

Sidney, Nebraska, June 16, 2014

A meeting of the Planning Commission of the City of Sidney, Nebraska, was convened in open and public session at 5:30 P.M. on June 16, 2014 in the City Council Chambers, located at 1115 13th Avenue. Present were: Chairman Spiker and Commissioners: Cortney, Egging, Mueller, Phillips, Smith, and Volkmer. Absent: England and McCarville. Others present: City Manager Person, Zoning Administrator Dayton, City Attorney Sonntag, and Deputy Clerk Heilbrun. Notice of the meeting was given in advance thereof by publication in The Sidney Sun Telegraph, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Chairman and all members of the Commission, and a copy of their acknowledgment of receipt of notice is attached to these minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Planning Commission of this meeting. All proceedings shown hereafter were taken while the convened meeting was open to the attendance of the public.

Chairman Spiker announced to all in attendance, that a current copy of the Nebraska Open Meetings Act was available for review at the rear of the room.

Phillips moved, Egging seconded, "That the minutes of the May 19, 2014 meeting be approved." Roll call vote: Yeas: All members present. Absent: England and McCarville.

Chairman Spiker announced that the Planning Commission would now hold a public hearing re: the Conditional Use Permit application of First United Methodist Church to operate a preschool in the church located at 2622 11th Avenue; that the Board of Education of School District No. 1, Cheyenne County, Nebraska, and the Board of Education of Western Nebraska Community College have been properly notified in the time and manner prescribed by law and have not filed objections to the proposed request.

The following filed written objections: None. The following appeared in person or by agent or by attorney and were heard: Reverend Thomas Hyde.

Reverend Hyde explained that they were proposing to hold preschool classes in a designated room in the church for up to 12 students. Classes would be conducted four days per week with a morning and afternoon session each day. The fellowship hall would be the play area until an area outside could be fenced and designated as part of the licensed area for the school. He stated that they have received licensing approval from the State of Nebraska Department of Health and Human Services and have also had the area inspected and approved by the Fire Marshall. The State has approved a one-year provisional license for the first year of operation. It is the Church's intention to apply for a permanent license for the second and subsequent years of operation. Reverend Hyde noted that if the school is a success, a second room, next to the proposed area, could be included in future license applications to accommodate more students.

The Commission debated as to whether they needed to place a time limit on the permit. It was determined that as long as the State was in control of the licensing of the preschool, the Planning Commission would support the parameters they placed on the preschool. However, the Church would need to provide documentation to the Planning Commission should any changes in the operation were to occur.

There being no further questions or comments, Chairman Spiker closed the public hearing and asked for a motion on the request.

Commissioner Volkmer stated that she served on a decision making committee at the Church and would be abstaining from voting on the issue.

Mueller moved, Phillips seconded "That the Conditional Use Permit application of First United Methodist Church to operate a preschool in the church located at 2622 11th Avenue be approved subject to State requirements." Roll call vote: Yeas: Smith, Mueller, Spiker, Phillips, Cortney, and Egging. Abstain: Volkmer. Absent: England and McCarville.

Discussion was held regarding Home Based Business as it relates to the City Zoning Chart. Currently the Use Chart, revised and passed by Ordinance No. 1712 in 2012, states that all home-based businesses must have a Conditional Use Permit to operate as such. This revision repealed Ordinance No. 1274 which specified certain home occupations as allowable in R and A Zones, with no requirement for a permit.

City Manager Person explained that this issue was brought to the attention of the Property Resolution Team, who deal with citizen's zoning violation complaints, property upkeep, etc. He stated that these issues come to light when citizens, who are concerned with what is going on in their neighborhood, file a concern with the City, such as excessive traffic coming and going from a home, the washing of chemicals into the gutters and sidewalks, noise, manufacturing of hazardous products, etc. He questioned as to where we draw the line in what

is and isn't allowable. One suggestion the committee had was to publicize a notice asking all home-based business operators to file an application with the City, which would be provided on the City's website, to register their business. Based on this information it could be determined whether a business posed a public nuisance or hazard and whether a permit was needed.

City Attorney Sonntag stated that he had conferred with J Leef on this matter and it was their suggestion that the Ordinance and Chart be revised to specify certain parameters to include dangerous uses that would require a Conditional Use Permit, rather than being all inclusive. This would follow the concept of Ordinance 1274 which was repealed by the current ordinance. He further noted that any changes to the Planning and Zoning Code with regards to this issue would have to follow the public hearing process.

Commission Mueller suggested that Staff poll other communities to see how they are handling this issue. He was skeptical as to whether following the PRT's recommendation of gathering information on all home-based businesses and putting them through the permitting process was a good use of City staff's time and resources.

It was the consensus of the Commission that Staff and Commissioners come up with examples to modify the existing chart and ordinance that would eliminate the "all inclusive" concept and replace it with specific criteria as to which home based businesses would require a permit. This item will be placed on the next agenda for consideration.

The meeting was adjourned at 6:09 p.m.