

**Minutes  
Cheney Planning Commission  
Regular Meeting**

**February 10, 2020**

Commissioners Attending: Dan Turbeville, Vara Lyn Conrath, Daniel Hillman, David Early, Natasha Jostad and Richard Mount.

Commissioners Absent: Jake Vibbert.

Staff Attending: Brett Lucas, Todd Ableman, Mark Schuller, Tynan Stevenson and Susan Beeman.

Councilmembers Attending: Vince Barthels.

Call to Order: Vice Chairman Conrath called the meeting to order at 6:05 p.m. when Chairman Mount was delayed.

Minutes: Minutes of the November 18, 2019 regular meeting and the January 6, 2020 joint City Council/Planning Commission workshop were approved as distributed.

Citizen Participation: None.

Discussion Item: #2020-01  
Revisions to Occupancy Limits Ordinance

Mr. Ableman explained that the discussion tonight is intended to be a general discussion, and we will come back in March with a public hearing to give the community a chance to comment on the proposal.

Mr. Lucas explained that staff took the ideas discussed at the joint City Council/Planning Commission workshop in January, and then worked with Lindsay Kornegay from Witherspoon Kelly for a legal review of the proposed ordinance changes. A preliminary draft ordinance was included in the agenda packets for this meeting, and the intent is to get feedback from the Planning Commission to see if we are on the right track.

NOTE: Commissioner Mount arrived at 6:11 p.m.

Mr. Lucas reviewed the breakdown of behavior-related issues that the City typically deals with, and explained that occupancy issues and laws/weeds/vegetation issues would be handled by Code Enforcement, and noise & parking issues would be directed to the Police Department.

Mr. Lucas reviewed proposed changes to CMC 21.48.027, and explained that the changes remove all references to 'family' and 'functional family,' and looks to the International Property Maintenance Code (IPMC) which establishes square footage requirements for the number of occupants in a dwelling unit. Penalties would be handled under the process outlined in CMC 17.18.090.

Discussion followed. Commissioner Turbeville asked about the effective date of the ordinance being 30 days from the date of adoption by City Council; is there something in the works for hiring a code enforcement officer prior to the effective date of the ordinance? Mr. Lucas explained that the public hearing will be in March, and with two readings of the ordinance before City Council prior to passage, then the 30-day notice after publication, the effective date is likely to be sometime in June. Mr. Schuller added that we are close to having a code enforcement officer on board.

Commissioner Turbeville asked if we have any kind of database that shows the square footage of each residence in town. Mr. Ableman said that we do not have that information, but the code enforcement officer would have the ability to determine square footages when investigating an occupancy limits complaint.

Mr. Schuller said that enforcement would not be only complaint-driven. The code enforcement officer could initiate an investigation based on his own observations, as well as following up on citizen complaints.

Commissioner Early said that at one time there was discussion about requiring that landlords obtain a business license. Has that been taken off the plate? Mr. Lucas explained that it is not being addressed at this time. Staff looked at how to fold rental licensing into the business license process that is now handled by the Secretary of State, and it seemed to be a rather complex process. We were looking for a way to address the occupancy issues quickly, and with a relatively low initial cost. But we could look at this again in the future.

Commissioner Mount asked if this is an evolving process. Do we have a way to keep track of the number of complaints received? Mr. Ableman explained that we already have software which tracks code complaints. The code officer can make notes, and use the system for follow up. Mr. Lucas explained that the code enforcement cases can be tracked using the same software that is used for building permits.

Commissioner Mount asked about the penalty process; are there any teeth in this ordinance? Mr. Ableman explained that the civil penalties are defined as \$250 for the first violation, \$500 for the second violation, and \$1,000 for the third violation. Total civil penalties shall not exceed \$5,000.

Commissioner Mount asked if can we make it clear that the penalty for violations would apply to the landlord, and not to the tenants? Mr. Lucas said that we could add that language.

Commissioner Hillman asked for clarification on Mr. Lucas' statement that we are tracking infractions through the permitting system.

Ms. Beeman explained that the code enforcement module was part of the permitting software, but it is completely separate from the permitting portion. It allows tracking of complaints, active and closed cases, and tracks the amount of time between an initiated contact and resolution.

Commissioner Conrath if a letter is the first step in the process. Mr. Lucas said that the first step is usually to notify the property owner of the problem and try to get voluntary correction. If that doesn't work, then we start working up the ladder to more serious consequences.

Chairman Conrath asked if the person fails to pay any fines assessed, do we have a process for collecting? Ms. Beeman explained that once a case becomes an infraction, the Municipal Court takes over all efforts to collect the fines that have been assessed.

Commissioner Jostad asked about the clause in section (b), Overcrowding: "The City has adopted the IPMC to address overcrowding by, among other things, imposing area requirements..." What does the 'among other things' refer to? Commissioner Mount explained that it is a legal term that leaves the City some room to pursue other remedies without specifying exactly what those might be.

Commissioner Early asked if the phrase "all residents of the city" is a loophole that could be exploited by someone claiming that their permanent residence is not within the city limits. We want to be sure we have the ability to require compliance from absentee landlords. Our intent is to make the owner of the premises legally responsible, not the occupant. Mr. Lucas agreed that some adjustment in the language is in order.

Mr. Schuller distributed information on a bill that has been introduced in the Washington State Senate which would outlaw local jurisdictions from limiting the number of unrelated persons living in a housing unit. He explained that the Association of Washington Cities (AWC) has already raised concerns about this, as it infringes on the ability of local jurisdictions to establish zoning rules. Commissioner Early asked where the State Fire Commissioner stands on this proposal. Discussion continued. Mr. Schuller added that the objective standard for overcrowding in the IPMC will be easier to enforce than the functional family definition which has been so problematic.

Discussion Item: #2020-02

Revisions to Zoning & Land Use Regulations of Landscaping

Mr. Ableman explained that this is a very preliminary draft ordinance for discussion, and Planning Commissioners' comments will be incorporated into a draft that returns for public hearing next month.

Mr. Stevenson summarized our current situation, explaining that the City currently faces challenges regarding overuse of water throughout irrigation season. He explained that the first step in facing this challenge from the perspective of planning and land use is revising our existing landscape regulations in CMC 21.42.

Mr. Stevenson reviewed the City's current landscape regulations, and noted that our code currently does not address landscaping in single family zones. He recommended several proposed changes to the code, including:

- Adding language to 21.42.010 – Purpose to provide a framework through which the City can opt to financially and administratively incentivize drought-tolerant landscaping and native plant incorporation;
- Adding a section to establish conservation incentives, and extending those incentives to all landscaping associated with all zoning districts, including residential;
- Limiting turf grass and similar water-intensive plantings to no more than 50% of a project's landscaped area if non-drought-resistant grass is used, and no more than 75% of the landscaped area if drought-resistant grass is used;
- Establishes that plants having similar water use requirements shall be grouped together in distinct hydrozones and shall be irrigated with separate irrigation circuits.
- Provides exemptions for parks, playgrounds, sports fields, golf courses, schools and cemeteries from specified turf area limitations where a functional need for turf is established.
- Grants discretion to city staff to determine the suitability of proposed plant materials, approval of landscape plans and proposed irrigation systems, and administration of exemptions.
- References relevant CheneyScape guidelines, the WSU Spokane County Master Gardener program materials, and the City's Water Conservation Plan.

Discussion followed. Commissioner Turbeville said that he has the impression that this proposal has not been well publicized, and there is going to be a lot of resistance to these ideas.

Commissioner Conrath disagreed, and said that the TAC committee had very positive feedback from members who were talking to their neighbors, and also at the informational booth at Mayfest last year.

Mr. Ableman added that existing landscaping would not be required to be changed, but new and infill development would have to be designed under the new standards. If a homeowner wanted to reduce their lawn area to take advantage of the conservation incentives, they could opt to do so.

Commissioner Hillman suggested that as soon as you move away from carrots and start employing sticks, there is going to be resistance.

Discussion continued. Commissioner Early asked how this would be applied to historic properties; could the new Cheney Depot be landscaped in a period-appropriate way? Or if someone with a historic property lost a tree in an ice storm, would they be able to replant? Mr. Ableman said that we have a tree ordinance which is separate from this, but with the Historic Preservation Commission, we always review and look at the historic aspect of changes to those properties.

Mr. Lucas noted that there is a section dealing with exceptions and exemptions which should provide sufficient flexibility for those situations.

Commissioner Jostad said that in the Purpose section, there was language referring to screening and compatibility of development, and preserving land values which had all been struck out in the draft ordinance; she felt that some of that language might be important to keep. Mr. Lucas indicated that staff will take another look at that section.

Commissioner Jostad asked if 'low water plants' are identified in the code, or if that references back to the Master Gardeners' list. Commissioner Mount agreed, and said that residents are not going to want to look at several different sources to figure out how to qualify for a rebate. He asked if you could provide links in the ordinance or lists to go with the definitions.

Election of Officers: Chairman Conrath called for nominations. Commissioner Turbeville nominated Commissioner Mount to serve as Chairman. There were no additional nominations. Chairman Conrath called for a vote, and Commissioner Mount was elected unanimously. Commissioner Conrath nominated Commissioner Turbeville to serve as Vice-Chairman. There were no additional nominations, and Vice-Chairman Turbeville was elected unanimously.

Other Business: Commissioner Early asked for an update on the Cheney Depot project. Ms. Beeman said that a crew of volunteers worked last weekend on demolition of the warehouse building that is being removed to make room for the depot. The structural mover's crew is expected to be on site in mid-April, and they estimate 25 days of work to prepare the building for the move.

Mr. Schuller gave a legislative report, explaining that there an unusually large number of bills being introduced in the legislature during this session, and many of them would impact small cities. A bill has been introduced that would essentially remove all single family zones in communities over 15,000. Specifically, it would allow duplexes, townhouses, and other multi-family structures up to 6-plexes to be located in all single family zones. For cities over 10,000, it would allow duplexes to be placed in all single family zones. The Association of Washington Cities is opposing this bill, and Mayor Grover has submitted testimony in opposition to it.

Commissioner Mount asked if this would apply to existing zoning, or just new zoning. Mr. Schuller said that as it is written now, it would apply to all single family zones in all cities. He added that proponents are using this as a way to address the affordable housing shortage, but it essentially eliminates local control of zoning and development. He added that the Growth Management Act needs major reform to allow us to grow the way we would like to grow.

Staff Reports:

Mr. Lucas reported that the update to the Capital Facilities Plan will come to the Planning Commission in the next couple of months, probably in May, in order to be passed on to City Council before budgeting begins for next year.

There being no further business, the meeting was adjourned at 7:06 p.m.

Respectfully Submitted,

Approved By:

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Susan Beeman, Secretary

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Richard Mount, Chairman