

**STATE OF TEXAS  
COUNTY OF GILLESPIE  
CITY OF FREDERICKSBURG**

**PLANNING & ZONING COMMISSION  
October 5, 2011  
12:00 NOON**

On this the 5<sup>th</sup> day of October, 2011, the PLANNING AND ZONING COMMISSION convened in regular session at City Hall with the following members present to constitute a quorum:

JANICE MENKING - Chair  
BRENDA SEGNER  
CHARLIE KIEHNE  
CHRIS KAISER  
STEVE THOMAS  
RON WOELLHOF  
JASON HELFRICH  
BJORN KIRCHDORFER  
MATT LINES

ABSENT:

ALSO PRESENT: BRIAN JORDAN - Director of Development Services  
CRAIG WALLENDORF -Director of Public Works  
PAT MCGOWAN - City Attorney  
TAMMIE LOTH - Development Coordinator

Janice Menking called the meeting to order at 12:00 NOON.

**DISCUSSIONS**

**DISCUSSION REGARDING CONDUCT OF PUBLIC MEETINGS, CONFLICTS OF INTEREST, OPEN MEETINGS ACT (PAT MCGOWAN, CITY ATTORNEY)** - Pat McGowan, City Attorney, highlighted the legalities of open meetings and noted there are certain public notices that are required to be posted before the meeting. Ms. McGowan stated the public has a right to be present and hear what is discussed at an open meeting, but they do not have the right to talk. Ms. McGowan also noted the board may only speak about what is on the agenda. Ms. McGowan then explained an executive session, which is a subset of the Open Meetings Act, could be called and there are two reasons the Planning & Zoning Commission would have to call an executive session. One is to give the board time to consult with an attorney on matters that are attorney/client privileged and the other is pending or threatening litigation. Ms. McGowan then explained public hearings and noted there is a different set of laws super imposed on each other for public hearings. Ms. McGowan stated the legalities that go along with public hearings are that notices of the public hearing have to be published in the newspaper fifteen days before the hearing and notices must be mailed to property owners within 200 feet of the subject property prior to the hearing. Ms. McGowan noted the board can always hear from the public or make the rules more expansive than are stated, but explained the two requirements she mentioned are the minimum that must be done. Ms. McGowan stated public hearings should be conducted in the same manner every time and the amount of time an individual is allowed to speak or how often they are

allowed to speak can be limited, but the board must be certain there is a fair method for each person voicing their opinion. Ms. McGowan also explained there could be two sets of rules for a public hearing, such as making it much more informal when only the board and applicant are involved and when there is a controversial hearing with a room full of people, impose more stringent rules.

The next topic Ms. McGowan covered was conduct of meetings. Ms. McGowan noted meetings fall back on Roberts Rules of Order but they don't have to be that formal if the need is not present. Ms. McGowan noted an individual on the board can make a motion to limit debate or confine the discussion to only the board if there is a controversial topic. Ms. McGowan commented to have a quorum one-half of the members plus one must be present.

Ms. McGowan then touched on charter provisions and state law and noted those are criteria in place for the Planning & Zoning Commission. Ms. McGowan commented state law is pretty minimal and explained the reasons a board member could file a conflict of interest. Ms. McGowan also explained contact with the applicants by members of the board should not happen outside of the meeting. Ms. McGowan noted the members may go gather information by driving by the property or like examples, but they should not have a one on one meeting with the applicant.

**RECEIVE AN UPDATE ON THE CITY'S PROPOSED CAPITAL IMPROVEMENT PLAN (CRAIG WALLENDORF, PE, RPLS, DIRECTOR OF PUBLIC WORKS AND UTILITIES) -**

Craig Wallendorf, Director of Public Works, defined capital improvements as something that is going to be put on the ground and constructed. Mr. Wallendorf noted there is a five year capital improvements plan in place that the Planning & Zoning Commission can look at and commented the city council schedules the improvements on basis of need and funding. Mr. Wallendorf presented information that highlighted the police, fire, water, street, park and electric departments and noted the schedule is used as a planning tool. Mr. Wallendorf noted Morning Glory Drive and Austin Street will be improved this year and commented Brehmer Lane and Sunrise are in dire need of repair, but since there is not much traffic on those streets the urgency of the repairs is hindered. Mr. Wallendorf also noted Orange Street is a very old street and will need some work. Mr. Wallendorf stated they are looking at replacing the crossing at Travis Street and Town Creek and noted there is a small controversial project being discussed at the bridge on Morse Street. Mr. Wallendorf then explained there is about two million dollars worth of fleet items that need to be replaced. Mr. Wallendorf also noted water and sewer projects are the hardest to ascertain and fund.

**DISCUSSION REGARDING NON-CONFORMING USE PROVISIONS AND REVIEW CRITERIA (BRIAN JORDAN, AICP, DIRECTOR OF DEVELOPMENT SERVICES), -**

Brian Jordan, Director of Development Services, explained non-conforming uses are uses that are not allowed in a specific zoning district, but that have been grandfathered in the city limits at the property they currently function from. Mr. Jordan also commented there are some significant properties in town that have lost their non-conforming status due to businesses closing and the use not being continued. Mr. Jordan stated the Planning and Zoning Commission may hear re-zoning cases on those properties in the future. Mr. Jordan then explained the differences in non-conforming uses in residential zoning districts and commercial zoning districts. Mr. Jordan noted in a residential district the non-conforming use was a legal and conforming use at some time, but it stays legal only as long as the use is continued. Mr. Jordan noted in a residential zoning district, nothing can be done to the property to change or improve the use, it can only be maintained. Mr. Jordan also noted the non-conforming use may only be vacant for 90 days before it loses its non-conforming status. Mr. Jordan commented businesses in a residential zoning district can continue as the same business but there may be no changes made to the business. As far as commercial properties are concerned, Mr. Jordan stated a non-conforming use business can only be

enlarged within the boundary of the lot by a conditional use permit. Mr. Jordan stated a business can sell to another business with the same use without a problem. Mr. Jordan also noted the use can only be vacated for one year in a commercial zoning district before the non-conforming status is lost. Mr. Jordan then touched briefly on the review criteria city staff uses when applications are submitted and what the Planning and Zoning Commission should be looking at when they review an application.

**MINUTES**

Charlie Kiehne moved to approve the minutes from the July 2011 meeting as presented. Ron Woellhof seconded the motion. All voted in favor and the motion carried.

**ADJOURN**

With nothing further to come before the Commission, Charlie Kiehne moved to adjourn. Ron Woellhof seconded the motion and the meeting was adjourned at 1:19 p.m.

PASSED AND APPROVED this the 9<sup>th</sup> day of November, 2011.

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SHELLEY BRITTON, City Secretary

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JANICE MENKING, Chairman