“Lee Foerstner, Chairman Pro-tem moved that they deny the variance from the stand point that there is considerable safety issues involved in # 3 on the provisions for a variance.”

Seconded by James Jacobs.

James Jacobs stated that underneath the procedures for applying for variances, variances shall not be granted where spot zoning shall occur. Most of the requirements that the code says they would require the applicant to have in order to have a private RV park would be waived otherwise they will be holding the applicant to a hardship when they are not holding anyone to that standard.

Lee Foerstner, Chairman Pro-tem stated that it may be doable if they go along with an RV park, and apply for it straight on. He is going to have to deny the variance request because rules are rules, but he hopes it does not discourage them to pursue what they would like to do with the Moose Lodge.

January Roberts wanted to know why they didn’t just do the RV thing in the first place. She believes since they are a private organization they shouldn’t have to go to the Board for a variance request.

The board voted unanimously to go along with Lee Foerstner’s denial of the variance request submitted by the Moose Lodge.

ADJOURNMENT: There being no further business to come before the Commission, Lee Foerstner Chairman Pro-tem called the meeting adjourned.

APPROVAL: PASSED AND APPROVED this 7th day of June 2011, on motion duly made by James Jacobs, and seconded by Lee Foerstner, and carried.