

**City of Falcon Heights
City Hall
2077 Larpenteur Avenue West**

**Minutes
Planning Commission Meeting
Tuesday, January 28, 2020
7:00 PM**

A. CALL TO ORDER: The meeting was called to order by Chair John Larkin at 7:00 PM.

B. ROLL CALL:

Present: Larkin, Williams, Kotelnicki, Gerich, Wilson

Absent: N/A

Present Staff and Council Liaisons: Markon, Mayor Gustafson
Chair Larkin introduced new Staff Liaison, Randy Gustafson

C. APPROVAL OF MINUTES: October 22, 2019

The minutes were approved as presented by unanimous consent.

D. PUBLIC HEARING

1. Consider changes to Chapter 54 regarding vegetation regulations

Chair Larkin announced the Public Hearing to discuss changes to Chapter 54 regarding vegetation regulations. Staff Liaison Markon described the specifics of the new vegetation code. Markon credited much of the new code as being contributed by a sub-committee of the Environment Commission. A survey was produced for public comment and was posted and available on the City's website for about 45 days. Almost 60 responses to the survey were received. Most responses were supportive of the proposed changes. The City Council recently adopted the 2040 Comprehensive Plan, and the Plan also called for changes to be made to the landscaping and vegetation regulations.

Larkin asked for clarification of the diagram on the right showing a 15-foot right-of-way setback. Markon answered that not all setbacks are consistent or universal throughout the City, so that it is up to each homeowner to discover their own property setbacks.

Williams asked if existing vegetation treatments on the boulevard such as rain gardens would be grandfathered in. Markon answered that existing vegetation other than turf grass in the boulevard is not something that would be tackled at this time.

Markon mentioned several online resources regarding landscaping and vegetation that would be helpful to residents such as the Board of Water and Soil Resources at bwsr.state.mn.us and the Capitol Region Watershed District at capitolregionwd.org.

Larkin asked if there were any responses to the survey requesting rewording of anything the Environment Commission had proposed. Markon said a local resident who is an invasive species expert and a second person provided some information that did make it into the final version of the regulations. Also, public recommended changes to regulations regarding tree diseases were already included in the code, so could be easily added.

Williams asked about the language in one section of the proposed ordinance that indicates that the homeowner shall prune the trees if branches impede the right-of-way, yet in the maintenance section it says the City will be responsible for the trimming. Markon said the language will be changed to add the trimming of only "private" trees shall be provided by the homeowner.

Kotelnicki had a question regarding reductions in the property side or rear setbacks that abut five types of areas. A natural area is one on the list, but it is the only area not defined. Markon said that they will take a look at that for a definition. Kotelnicki continued by saying that in a legally nonconforming situation the setback can be zero if an area is vacant now, but is not vacant in the future. Encroachment issues would then exist. Kotelnicki asked if this has been discussed. Markon said "no", but he will ask other communities if there have been issues with this.

Chair Larkin opened the meeting to the public.

Mr. Brian Fuel took the podium and mentioned that the 10 inch height for maintenance is really short for native plants. He asked how the 10 inch rule was determined and asked if it is flexible. Markon responded by saying that this height was a piece that was borrowed from another community, and the City wants to prevent overgrowth. Fuel mentioned that some plants can not be trimmed below 36 inches. Ten inches is too short, even for July. Fuel mentioned that he plants many native plants that grow throughout the season. Mayor Gustafson asked if it were possible to meet the standard if a non-woody plant were not to exceed 10 inches during the growing period of May 1st until July 15th, but grow up to 36 inches after the month of June, would that still qualify for the code? Markon said we could interpret it that way but asked if we should revise it, and if there should be more discussion on this point. Larkin said that this recommendation came from Eden Prairie with a period of April 15th to July 15th. Kotelnicki asked if it would be detrimental to trim a plant on May 1st down to 10 inches and then let it grow? Gustafson said he was also interpreting it that way. Fuel said cutting off a potential food source at 10 inches is not ideal, and 36 inches may be more reasonable. Environment Commissioner Patrick Mathwig

said the Commission considered the Eden Prairie rule the way it was written only. Mathwig said it may not be worth adjusting further, especially since it has been changed once, or instead of dates say that vegetation should be cut back once a year. Fuel suggested that we try it the way it is written for a year or two, and revise if necessary. Koltenicki said the responsibility is with the homeowner. They will have to cut back once a year. He asked what the harm is in having a wider window, with a specified start date. Setback areas are the target areas for this rule.

Chair Larkin closed the Public Hearing after asking three times for comments from the floor. Larkin then opened up comments from the Commission.

Commissioner Gerick had to leave the meeting early, but mentioned that he was very pleased with the hard work done on the report by the Environment Commission.

Commissioner Wilson said that that he would be agreeable to move the cutting window to April 15th. Williams said that he would be in agreement for moving up the May 1st date. Environment Commissioner Mathwig said that they changed the date to May 1st on recommendation from the Board of Water and Soil Resources. Markon read the e-mail from the Board of Water and Soil Resources indicating a May 1st starting date. Larkin said that the dates are only a guide for homeowners to do what is best for their own plants. Gustafson asked if the intent of the maintenance standard is to not have unsightly growing situations and have an ordinance to enforcement the standards? Also, assuring that homeowners are paying attention to their lawns and to provide an enforceable mechanism? Markon answered that he would think so.

Commissioner Wilson asked to avoid confusion by adding to section D4 saying, "property owner shall prune trees and shrubs not in the public right-of-way".

Koltenicki asked if the trees listed in E1 are unlawful there because they are susceptible to disease. Markon answered "yes" and because of their non-native nature and potential for causing nuisance. The Commission discussed a number of the listed trees in detail.

Wilson asked if the title Forester was taken out of the document because the City does not have a Forester? Larkin said that the title Forester was in some parts of the document and not others. Markon said that the Forester is a contract employee directed by the City Administrator. The full description of the Forester is contained elsewhere in the Code. Gustafson said that in 2018, the City Council thought it best to give the power of some decisions previously given to a full-time Forester employee to the City Administrator, instead of giving that power to a private contractor.

Larkin said that in section C1 under “Setbacks” there is a confusing word “as shown”. Markon responded that “as described” is better. Larkin continued by saying that the diagram adds clarity to the document. Larkin thought it should be included with the code. Markon said that the diagram will be included in the code packet, but not in the code itself. Larkin said that he understood that the diagram would be in promotional literature, but couldn’t be in the code itself.

Larkin said that he sees that a few sections got moved because of edits. Markon said “yes” some sections were moved. He described the moved sections in detail.

Gustafson mentioned his original understanding of the plants being cut to 10 inches has now been clarified. Larkin said he wonders if we need the earliest first date for cutting. Markon said that he thinks that if at some point during the Summer the plants are cut back, the City would be agreeable with that. The rule was made to avoid some of the unruliness in vegetation. Markon and Gustafson discussed the rule in greater detail.

Williams asked if we have a City Forester? Who is that? Markon answered Andy Hovland from Birch and Bow is the contract Forester.

Koltenicki said he wanted to thank the Environment Commission, but he also wanted to reiterate that he was still concerned about the vacant lot zero setback rule for the future. Koltenicki asked if the City has a 2 foot utility easement? Is that the reason for the setback? Markon said the utility easement for anything that is new is 5 feet. Markon said when the City Attorney looked at it, the requirement was to add only the phrase “because of utilities that need to be worked on” to the code.

Larkin said that he agrees with Koltenicki on the vacant lot, zero setback issue and he thinks the natural area needs to be defined. Larkin said he is a little reluctant for the Commission to recommend that the ordinance go forward without revisiting these few issues. The Commission could recommend that it go back to the Staff for edits and then go to Council. Gustafson said that these are minor issues, but important issues and that the Commission could make recommendations with caveats prior to going to the Council. The Council will make sure that the caveats are done properly. Markon said the Commission could recommend to strike them all together. Markon said he hasn’t done research, but he doesn’t disagree with taking them all out. Koltenicki asked if Mathwig had any perspective from the Environment Commission on the vacant lot or natural area description issues. Mathwig said the discussions he remembers were regarding fences or natural areas like parks or wetlands that abut a homeowner’s property and that there is no reason for a home owner have to arbitrarily cut a two foot swath at their property line. If a lot becomes no longer vacant, it wouldn’t be too much to take a weed whipper to those two feet. Koltenicki said there is a potential for conflict asking a neighbor to cut down plants along the property line. Mathwig said if it is not vacant anymore than it

would adhere to the current rules. If a new property owner to a formally vacant lot came in, and if they had issue with the planting, there would be a definition to refer to. For a natural area, there are parks and wetlands. Larkin said in number 4 the natural areas are already defined as wetlands, pond, lake or stream. Mathwig said Nick Olson from the Environment Commission was the point person on water-related topics. Mathwig said we would probably need to ask him. Olson may not have had a specific case in mind. Koltenicki said he would like to ask everyone in the room if they could think of a natural area that isn't currently on the list for Falcon Heights. Wilson said that there is a natural area in University Grove by the Bell Museum that is University of Minnesota property that does not qualify for any of the natural area descriptions. Markon said the University farm fields along Snelling and a forested area is more natural area. Koltenicki asked Markon if the vacant lot issue, would that be legally nonconforming? Markon said that it would fall under legally non-conforming. Koltenicki said he thinks we should strike vacant lot, and said, when asked by Larkin, that we should keep natural as an area description. The farm fields would be considered open space.

Larkin said that what he is hearing that the Commission is going to scratch item B3 (vacant lot). Larkin asked if all were in agreement. All said "Aye". Larkin also said there was agreement to keep item B5, natural area. The last thing is the dates for the plant cutbacks. Koltenicki said it should be left to plant owners to know best. He liked the idea that there is a reason for May 1st but taking the date back to April 15th would be fine as well. He said that plant owners know what to do with their own plants. Larkin asked what helps the City enforce this, is it the dates or the 10 inches? Markon said he thought both the dates and the cut-back will help but especially getting towards the back end of the dates if things haven't been maintained to the 10 inches along with having the window of dates. If homeowners are being careless, both the cutback and the dates come into place. Shifting the first date back to April 15th would be just fine. July 15th is also a good closing date. Larkin asked if we are all in agreement to change the beginning date back to April 15th. All said "Aye". Larkin said that the only other thing was changing the word "shown". Markon said "yes". Williams asked about adding the words "public" or "private" in the sections regarding the trimming of trees, as had been discussed earlier. Markon said that he has made a note to specify that we are talking about "private" trees in D4. Larkin asked if we have a motion to approve the ordinance with the changes that we have agreed to. Wilson responded that he would move to approve the ordinance with the changes as the Commission agreed to. Larkin asked if there are any additional comments or objections. **Larkin, not hearing any response, said that we will consider the ordinance recommendation to the City Council to be approved by the Planning Commission.**

E. AGENDA

1. Election of Officers for 2020

Chair Larkin announced the next agenda item to be the election of officials. With a brief discussion of Larkin once again taking the Chair, and Larkin agreeing to do so, Larkin asked if Wilson would be willing to take the Vice Chair position. Wilson said he would be open to it. The conversation moved to the selection of the Secretary position. Williams agreed to take this position for another year. Larkin asked if the Commission was all in agreement. With no comment, Larkin announced the election of officers for another year of:

John Larkin – Chair

Scott Wilson – Vice Chair

Tom Williams - Secretary

2. Approval of Standing Rules

Larkin asked if everyone had a chance to read the Standing Rules and asked for a reminder on what was changed from last year. Markon said that what was recommended to be changed were the ending times of the public hearing and regular meetings to 8:30 and 9:00 respectively. Wilson said he noticed the regular meeting at 9:00, will end at that time, “unless by unanimous vote”, and recommends that the public hearings that end at 8:30 (see section 9. under Public Hearings) would say the same. The Commission members agreed that it is a reasonable change to the Standing Rules to add the phrase to the 8:30 public hearings ending time: “unless by unanimous vote”.

Williams asked about the continued reference in the Standing Rules document that a motion does not require a “second”, but frequently a “second” is requested or given. It was decided that the language could remain as it is currently written in the Standing Rules, and that a “second” could be or would not have to be used following a motion. Larkin and Markon agreed that the Commission does not need to approve the change made by Wilson to the added language regarding public hearings, only that the change is represented in the minutes and will be reviewed.

F. INFORMATION AND ANNOUNCEMENTS

1. 2020 Planning Schedule

Staff Liason Markon provided the following announcement:

- There will be no Planning Commission meeting that takes place on February 25 due to a caucus meetings that will be taking place at the same date and time. Markon said there are no current planning applications and no agenda items except the outstanding vacant homes discussion. This discussion can wait for the March meeting. However, Markon said that a special meeting of the Planning Commission could be called if needed. Further discussion of the Planning Commission dates in 2020 took place.

Council Liaison Gustafson provided the following announcements:

- Breakfast With The Council – Saturday, March 21st
- Human Rights Day makeup event – Talking about food scarcity and children with activities for the kids. City Council meetings have begun to develop a strategic plan.
- New City website – check it out!

Staff Liaison Markon also provided the following announcement:

- Buhl and the Amber Union project missed the cut from Metropolitan Council for \$1,000,000 for an asbestos remediation grant. They did get some grant money from State DEED and Ramsey County. Everything is on hold for now to in order to reapply at Metropolitan Council and to get the largest financial piece of the project in order.

G. ADJOURN

Adjourned at 8:25 PM.