

**Meeting Minutes**  
**Waverly Municipal Planning Commission**  
**Regular Meeting**  
**July 12, 2005**  
**Waverly Municipal Building**

The Meeting was called to order by Chairman Perry at 2:10 p.m. with Commissioners: Jeff Allen, and Barbara Early present. Mayor Kelly arrived late as was announced prior to the meeting. Commissioner Corwin arrived at approximately 2:30. Mr. Davis the Community/Economic Development Director was also present in order to present material needed for the Agenda. There was no audience participation.

Chairman Perry asked the Commission if everyone had received the June 14, 2005 Meeting Minutes prior to today's meeting. He also asked if everyone had received ample time to review the minutes. With no revisions, additions or deletions being recommended, a motion was requested to approve the June 14<sup>th</sup>, 2005 Meeting Minutes. **A motion was made to approve the June 14<sup>th</sup>, 2005 minutes by Commissioner Early, the motion was seconded by Commissioner Allen. Roll Call: All Aye.**

Chairman Perry referred the Commission to the Agenda. Commissioner Perry stated that the meeting today consisted of reviewing Sections V-X of the proposed Comprehensive Development Plan Text. Chairman Perry reminded everyone that Sections I –IV had been reviewed during the previous June 14<sup>th</sup> meeting. With that Chairman Perry turned the meeting over to Mr. Davis.

Mr. Davis thanked Chairman Perry and announced that he would read through each section separately then allow the Chairman and the Commission to make comments on possible deletions, revisions or additions to the text. Mr. Davis then read in its entirety, Section V of the Draft Comprehensive Development Plan Text entitled "General Provisions". After Mr. Davis read Section V aloud Chairman Perry asked the Commission if there was any discussion. Hearing none, Chairman Perry requested Mr. Davis to read Section VI.

Mr. Davis announced the title of Section VI as "Implementation of the Plan". Mr. Davis read Section VI in its entirety aloud. After Mr. Davis read Section VI aloud Chairman Perry asked the Commission if there was any discussion. Hearing none, Chairman Perry requested Mr. Davis to read Section VII.

Mr. Davis announced the title of Section VII as "Zoning". Mr. Davis read Section VII in its entirety aloud. After Mr. Davis read Section VII aloud Chairman Perry asked the Commission if there was any discussion. Commissioner Corwin inquired about the intent of Section VII in relationship to the Plan. Mr. Davis answered by saying that Section VII was simply an explanation of Zoning as one of the five components of the overall plan and how it was needed in order to make the plan work. Chairman Perry asked if there would be any consideration in the Zoning Code for dealing with nonconforming uses that have been grandfathered in at the time of the Zoning Code being adopted. Mr. Davis stated that all Zoning Ordinances have a section dealing with nonconforming uses and that the section in Waverly's Code could be as stringent or as un-stringent as the Planning Commission and City Council so choose. Mr. Davis went on to explain that some City's have gone as far as placing a time deadline on all nonconforming uses to be removed while others have been much more tolerant towards non-conforming use. Commissioner Corwin then referred the Commission to subsection

b of Section VII which described areas that the Zoning Code would regulate. Commissioner Corwin stated that the subsection needed a clause that would generalize the areas to be regulated and not specify them because this could lead to legal implications later on which would jeopardize the strength of the Zoning Ordinance. After further discussion, Section VII, subsection b was rephrased to say the following:

*Zoning involves the allocating of all land in the community to districts or zones of different categories. It also regulates, district by district, certain aspects of the property, such as but not limited to, the use of property, setback requirements, height and size of buildings. It is the principal instrument for implementing that part of the Comprehensive Development Plan concerned with the use of private lands, as distinguished from that part which is concerned with public spaces and facilities.*

Chairman Perry then directed Mr. Davis to read aloud Section VIII. Mr. Davis announced the title of Section VIII as “Zoning Administration”. After Mr. Davis read Section VIII aloud Chairman Perry asked the Commission if there was any discussion. After much discussion Section VIII subsection e was rephrased to say the following:

*The City Planning Commission is to apply the zoning ordinance, as adopted, with adjustments for exceptional situations as provided. These adjustments must be consistent with the zoning regulations as set forth in the ordinance.*

Commissioner Corwin then suggested a revision to Section VIII, subsection f based on the dislike of the term “bad zoning”. After much discussion Section VIII, subsection f was rephrased to say the following:

*The Planning Commission has the authority to hear and determine each case which falls within its jurisdiction as defined in the zoning ordinance. But in its decision, it must assume the correctness of every part of the zoning ordinance, including the zoning map, and restrict itself to the field of adjustment, administration, and interpretation. Changing the zoning to fit each and every request for variance is not within its province.*

Commissioner Corwin then suggested the deletion of Section VIII, subsection g based on the reasoning that the language in the subsection could bring harm to the Plan in the future if challenged. After much discussion, the following former subsection g was deleted entirely:

*If the Planning Commission takes its task too lightly, interprets its discretionary powers to liberally and thereby encroaches on the province of the Mayor and City Council, it can badly impair, if not destroy the effectiveness of the zoning code, antagonize the Mayor and Council, and break down public respect and support for zoning directly as well as through adverse court decisions. If the Commission interprets the code too rigidly and refuses to extend relief in specific cases to the extent it is authorized to do so it will accumulate resentment, invite judicial disapproval on the grounds of unreasonableness, and fail to build up and maintain necessary public support. In performing its functions, sound policies and practices by the Commissioner are of vital importance.*

The Commission as a whole questioned the organization of subsections h, h1, h2, h3, i and j. After much discussion the Commission reduced the scope of this section and subsections based on the reasoning that an element of redundancy needed to be addressed. The Commission decided to reduce the above mentioned subsections to the following as the new subsections g and h and i respectively:

*Interpretation of the zoning ordinance by the Planning Commission is necessary when the Zoning Administrator is uncertain as to either the correct interpretation of a specific provision of the code or the precise location on the ground of a zoning district boundary as shown on the zoning map.*

*A condition which justifies a variance must be that of the individual lot and not a condition due to those aspects of the regulations or districting which affect other properties not possessing the exceptional characteristics from which the condition ensues. The zoning ordinance specifically lists the conditions under which a variance may be granted, and the decision must be based upon a finding of facts.*

*If a request for variance arises out of a condition common to the neighborhood or to other lots similarly situated, but not having the peculiar characteristics of the lot in question, then the need may require amending the zoning ordinance. This is a legislative function.*

Chairman Perry requested Mr. Davis to move on to Section IX. Mr. Davis announced the title of Section IX as "Subdivision Control". Mr. Davis read aloud in its entirety the contents of Section IX. Chairman Perry asked if there was any discussion related to the contents of Section IX. Hearing none Chairman Perry directed Mr. Davis to read Section X. Mr. Davis announced the title of Section X as "Public Improvements". Mr. Davis read aloud Section X in its entirety. Chairman Perry asked if there was any discussion related to Section X. Hearing none Chairman Perry announced that at the next meeting on August 9<sup>th</sup> the Comprehensive Development Plan Text would be placed on the Agenda as "Old Business" and would be scheduled to be accepted by the Commission. Mr. Davis was directed by the Commission to email the revised text to the Commissioners prior to the August 9<sup>th</sup> meeting so a final review could be made by all the Commissioners prior to the next meeting. With no Audience Participation present, Chairman Perry requested a motion to adjourn the meeting. **Commissioner Corwin made a motion to adjourn. The Motion was seconded by Commissioner Early. Roll Call: All Aye.** The meeting was adjourned at 4 p.m.

*\*Note\* these minutes were dictated from an audio tape recording of the original meeting.*