

MINUTES
EVANS CITY COUNCIL
Regular Meeting
January 7, 2014 - 7:30 p.m.

CALL TO ORDER

The meeting started at 7:33 p.m.

PLEDGE

ROLL CALL

Present: Mayor Lyle Achziger, Mayor Pro-Tem John Morris, Council Members Laura Brown, Mark Clark, April Neibauer, Brian Rudy, and Jay Schaffer.

APPOINTMENTS

A. Flood Task Force Appointments

Mayor Achziger discussed the importance of the Evans Flood Task Force and distributed certificates to the members appointed to the Task Force.

Council Member Rudy made the motion, seconded by Mayor Pro-Tem Morris, to approve the appointments to the Flood Task Force. The motion passed with all voting in favor thereof.

AUDIENCE PARTICIPATION

There was no audience participation

APPROVAL OF AGENDA

Raegan Robb, Evans City Clerk, explained the need to strike a resolution concerning a mail ballot election from the consent agenda.

Council Member Schaffer made the motion, seconded by Council Member Brown, to approve the agenda, as amended. The motion passed with all voting in favor thereof.

CONSENT AGENDA

- A. Approval of Minutes of the Regular Meeting of December 17, 2013
- B. Resolution No. 01-2014 – Designation of Public Place for the Posting of Notices of Public Meetings
- C. ~~Resolution No. 02-2014 – Authorizing the Conduct of a Mail Ballot Election for the Regular Municipal Election scheduled for April 8, 2014~~
- D. Ordinance No. 582-13 — Penalties for Failure to Pay Administrative Citations (2nd Reading)
- E. Ordinance No. 585-13 – Police Towing (2nd Reading)

Council Member Schaffer made the motion, seconded by Council Member Clark, to approve the Consent Agenda, as amended. The motion passed with all voting in favor thereof.

OLD BUSINESS

A. Public Hearing – Ordinance No. 579-13 Chapter 16.04 Evans Municipal Code — Flood Damage Prevention (2nd Reading)

Mayor Achziger reopened the hearing at 7:42 p.m.

Zach Ratkai, Evans Building and Development Manager, discussed the progression of the Ordinance and talked about the definitions of 100-year and 500-year flood plain, flood fringe, and floodway. He discussed the history of development within the flood plain in the City of Evans, and explained how the Ordinance will still allow for development in the flood fringe area under the new regulations established by the Ordinance.

Mr. Ratkai talked about the need for the Ordinance in response to the 2013 Evans Flood Event. He also explained that the adoption of a new flood plain map fulfills a requirement from the State Water Board. Mr. Ratkai also talked about the public process of considering the new development standards established by the Ordinance and provided a specific overview of options that were considered by staff, including future impacts on future development by the Ordinance. He also spoke about the public meetings where the Ordinance had been debated, and explained that Ordinance 579-13 was the less-restrictive options that were considered.

Mr. Ratkai talked about the base flood elevation (BFE) in the flood plain and the need for some areas to be raised in order for development above the flood elevation in the flood plain. He also talked about the building requirements for manufactured homes to be built above the BFE and the need for modular homes to have a permanent foundation. He also talked about his recommendations to raise the BFE in the flood fringe to 36” and to require a super majority vote for variance requests within the fringe flood plain.

Mayor Achziger asked about the decision to double the height of the flood fringe from 18” to 36”.

Mr. Ratkai discussed the process for reaching this recommendation.

Mayor Pro-Tem Morris asked about the super majority requirements for the Evans Planning Commission and City Council in order to approve a variance request in the flood fringe area.

Mr. Scott Krob, City Attorney, discussed the consideration for the super majority for a variance within the flood fringe area and provided reasons why the requirements may need to be a super majority.

The City Council Members discussed the recommendation for a super majority.

Mr. Krob suggested a super majority of the members present. He continued to discuss the super majority issue with Mayor Pro-Tem Morris.

Mr. Krob also discussed the recommendation to raise the 18" foundation to 36" above the flood fringe and requiring permanent foundations for modular homes.

Mayor asked for public comment on the Ordinance. The following individuals testified on the Ordinance:

John Crews, from 221 West 57th Street, Loveland, asked for clarification concerning modular homes not on a foundation in Weld County. Mr. Crews felt that requiring modular homes to be placed on a permanent foundation would require them to be taxed by the County Assessor, instead of simply being regulated by the State Motor Vehicle Division

Mr. Krob said that we would investigate the issue of property tax requirements for modular homes with permanent foundations.

Mr. Lynn Stern, from 118 Summit Street, addressed City Council and asked about which areas in the City would be impacted by the Ordinance and flood plain maps that outline the "flood fringe" and 100 year and 500-year flood plain.

Mr. Ratkai explained how the flood plain is adopted through the flood map according to the requirements of the Federal Emergency Management Agency (FEMA), and talked about the definition of flood fringe and floodway.

Mr. Stern explained that he had concerns about raising the elevation for development in that area.

Mr. Dennis Shultz, owner of 114 37th Street in Evans, explained that the Ordinance should not impact development for industrial buildings, such as metal buildings, which may be able to sustain flood damage better than residences.

Mr. Ratkai explained that industrial development would be allowed under the Ordinance if the regulations are satisfied for industrial development.

Mr. Krob discussed the different regulations for homes, modular homes, and industrial businesses under Section 16.040.200.

The Mayor suggested leaving the elevation for industrial development at 18” above the flood fringe.

Michael Sanders, from 1612 39th Street, Evans, asked about the flood map presented by staff, which displayed the flood fringe areas covered by the Ordinance in relation to homes that were damaged or destroyed in the flood disaster.

Mr. Ratkai explained that residential homes that survived the flood would remain at their current elevation, unless more than 50 percent of the home was destroyed, then the homeowner would be held to the new requirements of the Ordinance.

Mr. Michael Sanders, asked about homes marked by FEMA.

Mr. Ratkai explained that FEMA marked homes that had been fully evacuated or uninhabitable.

Mr. Michael Sanders asked about the modular homes that were considered uninhabitable after the flood.

Mr. Ratkai explained that 208 homes modular homes that were defined as uninhabitable and could not be salvaged.

Mr. Sanders asked about past meetings where the language for the flood plain was discussed.

Mayor Achziger explained the public meetings that were held to discuss the regulations within the flood plain area.

Mr. Rob Sexton, Evans resident, addressed City Council and talked about the adoption of City ordinances infringing on the rights of citizens. Mr. Sexton warned the City Council to not to take away the freedom of America.

Mayor Achziger thanked Mr. Sexton for his comments.

Council Member Clark asked for clarifications concerning the changes to the Ordinance concerning the super-majority requirement, the standard for industrial and residential development.

Mr. Krob clarified the suggested changes to the Ordinance.

At 8:26 p.m. Mayor Achziger closed the public hearing.

Mayor Pro-Tem Morris discussed his support for the less restrictive Ordinance, which still

allows development in the flood fringe areas under the new requirements. He spoke about the Flood Disaster of 2013 and the importance to balance property rights and human safety through the adoption of the Ordinance.

Council Member Clark agreed with Mayor Pro-Tem Morris and discussed his support for the Ordinance.

Mayor Achziger also discussed his support for the Ordinance. He talked about the Flood Disaster of 2013 and the importance to protect citizens living in the flood plain area. He talked about the role of City Council regarding representative government, and explained that the Ordinance was a compromise between property rights and protecting citizens living in areas prone to flooding.

Mayor Achziger talked about the work completed by staff to reach a compromise for development and safety with the Ordinance.

Mark Clark made the motion, seconded by Mayor Pro-Tem Morris, to adopt the Ordinance with the following language amended:

- Section 16.040.170.J.ii.d. has been revised to indicate that the supermajority required to approve variances is 75% of the positions filled on the BZA and City Council at the time the matter is considered;
- Sections 16.040.200.A. and D. have been revised to require that all residential structures, including manufactured homes, be elevated 36 inches rather than 18 inches; and
- Section 16.040.200.E. has been revised to correct a typo that referred to paragraph (4), when the reference should be to paragraph (D).

The motion passed with all voting in favor thereof.

NEW BUSINESS

A. Public Hearing — Resolution No. 44-2013 – Approving the Historic Evans Urban Renewal Plan and Finding that the Plan Area is a Blighted Area, Designating Such Area as Appropriate for an Urban Renewal Project Pursuant State Statute, and Finding that the Acquisition, Clearance, Rehabilitation, Conservation, Development, Redevelopment, Or A Combination Thereof of Such Area is Necessary in the Interest of the Public Health, Safety, Morals, and Welfare of the Citizens of the City of Evans. (CONTINUED FROM DECEMBER 17, 2013)

Mayor Achziger reopened the hearing at 8:35 p.m.

Sheryl Trent, Community and Economic Development Director, introduced Mr. Malcolm Murray, from Murray Dahl Kuechenmeister & Renaud LLP, who talked about the appointed Flood Task Force, the role of the Task Force to work on determining a Urban Renewal Plan in the flooded area. Ms. Trent talked about the areas damaged by the 2013 Evans Flood Disaster, including the damage the berm, loss of sales and property tax revenue, and the estimated \$40 million in damages to the City of Evans.

Mr. Murray talked about the adoption of the Urban Renewal Plan by City Council in 2013 and the differences concerning the findings of blight, which allows a URA to designate an area as blighted following the event of a natural disaster which required a disaster declaration. He explained that after a disaster, an entity may deem an area as blighted. He explained the purpose of the plan, and powers of urban renewal, which would allow the City to acquire property for public uses, redevelopment, and allows for the use of tax incremental financing (TIF) for redevelopment.

Mr. Murray talked about the process for the redevelopment under the authority of the Evans Redevelopment Agency, and explained that the Resolution provides the authority to designate the area as blighted.

Mayor Achziger asked about relocating businesses and residences from that area.

Mr. Murray discussed state law which requires relocation benefits if an URA entity seizes a business or residence, pursuant to federal relocation benefits.

Mayor Achziger asked about a business or home that wants to be relocated.

Mr. Murray explained that state law covers businesses homes that must be relocated for a redevelopment project.

Mayor Achziger asked for public comment.

There was no public comment.

The Mayor closed the public hearing at 8:48 p.m.

Mayor Pro-Tem discussed the tools of urban renewal and talked about the tax increment financing (TIF) tools, which allows an entity to fund improvements

in urban renewal areas. He discussed his support for TIF and for the urban renewal in the area covered by the Resolution.

Mayor Achziger discussed his support for the Resolution and the creation of the urban renewal area for areas damaged by the 2013 Flood Disaster.

Mayor Pro-Tem Morris made the motion, seconded by Council Member Clark, to adopt the Resolution. The motion passed with all voting in favor thereof.

B. Resolution No. 02-2014 – Adoption of the May 31, 2013 FEMA FIRM (Flood Insurance Rate Map)

Mr. Ratkai discussed the need to adopt the May 31, 2013 FEMA flood plain maps and stated that the Resolution adopts the federal flood regulations by Reference.

Mayor Pro-Tem asked about what the adoption of the Resolution accomplishes.

Mr. Ratkai, explained the need to adopt the May 31, 2013 for the purpose of flood insurance within the flood plain areas.

Council Member Clark made the motion, seconded by Council Member Rudy, to adopt the Resolution. The motion passed with all voting in favor thereof.

REPORTS

A. City Manager

Aden Hogan, Evans City Manager, talked about the upcoming meeting with Weld County Governmental Agencies hosted by the City of Evans on Thursday, January 16th; He also informed City Council about the upcoming legislative session and the CML legislative workshop at the State Capitol on February 13, 2014. He also talked about the filming project being organized by the City to collect the images September 2013 Flood Disaster into a video production.

B. City Attorney

The City Attorney, Scott Krob provided an update regarding East Wood Village, and the request for for a declaratory judgment in district court to force the owners to perform debris removal in Eastwood Village.

AUDIENCE PARTICIPATION

Mayor asked about additional appointments to the Flood Task Force.

Sheryl Trent explained that other members maybe be appointed to the Task Force.

Yvonne Gonzales, a resident of Riverside Parkway, addressed City Council and asked about repairs to the river to prepare for Spring runoff.

Ms. Trent explained that there would be a full flood update at the next City Council meeting on January 21st. She also talked about repairs to the river and the efforts by the City to protect the flooded areas from flood damage during the Spring runoff.

Mr. Bernie, from Evans asked City Council about the roll-offs in the flood area and his concerns about the need to continue to remove trash from the flood damaged areas.

Ms. Trent explained that staff could get ahold of Mr. Bernie to discuss debris removal from his home.

ADJOURNMENT

The City Council Meeting adjourned at 9:02 p.m.