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MINUTES

LOUDON REGIONAL PLANNING COMMISSION

October 2, 2013

The October meeting of the Loudon Regional Planning Commission was called to order at 12:30 p.m. Present were Mr. Carey, Mr. McEachern, Mr. Gammons, Mr. Cardwell, and Ms. Roberts. Absent were Mr. Brewster, Mr. Brennan, Ms. Hines, and Ms. Jones.

The minutes for the September 4, 2013 meeting were approved.

Agenda Item A: Review and discuss zoning ordinance amendments for crematories, funeral establishments and columbarium's. Staff

Mr. Newman introduced Mr. Travis Gray, the new code enforcer for the City of Loudon who is replacing Rondel Branam.

Mr. Newman referred to the 2-page draft of the amendment to the zoning ordinance that had been reviewed at last month's meeting. He stated that he had made one modification to the draft. He said that there were some questions that had come up during the discussion about what were the State regulations and requirements. He referred to the handout that was passed out on what the State would look at in permitting cremator. He went over the handouts. He stated that the first handout was a letter from the EPA to Congressman Dennis Kucinich. He said that the second handout was a response from TDEC, the State department that would regulate in permitting cremators, responding to questions from a resident in the community of Medina, TN. He stated that the third handout was a copy of a permit they issue to an operator once the permit is approved.

He said that Congressman Kucinich was chairman of a committee that inquired about issues relating to vaporized mercury that is generated in the operation of crematories. He stated that the first 2 pages from the EPA response were based on the problem of mercury in the USA and all over the world. He said that the EPA stated that due to the limited data that was available, the study done indicated that the vaporized mercury was not a serious issue. He stated that at this time there are no State or Federal regulations that restrict mercury emissions in crematories. He said that since the EPA classifies that the human body is not solid waste, they say that human crematories were not solid waste incinerators; therefore they could not regulate them under the Clean Air Act Section 129.

Mr. McEachern referred to Page 3 on the EPA response that they said it amounted to 1% of the mercury that gets into the air from cremations. He stated that was one of the reasons they did not explore it any further. He said that he understood EPA was saying that by the time they receive more data, amalgam would be obsolete.

Ms. Roberts stated that the information she had read online was that amalgam was declining, but then it would peak for the next several years due to the baby boomers.

Mr. Newman reviewed the response from TDEC to a resident asking specific questions about a proposed crematory located in Medina, Tennessee. He read the questions and the highlight to the responses of TDEC. He stated that in TDEC's 3rd response to the question asked, they said they had no authority on the location for a crematory. He said that the location would be met through requirements from the local government. He stated that TDEC responded frequently that due to the low amount of mercury emitted, they did not monitor the emissions.

Mr. Newman went over the actual permit that TDEC issues to a crematory after approval. He stated that in the "Conditions" section, it states that if the operator leaves the organization, they need to notify TDEC and if there is a new operator. He said that TDEC required the operator to maintain a log that documents every operation of the cremation unit.

Mr. Newman stated that the only change he had made to the amendment draft after the review last month was to add 1400° temperature to the definition of cremation. He said this was within the range the State required.

Mr. Carey asked if there was someone else beside TDEC and the funeral home people that would be licensing or looking into this.

Mr. Newman said that he was not aware of anyone else.

Mr. Gammons stated that he felt like they would be regulated very well.

Mr. Cardwell asked if the proposed regulations stated where the crematories could be sited.

Mr. Newman said that the proposed regulations did not state where the crematories could be. He stated that had not been included yet. He said this needed to be discussed further. He stated that the way the proposed regulation was written, you can assume that the intent was to allow an existing funeral home to have a cremator unit if it can meet the standards. He said that existing funeral homes in Loudon City were in the C-2/C-1 zone. He stated that if the amendment was approved, these 2 zonings would allow them, otherwise some of the standards would need to be changed.

Mr. McEachern asked if multiple cremation facilities would be folded with single cremation facilities.

Mr. Newman stated that there was not a decision made on that.

Mr. McEachern said that he felt like it was 2 different things.

Mr. Newman stated that if there was a difference, they needed to have a different definition or address it in the definitions.

Mr. Cardwell asked if there was a decision made on what type of service this was whether this was a professional service or a personal service. He said this would lead to where it could be located. He asked if it would be done by definition or by specific location.

Mr. Newman said that in the definition of a funeral establishment, they included a facility for cremation was a part of the funeral establishment.

Mr. Cardwell stated that this was not listed as a use in the ordinance.

Mr. Newman said that it would be a new use added to whatever zoning district they decided.

Mr. Cardwell stated that it needed to be specified. He said that if it wasn't specified, the national definitions identify it as a personal service. He stated that it would then allow crematories in certain areas that may be unintended. He recommended stating it both as a funeral establishment and whatever definition or term to have as multiple retorts.

Mr. McEachern said that there needed to be a definition that one doesn't have a retort. He stated that this would not place the burden of a retort on everybody that is in the funeral business.

Mr. Newman stated that currently the definition of a funeral establishment lists that as a service that can be included. He said that a retort did not have to be included.

Mr. Cardwell asked if someone owned a funeral establishment and did not have a retort, did they still have to be 1000 feet from the edge of the building to the closest residential property. He said what could happen is they may add the retort later.

Mr. McEachern said that the owner should have an option to have a retort, not to have a retort, or plan to get a retort later.

Mr. Newman stated that what he had intended for the development of crematories to be written was just for crematories and not related to a funeral establishment. He said that if a funeral establishment did want to have a crematory, the crematory regulations would apply.

Mr. Cardwell said that they needed to be careful. He stated that the State Supreme Court said that a funeral establishment does include a crematory.

Mr. Newman said that if these standards were adopted, the adopted standards would be for when a crematory could be included in the particular building if it didn't meet those standards.

Mr. McEachern stated that it was zoning and ordinances were what the State says. He said that if a funeral established did not have a crematory at the beginning and then decided they wanted one, they would have to relocate.

Mr. Cardwell said that there were court cases that the zoning said they couldn't have a crematory, but when they went to the State Supreme Court, they were allowed to have one. He referred to the Goodlettsville case. He asked if the proposed standards would apply to all future owners and is it transferable. He stated that the standards needed to be written so they can be enforced later. He said that the Goodlettsville case tried to zone out the crematory for an existing funeral home wanted to add. He stated that the State Supreme Court overruled it.

Mr. McEachern said that the reason they overruled the case was they didn't provide a place for a crematory.

Mr. Cardwell stated that the State defines crematory services are part of a funeral establishment.

Mr. McEachern asked if the precedent had been set, why were they going forward.

Mr. Newman suggested looking at the Goodlettsville case again.

Ms. Kimberly Roberts had to leave the meeting at this time.

Mr. Carey asked how the Commission could be careful.

Mr. Cardwell said, in his opinion, the Commission had to zone for the maximum use of the facility. He stated that it would be hard to zone for the minimum, and they came back wanting to add another feature.

Mr. Newman stated that he would get everyone a copy of the case. He said that the decision the State Supreme Court reached was based on the facts presented in the case. He stated that if there were some difference, this would give the Commission some guidance in what direction to go in. He said that Lenoir City made some changes to their regulations. He stated they made an amendment to allow a crematory in the M-2 zone.

Ms. Pat Hunter, a Loudon County resident, passed out what Knoxville had apparently adopted that was on their website.

Mr. Newman said that he has looked at the proposed amendment several months ago.

Ms. Hunter stated that Knoxville's specifically says that a funeral establishment should be limited to one-single unit cremator designed to cremate the remains one deceased person at a time with two chambers. She read that one chamber in which the cremation takes place and a secondary chamber to control air emissions. She said that they limit the floor space (33%) for a funeral establishment to dedicate for cremations.

Mr. Newman said that the purpose for limiting the floor area for cremations was so the facility would not be doing just cremations.

Ms. Hunter stated that Knoxville's measurement was from the nearest property line to an existing school, park, daycare center, or residence. She said she didn't know how the State Supreme Court would rule on that. She stated that, in her opinion, Knoxville had really tightened up on how it can be done.

Mr. Jimmy Park, City Councilman, asked since the State Supreme Court says that a funeral establishment can have a crematory, was it just for their business or could they bring bodies transported in from everywhere.

Mr. Cardwell said that he didn't think that was addressed in the Goodlettsville case.

Mr. Carey stated that this needed to be addressed when they make the regulations.

Mr. Cardwell said that the committee had thought about it, but they didn't know how to phrase it. He stated he agreed that it didn't need to be a regional function.

Mr. Newman stated that part of the logic behind defining a cremation facility is a building only operating one crematory.

Ms. Barbara Lomax, a Loudon City resident, asked how the Commission could regulate a funeral establishment from taking in other bodies from other counties.

Mr. McEachern said he didn't think it could be regulated.

Ms. Lomax stated that she didn't think there needed to be a crematory in the City of Loudon.

Mr. Lomax said that when he talked with the other business owners, they were concerned that the crematory would kill the business in the business district.

Mr. Carey stated that he had not heard of this.

Ms. Lomax said they had a petition against the crematory in the City with over 500 signatures. She stated that their issues were not with cremation, but it was the issue with of location. She said that she thought a crematory needed to be in Lenoir City in a highly industrial area and not in the local business district or residential areas.

Mr. Gammons stated that things had changed over many years.

Mr. Carey said that other than the 20-25 people that have come to the meetings, he was not aware of any objections. He asked what the main objections were of the crematory.

Ms. Lomax stated that the people were concerned with air quality with the mercury emissions. She said that this crematory could hurt any expansion of Hwy. 72. She stated that the people were concerned about their hometown and what goes on.

Mr. Lomax said that the people were primarily concerned with the pollution.

Mr. Carey stated that the pollution had been minimized.

Mr. Newman said that he needed guidance in what to do next. He stated that the Goodlettsville case needed to be reviewed to see if the proposed draft had any specific issues that might need to be modified based on that decision.

Mr. Cardwell stated that it was all about the location. He said that the City could not zone out a legal business. He stated that a location had to be found for a crematory.

Mr. Carey said that the consensus from the discussion within the Commission was a crematory needed to be in a M-1 or M-2 zone.

Mr. McEachern stated that he thought the City Council needed to go ahead and put the crematory use in a M-1 or M-2 zone now. He said this wouldn't solve the problem, but it would give the Commission time to work on the amendment to the zoning ordinance with standards. He stated that the Commission could make a recommendation to City Council to do this, but there was not a quorum.

Ms. Ailene Longmire, a resident in Loudon County, said she knew that the County Court has said that the county can set regulations as long as it was for the health, safety, and welfare of the citizens.


Mr. Cardwell stated that the Commission had requested a study by the Loudon County Air Quality. He said they were having trouble having enough members to come to the meetings to even have a meeting to discuss the situation.

Mr. Newman asked if the Commission wanted to put this subject back on the agenda next month and review the Goodlettsville case.

Additional Public Comment: There were none.

Announcements and/or Comments from the Board/Commission: There were none.

Mr. Cardwell made the motion to adjourn. Meeting was adjourned at approximately 2:10 p.m.


Signed


Date