

Approved minutes 10.11.18



**MINUTES  
PLANNING COMMISSION  
City Hall – Bel Aire, Kansas  
September 13, 2018**



The meeting of the Bel Aire Planning Commission was called to order at 6:00 pm by James Schmidt

**Members Present:** James Schmidt, David Floyd, Phillip Jordan, Dee Roths, and John Charleston

**Members Absent:** two seats not filled.

**Others Present:** Keith Price, Zoning Administrator; City Attorney, Jacqueline Kelly.

**Pledge of Allegiance:** Led by James Schmidt

David Floyd begins with discussion of August 16, 2018 meeting after making a motion to approve the minutes and asking for discussion,  
SD/18-02 Rezone a C-1 Zoning District to an R-5 Zoning District;  
Lot 7, Block B in Aurora Park Addition

David Floyd: I just wanted to make sure everybody knew the final outcome. Now let me think about this, the set-back vacation was voted to as we recommended. The vacation, thirty-five feet (35'), yeah, forty feet (40'). That's what we ended up at, right? Just a vacation of ten feet (10'), forty feet (40') and they went ahead with that, council did.

Phillip Jordan: It almost didn't go forward. I think there was some confusion with Mr. Benage or something and he actually made a motion to deny, as I recall, and then there was some clarification. Then that motion failed and somebody else made a motion to take it to forty feet (40'), and then that passed. So, it was kind of interesting.

David Floyd: That's all good. Thank you.

James Schmidt: I wasn't here for that meeting. I was out in Western Kansas dealing family issues. And, so I was here for the council meeting and those people fired off a bunch of garbage, as far as I'm concerned, and I didn't appreciate it. They didn't say a whole lot of good things about you guys, especially Mr. Floyd. I stood up and I just told them that when you guys research stuff, when you bring stuff to this bench, I trust it to be true. I told them that when Mr. Floyd researches something I guarantee that it's true. And I'm going to back you guys on everything you bring to this bench. So, for them to stand up there and say things about Mr. Floyd, I didn't appreciate that one bit. So, thanks for filling in for me at the last meeting here. You guys keep doing your research and keep doing your thing and we're going to be just fine. I just, that really irritated me when that lady stood up there and said that stuff, I didn't believe in that. So, that's all I got to say about that. I told them. 'We'll, I've got to say something tonight'. Thank you guys for the work that you do. I appreciate it. This was probably the most rigorous zoning that we've gone through since I been on this board.

David Floyd: Well I'll say that I really appreciate you speaking about the integrity of the commission at the council meeting and talking about our department process. I also want to thank you, Phillip, for the things that you said, and just your word choice and how concise you were in describing the PUD. You were able to really effectively communicate why you thought that became an option for us to move forward and I really appreciated how you did that.

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Phillip Jordan: Thanks. My motivation for getting up and saying something is because the crowd, the neighbors, kind of accused us of having our mind made up before the meeting. It just drove me a little bit batty because I know that when that came up that seemed to be a win-win for both parties. Our minds weren't made up before that. So those meetings are televised and taped and everything, but if you don't set the record straight, hopefully in a gentle way, then the community doesn't know that we didn't somehow ramrod something through without giving it serious consideration.

David Floyd: I'll just follow up on what Phillip was mentioning about people showing up with a belief that we predetermined the outcome, which is completely untrue. You know, one of the things I wanted to set straight in that fashion he was talking about how I had literally written the motion and that it was definitely something that came out of conversation in our meeting, but it wasn't something candid. So, I think Phillip's right when he says it's important to gently set the record straight because it really bothers me to think that people have a misconception of what it is we are doing here. We are here to represent this City as a whole. So, thanks of standing up.

James Schmidt: You know there's a lot of people in this town don't even know there's a Planning Commission. They have no idea. You tell them that and their like, 'What? You guys have one?' So they don't even know they can come to the meetings. But you know, you talk about coming to the meetings with your mind made up. There's been a lot of times that I've come to the meetings with my mind made up. But then once we sit here and have discussion about it, things changed. So to me, it's okay to come here with your mind made up, as long as you're open-minded for discussion, because things do change.

Phillip Jordan: Sure, and you're exactly right. And you can't help that you've studied stuff to form an opinion coming into those meetings. I totally agree with what you just said, James. Because until you've thrown out the PUD, my mind was pretty made up. And then I thought, 'Hey, this is a great idea. Seems to me this is a win-win.' So, yeah, a good example... I switched.

James Schmidt: To me, I think it just makes you a human being to study stuff like this and think, 'When I go to that meeting, this is what I'm going to do. Then when discussion happens things change and your predetermination goes away.'

David Floyd: I'll say one last thing about it. I'm comfortable with the outcome because the process was able to play itself out. And so I'm not disappointed. I was surprised in how dynamic it came off, just the whole thing was an extraordinary zoning case; but we did really just keep going with the process until it was completely done. We got a righteous outcome as a result of it.

James Schmidt: I think I talked about that during one of those deals about how it went down. It's just plain called democracy and it went well. I drove by there today and it kind of ticked me a little bit to see an empty lot sitting there still; but if that's what they want, I guess that's what they're going to get.

James Schmidt: Anything else?

MOTION made by **David Floyd** to approve the minutes. Seconded by **John Charleston**.  
Motion carried **5-0**.

## **OLD/OPEN NEW BUSINESS**

David Floyd: So I attended the Advisory Board Member training that was offered by the City on August 23<sup>rd</sup> and that was at the WSU Innovation Campus Experiential Engineering facility, which I had never been to. It was fantastic. I want to say one thing for the architects in the room, that they did a phenomenal job of preserving the trees on the golf course and using that to really enhance the building. So when you walk up to that building there is this massive American Sycamore just perfectly placed. You can't buy that, right. It was just there and they made the most of it. So, anyway, back to the Advisory Board Member training, it was put on by Paula Downs,

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who is staff at the Public Policy and Management Center at WSU. She was joined by Bob Myers, Newton City Manager. They both were fantastic presenters. Paula is really high energy and so you take away a lot. It's easy to assimilate what she is saying. She engaged the room and asked us why we were serving on an advisory board and really kept us all excited. Then Mr. Myers, City Manager of Newton, had a real interesting story. He has background as an attorney and city attorney before being the city manager in Newton. So, anyway, if you have the opportunity to be at an event where either of them is presenting, it would be good to go, because I enjoyed myself. So thanks for making that possible.

Keith Price. Sure, I had every intention of asking you before the meeting and I didn't.

David Floyd: Some of the things we covered, if you want to see the handouts of an advisory board member. I've got them. I won't go through all the do's and don'ts. We just talked about rules of order, Kansas Opening Meeting Act, Kansas Open Records Act and conflict of interest. We did talk about the serial meeting that Mr. Myers talked about. I still don't understand it. So, like I told James and John, once there was three of us here and whatever they were talking about, I couldn't hear them. So, it was a good opportunity, thank you.

James Schmidt: We'll let's go to a continuation and open a hearing for directive from city council to review the City's home-based business license process. So the hearing is open on that. Did you want to say anything?

Jacqueline Kelly: Okay, so thank you Commissioners. We'll start with the council directive, just to kind of orient you. Staff met and brought you feedback and tried to break the whole process into two meetings. So the directive was to review the current requirements for the Conditional Use permit. Council felt the current process was too cumbersome, that it wasn't effective in that we didn't have many people actually going through the process to get a home-based business license. They anticipated there may be a lot of people engaging in activities that would qualify or would require them to get a home-based business license. So they asked that the Planning Commission look at this thoroughly. This does fall within the chapters and Planning Commission controls, so your guidance is required for this code to be changed.

Some specifics that council pointed to, consider, noise, odor, traffic, customers, signage, excessive inventory. Also think of truckloads of business material outside of the home. Those kind of things that can really impact the character of the neighborhood. So today staff is recommending that Planning Commission chose between a two-tier system and a three-tier system. And then from there staff will incorporate your changes into the code and present it back to you.

James Schmidt: If we have question, just go ahead and ask?

Jacqueline Kelly: Yes. And Keith, I expect you to jump in.

James Schmidt: So if you have questions, make sure you ask, okay.

Jacqueline Kelly: Yes. This should just be conversation, just to put structure in your conversations.

Keith Price: It's kind of like a workshop environment, is what we're expecting.

Jacqueline Kelly: Yeah. After staff looked at the current code, the 2014 code, and your changes. I think we had a council member actually send a proposed form. We also saw there were other cities that had a three-tiered system, which would have three categories of home-based businesses. [In a three tier process] generally, the first-tier wouldn't require any action, second tier would require minimal process and the third-tier would be the standard conditional use process that takes about sixty (60) days. Is that right Keith?

Keith Price: Yeah.

Jacqueline Kelly: It takes about sixty (60) days. If you decide you want to have a business and by the time you get your notices out, be in front of Planning Commission and get in front of council, that's a sixty (60) day process.

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Keith Price: Basically the one seventy-five (\$175.00) is for the Conditional Use permit. The other fee is fifty dollars (\$50.00) for a home-based business once they acquired the Conditional Use. Their cost would be an abstractor's list, however many neighbors they have to contact and those kinds of things.

Commissioners and staff discussed the fees and density of homes around the applicant, the cost ranges from \$350-\$500

Jacqueline Kelly: But, it drags in every kind of business right now. I'm thinking there are a couple of exceptions, like hobbyists.

Keith Price: There's certain areas, like day care, several zones that don't require anything for a day care to operate. But the one sheet that's in your packet, where we were talking about changing codes. Basically the R4 where the day care doesn't require a process, and that's about ninety percent (90%) of the houses in the City, is R4 zoning district. But we are growing in the R5's and R6 districts. Those actually have a restriction of having a home-based business right now. They're not even a conditional use, so it's pretty restrictive.

Jacqueline Kelly: So most business ideas and concepts that you can think of require you to go through this process and the process is costly. It requires you to let your neighbors know about what you're doing, so that's the more detailed overview of the issue, we talked about just generally, the three-tier system, three groups. The alternative we're recommending is a two-tier system. One group with no notification required, where they, again, don't touch the City. Those would be a no-impact businesses. The other tier would require the standard conditional use process. So, it's more clear, but you have to put more businesses in the no-impact category. I guess that's something you get to talk about, whether you want to regulate more or regulate less. That's kind of coming down to one of the things. Just before you get really deep into discussion, I'm sorry it doesn't show well on the slide, but we talked through what would be an ideal three-tiered process and how it would work. We tried to take out professionals who are working from their home, like your accountants, your attorneys. Again, this doesn't apply to someone whose business is based at a corporate site, but teleworking. We've never been trying to capture those and we don't capture those folks now. These are people, independent business owners who file their own taxes, who gain income from their home. These are the folks that we're wanting to capture. Professional desk work, direct sales such as Amway, Mary Kay, people who are teaching classes, internet.

James Schmidt: What'd you just say about Amway and, like Avon?

Jacqueline Kelly: In this three-tier process example they would be allowed to operate by right and not have any contact with the City. So you're really creating a broad category for these sort of businesses, and also artists, crafts people, and other hobby oriented businesses. All the business you can't really think of who produce a product at home and deliver it out. One area we focused on in this category is minimizing the number of cars coming to the home. Part of the trigger for moving to another category is if a professional expects to have more than just one or two cars a day, which we figured is pretty typical to a normal house. You know, you might have one or two people come and visit anyway. We didn't want to focus on the number of people coming, so let's say you're teaching four students, but they're all traveling in the same car. That should fall under no-impact, because one car is coming and going from the neighborhood. And obviously, since they're not having contact with the City, we wouldn't require a permit or fee in that first-tier. The second-tier is kind of like a minimal process.

Keith Price: That was in the packet we had from last time.

Jacqueline Kelly: Yeah.

Keith Price: I didn't hand it out tonight, so I didn't know how many of you have it.

Jacqueline Kelly: So that affidavit or something like it, would be incorporated into this minimal impact category or tier and it would capture people who you just want to know about what they're doing. They are promising not to have too many people coming. They're not going to have noise, odor... you just kinda want to find their activity

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in some kind of way, because the business may have potential to become a problem or a business the City may need to regulate a little bit more. So this is where, when we talked about teaching classes in the first no-impact category, this would be someone who is expecting five or more cars coming and going. Maybe we talked about a yoga class instructor, someone who is not really making a lot of impact to the neighborhood, but you are anticipating a few more cars. You kinda want to keep track of that, because when it gets to five (5) or more and then it gets to fifteen (15) or more, the City would like to know and be able to say, 'We need to move you into another category.'" So in order to have that impact, you want to keep that business on file. If that makes sense.

Business with significant inventory, so those businesses on the fence that are getting daily deliveries from Amazon and may be moving them in and out of the house and that could be somewhat annoying. Again, they're not creating such an impact that a neighbor would not be able to quietly enjoy their home, but they may be a little bit more noticeable. So, those would be your minimal tier. Again, you're seeing those people with maybe one or two employees. They're just a little different than not having any impact, but they are not quite rising to the level of needing the full-blown process. So, for example, of employees, some day cares and some piano teachers have a substitute or someone who comes in and fills in for them or an assistant or an apprentice – people who work on cars in their garages. Giving them some flexibility to be able to come to the house. We thought with that one we would recommend a fifty dollars (\$50.00) annual fee, because, again, we're going to a one page form, we're filing it, we're checking in with them every year, making sure they still fit within this scope and haven't gotten larger. And, they would renew annually.

Finally, that third-tier is what we talked about as our typical conditional use process. You're notifying neighbors, you're coming to Planning Commission, you're going to Council, you're having these hearings – everybody knows what's going on.

David Floyd: I have a question about the fees. The fifty dollar (\$50.00) annual fee and the hundred dollar (\$100.00) bi-annual fee. Those are permitted as a home-based business, right?

Keith Price: That's correct. If they're approved.

David Floyd: Is there a business permit in addition to that that businesses in Bel Aire have so a business in a commercial space ... do they have a Bel Aire business permit.

Keith Price: Yes they do.

David Floyd: And is there a fee associated with that?

Keith Price: It's a flat fifty dollar (\$50.00) fee associated with that.

David Floyd: Okay, would that be required in addition to the fifty dollar (\$50.00) annual fee in the tier-two and hundred dollar (\$100.00) bi-annual fee.

Keith Price: With that it would be just a flat fee, that fee annually.

David Floyd: So the fifty dollars (\$50.00) mentioned here will get you your business permit?

Keith Price: Yes.

David Floyd: Okay. So I guess that answers my question about whether or not this would put a business that is allowed in tier-two in a home, if it were to move into a commercial space, would they have the same fee structure?

Keith Price: Same. It's almost identical form, basically, and has the same information as it does for the commercial. Originally these started out as informational permit so the police department could contact someone after hours for maintenance and those kinds of things. So those were started. It also was to boost the mill levy

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when things were really tight back in 2004 or '05, whatever. But, ultimately, the forms right now look the same. They are basically a questionnaire about do they want to join the Chamber and who to contact in case of emergency and those kinds of things. So that's kind of the information that is collected.

Commissioners discussed multi-level pyramid type businesses.

Keith Price: Anytime you have a structure of a corporation that sets you out as an independent contractor, where you buy your product and then you're directly selling it to your clients or those kinds of things.

Jacqueline Kelly: There are enough people doing that that identifying them as not having a business.

Commissioners and staff discusses fitness type businesses with equipment stored in the home.

Jacqueline Kelly: The reason why we thought we needed to address them is sometimes they get a lot of inventory coming in and out. You get people coming to pick up inventory or coming to parties at the home. You get cars with whatever company on the side of them. Just putting them somewhere and that's where you decide whether you want to have them minimal.

Keith Price: There's a high turnover in that category too. A lot of them don't make a year. They have two or three parties, get burnt out and they leave your neighborhood.

James Schmidt: You know, when you first start selling, then you work your way up and you get your people underneath you. And you keep growing and all of a sudden boom, you don't have to go out and bang on the door anymore, you're the distributor. Now your garage is full of product for whatever. What's that going to fall into? Because now you've got UPS, FedEx, whoever, knocking on your door about every day because you've got inventory coming in all the time. What does that fall under? See, if you're just a sales person and you're out knocking on the doors or you already got clientele, the only thing you've got coming to your house would be books. You know, the little catalog or whatever. And then normally whoever was working for me I'd take the product to him so he could give it to his people as soon as I got it.

Jacqueline Kelly: In the process that we've come up with, there would be no difference. That might be something you might want to iron out.

David Floyd: Tier-two?

Jacqueline Kelly: Yeah. Maybe at a certain threshold, we have to create a threshold that would trigger that business going into tier-two. It was kind of hard to identify whether it would be money, but you know, if you're selling exercise equipment, I'm going to hit that, six thousand dollars (\$6,000.00) in sales pretty quickly. What would be the trigger, I think, is something that we would need to look into. If you want that we can focus in on kind of looking at how other cities create that line.

Dee Roths: And with limitations of sales, whose going to verify what the sales are?

Keith Price: That's the difficult downside of it. I was considering creating a matrix. Basically we could have you check off to where the noise level, the smell level, all of those features, might actually trigger from tier-one to the tier-two and the final tier. We have kind of a gray line, kind of define it somehow. That was the reason for the information related to sound, smell and our code related to standards. Expectation of noise, decibels.

James Schmidt: When you talk about the noise and stuff like this, are you talking about a bunch of cars showing up? Is somebody going to be standing there with a decibel meter and say, 'Oh, that's too much noise.'?

Keith Price: Someone working on small engines, decibel levels. There is some information there in front of you, but a lawn mower could be from 70 decibels to 120 decibels. If you're in a duplex and you're working on small

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engines, you're probably going to hear about every time somebody starts up a motor in the next door unit. So how do you want to handle that?

James Schmidt: Like if you have a small engine repair shop in a garage.

Keith Price: Right.

James Schmidt: Is that what you're talking about there?

Keith Price: Yeah. Like equipment. Somebody is mixing up muffins and has a commercial mixer. Some of those get kind of loud. Especially if you buy them for a part time business, they may not be the high-end, they create a lot of noise.

James Schmidt: Okay.

Jacqueline Kelly: If I can go back to that direct sales. I think that we would be okay after looking direct sales – one or two cars per day. So if someone were to complain, we'd count that FedEx drop off and a second drop off, the activity could bring them into tier-two. Tier-two has some things where inventory becomes an issue and with the inventory it could quickly put them through to the conditional use process. So I think that may cover it. Unless you are wanting something more, we can do that too. But one (1) to two (2) cars a day kind of cuts it off.

David Floyd: So, what you're describing where you have the Avon sales person that gets started out and when they're at the entry level in that organization they're tier-one. Then at some point they're successful and a byproduct of that success is that they become tier-two. Maybe what we need is some sort of plain language guidelines that let people know this is does not mean that because you're an Avon representative, you don't need a business permit. You don't need a business permit because of the business activities you're currently engaged in and you could very well still be working for the same organization, but you're duties of that organization put you into a tier that necessitates a process or a fee.

Jacqueline Kelly: Correct.

David Floyd: And put that in plain language somehow.

James Schmidt: It's activity, it's motion, it's cars. It's commotion.

Jacqueline Kelly: Yes.

John Charleston: So somebody owning a race car and out racing and does it for a hobby and yet profit. He works in his garage on his own race car and makes noise, now that can fall into several categories.

Jacqueline Kelly: Based on those other factors.

James Schmidt: Right.

Jacqueline Kelly: Is he closing his garage and working quietly.

John Charleston: Well you have to fire it up to see if it runs.

James Schmidt: Yeah.

Jacqueline Kelly: Yeah.

John Charleston: It's going to get noisy.

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Jacqueline Kelly: So I think that's wise to add something so that people don't think that tier-one is a permanent designation because of the type of business they're in.

David Floyd: Right. If they get started and walk out the door thinking, 'Because I sell Avon, I don't need a permit.'

Jacqueline Kelly: Right.

David Floyd: Well no. Because of what you currently do for Avon you don't need a permit, some day you may.

Jacqueline Kelly: Right.

David Floyd: Knowing that.

Jacqueline Kelly: And I think putting a flier like that within the set up home water packets or whatever they give out to people as they come to sign up.

James Schmidt: Even with the water bill, once we get this ironed out and everything, we need to get something out to everybody.

Jacqueline Kelly: Right.

Keith Price: And we could have a couple of worksheets.

James Schmidt: Yeah. By having this tied into security somehow.

Jacqueline Kelly: Oh sure, health and safety creates the authority.

Dee Roths: And who monitors that? Who's going to have the authority to say, 'No, you can't do that.'?

Keith Price: Basically, businesses are in existence now. We have home based businesses. Most of them are day care. We have one that's sells musical instruments, been doing that for probably fifteen (15) years here, that has actual showroom and everything at their home. They've been in compliance with the code that they started their business under and they pay their business license every year. They don't generate complaints or anything other than, you know, during the school season when they first start, I guess there's a lot of kids that come pick up new instruments. But the majority of the time there's no complaints generated from that type. We have other businesses as well that we react to complaints.

James Schmidt: Do you get a lot of complaints about home businesses?

Keith Price: Cul-de-sacs with day care is one. Five (5) kids and five (5) different minivans dropping off kids and pick them up, that's probably the biggest complaint over the years that I've been here.

James Schmidt: What can you do about that?

Keith Price: What we've discovered is that it's not excessive, it's just when you have on-street parking and people parking in a cul-de-sac and then trying to drop kids off to a day care, it's kind of difficult.

Jacqueline Kelly: But the busy day care would be pulled into a category, the third-tier, where they'd have to come to commission and neighbors would come in. The grandma or friend watching one or two small children, seems like they would be at a tier-one or tier-two, based on what you just said.

James Schmidt: And that's a cul-de-sac living.

Phillip Jordan: Yeah, it is.

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James Schmidt: It really is. You decide to have a party and you've got ten (10) people coming over with the cars. That cul-de-sac is messed up.

Keith Price: So would that be a trigger to move it over because of location? Because basically the draft code had some density buffers in it, the R-5 technically didn't allow home-based businesses the way it's set up. The draft code, we anticipated lessening that, but it took approval of management, city manager or someone in addition to letting a no-tier or no impact tier-one or tier-two to go in there. Then make conditional use available for that as well, but that's something that I'm concerned about, is density in an R-6 where you have a four-plex, where is your line there?

James Schmidt: Well, I guess that something to talk about. Let's say, like you said, grandma's watching three (3) or four (4) grandkids. To me, I don't think grandma needs a business license.

Jacqueline Kelly: No.

David Floyd: Grandma and grandkids isn't a day care. If she's watching somebody else's kids it might be.

James Schmidt: Well, I mean, yeah, could be. If you have a full blown day care. You've advertised or, it's like you say, I'm watching your kids, your kids, your kids, that's a business to me. You agree?

David Floyd: Well, is it revenue generating? Does that matter? Are you being paid to do it?

James Schmidt: Oh yeah.

Jacqueline Kelly: So the revenue generation and then the number of vehicles coming to your home. The traffic coming to your home. I think those two triggers would make it something where the neighbors get to weigh in, because that affects the quiet enjoyment of houses.

James Schmidt: Is that in the conditional use?

Keith Price: Yeah.

Jacqueline Kelly: That would be in the conditional use process, both in the way that we're proposing it as it stands now.

Keith Price: R-4 does not require anything for day care.

Jacqueline Kelly: Because the State kind of puts a lot of restrictions that, I guess at the time, they felt were enough to make sure day cares existed in certain areas and not in others.

Keith Price: Basically the State has a requirement. There's a fire marshal that has to sign off on it. We would go over and, you know, look through things. So it's pretty heavy-laden at the beginning of the process where many of these home-based business don't have a regulatory person dropping in like day care or a kitchen in your house used for commercial baking.

James Schmidt: I didn't even think about that, for a home-based day care.

Jacqueline Kelly: But I still would recommend that we address day cares in this structure as well. Even with the State letter, the State is going to keep the ratio of kids for the amount of space they have. But there's a threshold where someone could have a City lot and have enough space to where you all might want neighbors to be able to know about that day care moving into that community.

James Schmidt: So if there's an inspection there's no fee to them is there?

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Keith Price: Oh yeah.

James Schmidt: There is a fee?

Keith Price: The State charges. I don't know what the fee is. And then once we've issued a license it's a flat fifty dollar (\$50.00) fee currently.

James Schmidt: Okay, so if I come in and I'm going to have five to six (5-6) kids, I'm going to get fifty dollars (\$50.00) per month deal. Does that mean you guys are going to come and inspect my house?

Keith Price: Just the initial time and we'd drop off a receipt or whatever.

James Schmidt: You know, to me, why wouldn't you want that? If you've got other kids in your house and you're babysitting, why wouldn't you want that? You might be the safest-minded person in the world, but when a safety guy comes in he's going to notice things. Why wouldn't you want to do that to protect your kids?

Jacqueline Kelly: But there's a difference between inviting in inspection and inviting in neighbors to weigh in at Planning Commission. If you're watching kids two nights a week, watching two babies, you're going to do it for six (6) months, the motivation to go through the standard process, I don't know if people are going to like it.

Dee Roths: They're not going to want to formulize it.

Jacqueline Kelly: Right.

Dee Roths: And there's a lot of these young moms, they're not going to formulize anything. They're going to avoid as much as they possibly can because it's so costly. You know, they're watching three (3) or four (4) kids and they're getting cash for it. Where does that fit in?

Jacqueline Kelly: Because right now . . .

John Charleston: It's not as easy to get a day care license as people make it sound. I mean, they come in and they go through your house. They tell you, 'Yeah you need to do this, you need to do that. You will do it before you get it' ... you know.

Dee Roths: And who knocks on the door? The State.

John Charleston: The State.

Dee Roths: And they will knock on the door at any time and say, 'Okay, I'm here.'

Keith Price: When they do an inspection they post the results on the State website as well.

Dee Roths: I would guess there's an awful lot of them out there that are just doing like three (3) or four (4) at a time and, like I say, it's cash under the table.

James Schmidt: So if the State is going to come and investigate somebody here, do they come here and let you know?

Keith Price and Jacqueline Kelley: No.

Phillip Jordan: So there's no law right now in the City policy. If you have a day care period, it has to be a State mandatory or State regulated day care?

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Keith Price: I had put in the previous information what the rules were related to the State and if you fall through the cracks, if you're watching just a few kids with your own kids, those kinds of things, it may not be regulated at the State.

Phillip Jordan: Okay.

Jacqueline Kelly: Yeah. We noted that day cares with one (1) or two (2) kids or whatever would fall under tier-one, must comply with all other state requirements. However, the City is not adding any additional requirements.

David Floyd: Okay.

Jacqueline Kelly: That's kind of what we found.

Keith Price: There's folks that aren't operating as a business, so there's no business requirements, I guess.

John Charleston: A couple of thoughts I have – we're spending a lot of time on tier-one or tier-two, but the way I understand the council's chart, that's been the onus burden of this six hundred dollar (\$600.00) tier-three anyway. The way I understood it anyway, that people weren't doing that because it was way too difficult, too expensive and complex. And probably a lot of them didn't even think that they had to do it, you know, honestly.

Jacqueline Kelly: Yeah.

Phillip Jordan: So to me, I think that is the biggest area to focus on. I think we need to focus that one out like a laser, I think, because we don't have the three-tier, we only have kind of the two-tier system now.

Keith Price: Well, the threshold from a hobby to a business is a grey area.

Phillip Jordan: So we kind of have a two-is tier. We have hobby then official, all-out, six hundred dollar (\$600.00).

Jacqueline Kelley: The problem was that everyone was in that six hundred dollar (\$600.00) category. But now by taking out so many of them. I guess what you all have to think of is do you want make that process easier too, or is that process so limited now that you're really getting your major business who are making noise and who may need this more burdensome process. It depends.

James Schmidt: And now I'm sitting here thinking, 'Okay, so yeah I think this is a good thing.' But now I'm sitting here thinking are people, just like they weren't doing the conditional use process due to the money complexity and everything, are they going to be going to tier-one? This is kind of a small issue, but are they not going to notify the City unless there is a neighbor complaining and a neighbor that knows the policy. If there is a two-tier, which that's a big 'if', unless really good communication happens. But, I think another thought kind of not really related to that; although I think that we might need to look at bringing that cost down.

Jacqueline Kelly: Okay.

James Schmidt: And that complexity down on tier-three. Yeah, I hear what you're saying, and you're exactly right. It was like falling, I think people were choosing nothing.

Keith Price: We do have a track record from the 2002 to 2014. Basically, a list, and I think I included it in previous submittals, but an entire list of things that just require that fifty dollar (\$50.00) fee, and gunsmithing was one of them. The gentleman that had the gunsmithing business, he was actually licensed for two (2) or three (3) years and then dropped off. Then our code changed and then he had to go through that process. So I can tell you that our home-base business numbers are down since 2014. I'm not sure why that is.

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Phillip Jordan: One other thing I just want to put in here, I think one (1) to two (2) cars.... I know that the spirit of what you're saying and I agree with it; but I think if we're going to be telling people numbers they mean things. I feel like in the case of our family, and we have three (3) (two teenagers and one 8<sup>th</sup> grader and mom stays home and is a tax season practice) and I come home for lunch a lot of days, but I can tell you that there is literally everyday five (5), at the minimum, comings and goings, and we live on a cul-de-sac, disaster waiting to happen. But nobody complains. There's five (5) and that's not the mail person or FedEx, that occasional, there is a lot of that. So, I think what my point is probably those numbers of cars per day, it realistically kind of probably needs to go up a little bit

Jacqueline Kelly: Yeah. We talk about five (5), but then it just seemed a lot.

James Schmidt: A lot.

Jacqueline Kelly: Yeah.

James Schmidt: But I'm just saying that realistically, we might be in that phase in our family where there's a whole bunch of people coming and going. Our son goes to WSU now, so anyway, I'm just saying there's probably a whole lot more than one (1) or two (2) cars a day going in and out of peoples' driveways when there's just your average family.

John Charleston: My kids all drive and they're grown and they come over constantly, you know, and some of their friends will stop by and sit and say 'hi'. I can see your point on that. Bringing the grandkids over and they'll meet their friends over there and leave a car there and take off going to the baseball game or something like that, together or with me or something. So we end up with a bunch of cars coming in and all the stupid cars we have.

James Schmidt: We live on a cul-de-sac and we... you know, cu-de-sac livin'.

David Floyd: So, I hear you saying that as someone who doesn't operate a home-based business, you have far more coming and going from your house than what we're willing to allow. So rather than comparing the two, I think that we should think, 'Okay, let's consider the number of times we have people coming and going from our house and add a home-based business on top of that'. How many additional trips in addition the ones that we're already making? Because these people are going to have families and friends and everything else in addition to their home-based business. So I think the one (1) to two (2) cars per day is not one (1) to two (2) cars per day. It's not that you have to invoke some personal austerity because you chose to have a home-based business. Now, Phillip's kids can't come over. That's not what we're going for. We're saying that in addition to your personal life, this many cars per day per your professional use of your home.

James Schmidt: Yeah, I like that. Separate family from their profession.

David Floyd: Some sort of exclusion for personal verse business.

Jacqueline Kelly: Yeah, business related. But just tell me what number you want, because both make sense, but if you decide the number I can get it into this.

Phillip Jordan: If I was just shootin' from the hip I'd just say, 'I agree with that and I agree we need 'in addition to family activities', or some words like that, maybe it's two (2) or three (3). I'm not talking about a lot.

James Schmidt: But when we say two (2) to three (3), does that exclude domestic?

Jacqueline Kelly: We would want to include UPS and FedEx, just so we can bring in some of the direct sales activity.

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Keith Price: We could do a sub-list of traffic related to, so it'd be clients, deliveries, we can create a sub-list and worksheet. But, a number here is good.

James Schmidt: To me FedEx, UPS, whoever, they're there for fifteen (15) seconds. Put it in park, jump out.

Jacqueline Kelly: Bring in.

Keith Price: Unless you're in a cul-de-sac.

James Schmidt: Can we word it something like... other than delivery, three (3) vehicles? Something like that? Tier-three, four or whatever you guys want.

Jacqueline Kelly: Two (2) or three (3) vehicles other than deliveries. But even if you do go with the three-tiered, you want to set a limit on the amount of deliveries coming per day as well.

James Schmidt: So how do you do that with UPS and FedEx when they guarantee one-day delivery and you've got to go, I mean, we can't limit their business.

Jacqueline Kelly: Right.

Keith Price: We're asking for them to describe their business so we can decide which tier to steer them towards and, if it takes process, it takes a process. But we don't go out and observe and collect the data. They're basically telling us worst case scenario this is what we're going to do or best case for themselves - we're going to have fifty (50) clients and deliveries twice a day and all that.

James Schmidt: You know, somebody might get bombarded one week with UPS and ....

Keith Price: Right, yeah, it's going to be an average.

James Schmidt: One week they all show up and for three weeks and none of them show up.

Jacqueline Kelly: Right, but I think the power of having that 'no more than five (5) business related traffic vehicles a day, deliveries or people.' That's fine for a new Avon person or a new e-business person and then as that number increases then they're moving into a more regulated category because the more UPS comes by the more disruptive it is for the neighbors.

James Schmidt: But if you have a customer or an employee showing up, they're going to be at the house thirty (30) minutes to an hour maybe. Maybe longer, where the deliver last like fifteen (15) seconds.

Jacqueline Kelly: Right.

John Charleston: The whole thing on it is that, the way I see it is, we depend on people to come up and be honest about it and say, 'Hey, I'm going to operate a home business', or you get complaints.

Jacqueline Kelly: Right.

John Charleston: I had several cars coming and going a day. My wife uses Amazon, you guess. That doesn't mean I'm running a home-based business, but you can observe it all you want and say, 'Hey wait, somebody's working there. Somebody's running a business out of there'. So it's a real broad spectrum and narrowing it down. If their working to operate a business, they come forward. How many cars are they going to fill out and say they expect a day? You know, three (3) or five (5) clients or fifteen (15) or twenty (20) clients. How many cars are coming in? Are you going to have a warehouse in your garage? But the biggest thing is I see that we need to set the principles; but, you got to be realistic. It's on the people to come forward to say or file complaints

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to be able to really judge. We can beat it around the bush all we want about the cars coming in and about warehouse, you know, sticking this or that or FedEx coming or UPS coming, but until you get people.

James Schmidt: With your statement you just said that home-based businesses are down since 2014. Are they down or are people just not wanting to come in and get a license.

Keith Price: I don't know.

James Schmidt: See, that's the thing, we don't know.

David Floyd: I know you want to say something, I just want to say this real quick. I think what we're doing here, though, is setting a speed limit, right? I mean we're determining what the number on the sign is going to be. We not figuring out who's speeding and who isn't. We're just determining what the number on the sign is going to be. We're setting the speed limit with this.

Dee Roths: I would I recommend, in looking at noise and everything else as far as criteria. We haven't talked anything about small animals. We have a gentleman out in the country, moved in with a gentleman who raises snakes. And we only know about it because the trash man tells us about it, and it's very, very quiet.

Keith Price: We do have an animal code that addresses what types of snakes and those kinds of things that you can have. We also have a kennel license requirement within our animal code, but it would fall under this category as well and we would anticipate that's in the tier-three or the one that takes the process and our animal code has the number of animals that triggers that.

Dee Roths: I would think about somebody with chickens selling the eggs.

James Schmidt: Well, with snakes that would be a ten thousand dollar (\$10,000.00) fee.

Dee Roths: The trash man he dumped at the transfer station and snakes took off. The guy's very quiet about it. Nobody else really knows. He puts out about six (6) containers of trash. Of course we're still finding them out in the country.

Jacqueline Kelly: God, that's just terrifying.

Keith Price: I've heard of feral cats, but not feral snakes.

Dee Roths: Feral snakes, yeah. And the guy and his ten (10) acres next door said, 'When we moved in there were an awful lot of snakes out there'.

David Floyd: Oh, God.

Dee Roths: Guess what, people turning them loose.

James Schmidt: Gas and fire.

Dee Roths: But you say there's an animal. But you hear somebody who is very, very... very much a recluse, like people aren't going to know what's going in there.

Jacqueline Kelly: Chairman, when we talk about another aspect, whatever system you decide, the two-tier and three-tier, that kind of goes to Chairman Jordan's point is do you want that standard impact conditional use process to have a higher fee, the same fee or a lower fee, knowing that there will be other options?

James Schmidt: Okay, to me, if you have to notify people within two hundred (200) feet, it is two hundred (200) feet?

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Keith Price: Unless you're butting unincorporated areas, then I think it's a thousand (1,000).

James Schmidt: So, and I didn't know this could happen until Mr. Benage told us that we can use a title company to have them notify you, notify those folks. So, maybe people don't know they can do that.

David Floyd: They have to.

James Schmidt: Oh, I didn't know they had to.

David Floyd: A Licensed Abstractor, they have to.

Keith Price: Yes.

James Schmidt: Okay.

Keith Price: City staff actually does the notification so they don't have to actually certify that they sent those out. We just do that as part of the process.

James Schmidt: Okay, so here's what I'm getting. If you have to notify a bunch of people in two hundred (200) feet, and that's costing you somewhere in upwards of three, to five, to six hundred dollars like we do with Mr. Benage, then to me I think we need to lower the fee, because that's a lot of expense coming out of the person's pocket to notify people. Am I on the right track?

Phillip Jordan: I agree.

Jacqueline Kelly: Now one council member in the initial discussion, so you can talk about both ends of it, said that she thought that if we're going to create a way for less people to go through this, the fee should be higher because the remaining people now bear the burden the costs to send that certified mail that the staff is doing and to document that business. Then the threshold for the money they're making and complexity, now you're getting people whose business creates an odor or have lots of people coming by, or have significant signage. These are the people now that are required to make this notification. You can decide to make their burden less by reducing the amount of costs they pay. Again, you're not thinking Jim Benage now would no longer be in this process. It would be someone like a caterer or something like that. Or you can make their expense more because their impact now is within a smaller category of business.

James Schmidt: License more, but not have to notify these people, is that what you're saying?

Keith Price: The statute requires us to notify certified receipt mail, and the way that ours is set up is that every conditional use costs this amount of money. It's supposed to cover the services that we're providing, the postage, the legal ad, city work force, basically. There's been times where the fee doesn't cover the costs and we will bill the applicant the additional amount.

James Schmidt: And then the title company is also notifying these people?

Keith Price: No. They generate the lists, because the county doesn't update their property information, except four (4) times year. And if you have an owner that changes during the process, and they're not duly notified, then you have a problem with that process. So, to make sure that we're notifying everyone that is required to be notified by the State statute and through our code, that service is built into our code, basically.

Commissioners discuss the fee the city charges verses how much the process actually costs.

Dee Roths: The fee again is how much?

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Keith Price: One seventy-five (\$175.00) currently.

James Schmidt: Say one seventy-five (\$175.00), but if it exceeds that we need to get that money back.

Keith Price: Basically it falls under the same category as somebody building a Wal-Mart in the wrong zone, or whatever condition. So basically we have the same fee for everyone that comes in the door, not just home-based business, but everyone that falls under a conditional use process.

David Floyd: I don't know if I agree with that Keith, because Wal-Mart's not a home-based business.

Keith Price: No, I'm trying to get you to grasp the process when you get into a public hearing process the fee is equal for everyone that would apply, even if it's a commercial business.

Jacqueline Kelly: So the general conditional use fee structure is the same. So to go to your point, Commissioner Floyd, when Keith is talking about the statute, when you initiate this as a conditional use, no matter whether it's a home-base business or some other conditional use, that term is what triggers the statute. So you can pull home-base business completely out of the conditional use process. But if you're going to put them in the conditional use process, there are some statutory guidelines in play.

David Floyd: And if it's a conditional use you have to do notification in a particular way that involves a license abstractor certified mail.

Jacqueline Kelly: Right.

David Floyd: There's no way you can do that notification less expensive, right? There's no way to send it non-certified mail? There's way to notify them on your own, you've got to do it in that fashion if it's a conditional use.

Jacqueline Kelly: Correct.

David Floyd: Okay.

Jacqueline Kelly: And we didn't go as far back as to say, 'should home-base businesses be in the conditional use process at all'? We did create a system where two tier are not, but the ones that are forced to go through the standard process.

Keith Price: So if you have fifty (50) chickens and you're selling eggs out of your house, a category three would have you go through that lengthy process.

Dee Roths: What else would be considered conditional use, so I get a good picture in my brain?

Keith Price: Construction company with a garage, everything enclosed.

David Floyd: The Hermitage.

Keith Price: The Hermitage if it was a home-based business. But, yeah, that's the same process.

David Floyd: But it's conditional use, but not a home-based business.

Keith Price: Right, yup.

Jacqueline Kelly: It still has the same notification.

Dee Roths: What about a bed and breakfast?

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Keith Price: Bed and breakfast in an R1, Aurora Park could have a bed and breakfast in one of those houses over there with a Conditional Use permit.

Jacqueline Kelly: I think that if there is any use that is outside of what the zone is set up for, that will be extinguished when the person with that right moves on. So, that's probably a really complex way to say it. So, it's a right given to you to use the property outside of the scope of what it is set for.

Dee Roths: So a carpentry shop.

Keith Price: Yes, you're building picture frames in your garage.

David Floyd: Do you complicate it, there's different conditional uses for different zones, right? So it depends on what the underlying zone is as to what the conditional use is.

Keith Price: Right.

David Floyd: But no matter what, if we define it as the conditional use ....

Keith Price: What you're doing is protecting property values, folks' rights. So if you sever it from the zoning code or the conditional use process, if you did get that one person who has a property and is so sure that they want have a home-based business there and you don't have a process in place, you won't be able to add a process after the fact. The only way to curb that would be with a nuisance complaint or something of that nature.

James Schmidt: Okay, and doing this by certified mail notifying these people. You get something back with that homeowner's signature saying they got that letter, correct?

Keith Price: Basically the postal service tracks it, we get a routing number – a number associated with that mailing, and tells us the address and who signed it. You basically take the newspaper ad, put it personally attention to the person who is supposed to own the property at that time that the abstract list was provided.

Phillip Jordan: Well, one thing on tier-two, just macro-thinking, I like simple. I don't like going complicated. I know it's just the nature of city zoning code and everything just gets more and more and more detailed. I mean, I'm an architect and, you know, the IBC, the International Building Code, is that thick. I live in that world, right. Phillip Jordan talked about school construction and how well the buildings are constructed to prevent fires, but doesn't stop school shootings. So just generally, just sort of tell you where I am, I favor simple and complex. I favor less regulation, not more. And I also am a little bit uncomfortable, like on tier-two, and having it tied to the amount of money that that business makes. I feel like in the spirit of freedom and property owner's rights, I'm not sure that I even want to be part of it. I want neighbor impact, traffic and smells and odors and things like that, ... that you talked about and we talked about tonight. But, like tier-two and tier-one, I'm not sure that I feel comfortable saying, 'Well, if your business is making this much money then, this kicks you into this category.' That just doesn't set very well with me. I don't know why, I just don't know if it's the City's business.

David Floyd: How do we delineate the hobby from the business if we don't define revenue generating or non-revenue generating? Or do we care if it's a hobby or a business?

Phillip Jordan: Like smell, smoke, vibration, noise.

David Floyd: And if that's a hobby, then you still need to get a permit, because your hobby has an impact.

Jacqueline Kelly: Right.

David Floyd: Okay. So, whether or not you're doing it to make money, you're having an impact on your neighbors and that's what we're trying to address.

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James Schmidt: So you're saying when I'm out in my garage and I pull out my twelve inch table saw, and usually when I fire that up all the carpenters show up wanting to know what's going on. I have to have a license.

Jacqueline Kelly: No.

Phillip Jordan: I'm not in favor of that at all.

Jacqueline Kelly: It would be the trigger. If it's okay, we'll get into the definition of home-based occupation and hobby. I want to kind of separate what we're focusing on. The trigger for that will be the fact that you are not generating revenue for that hobby, you're doing it for enjoyment and personal pleasure.

James Schmidt: So would the separation be like I'm making twenty-five (25) of one thing, because I've got a craft show coming up. That would be a hobby, wouldn't it?

Jacqueline Kelly: It's the revenue. So the fact that you're making twenty-five (25) and you're making them, like I said we'll get into that later, you're generating more than two hundred dollars (\$200.00) in income. Then now your hobby is a business. You're making twenty-five (25) and you're giving them away, we don't care, as long as you don't create other issues that would be a nuisance.

John Charleston: I think the simpler we make it the better off we are. And the reason why is if we have, you know, if we have something complicated that people have to come in, they're going to see this, this and this, people aren't going to come forward. If we make it simple, I mean, I have to agree with you on your last statements. I disagree with the fact that cities and states and the government gets involved on how much money I make. That's none of their business. I don't go up to them and ask them how much money do you make? But, they're wanting to know how much money I make in my little home business. Okay, so I think it should get more or less kind of a straight come forth scale. You know, hey you got no fee here because you're not generating any noise, nuisance or traffic. It's kind of like that gentleman that paid six hundred dollars (\$600.00) and he does nothing. He goes out and consults. He does nothing out of his house, but live there. He consults out of his house. He has nobody coming to his house. Why should he have to pay six hundred dollars (\$600.00)?

James Schmidt: Absolutely.

John Charleston: That is absolutely ridiculous. I would not come forward and tell you that I had a home-based business if I knew that I had to pay six hundred dollars (\$600.00) to consult. And that's why I think we should make it real straight forward, simple scale. I mean, tier-one nothing, tier-two so much and if we go tier-three then here's it. It's a limit. It's not, 'well, you've made thirty thousand dollars (\$30,000.00) this year, so we're going to raise you up.'

Dee Roths: Possibly consideration of federal ID number might be something to think about.

Keith Price: I think we do have a line on there if they're regulated we get their sales tax number or their ID number just as an informative thing.

Jacqueline Kelly: The nice thing about the form is that it's voluntary, so they can put that in there. But then we're not accountable for going in and managing how they give us permission, so then we kind of get ourselves, 'Well, did you follow up on checking? Did the City follow up on checking on that business?' It seems like you don't want to be involved in that. You want to facilitate a voluntary process that is simple and clear and not based on revenue.

Commissioners discuss their neighbors and some unusual practices that may be irritating that are accepted as part of being a neighbor.

Phillip Jordan: Right, and that's the end of Code One, Section 1.1, be a good neighbor. The End. So, I'm just commenting. My head is just kind of swimming.

David Floyd: So what you're saying, and what James is saying, is that there are things that people do that are noisier, smellier, more bothersome in their personal lives than what we expect a lot of people to do in their home-based businesses. For example, Mr. Benage. So if we only define a business as being creating 'that smell' or creating 'that amount of noise', then all of a sudden the curry is a business, and it's not. It's part of their home life, right. So, what's a business? Well we've got to define a business? While we don't know, absolutely do not exploit revenue generation, but what determines whether or not you are a business is the revenue generation. I would say that a threshold, maybe a better way to think of it is a floor, a starting point, is because I think that to encourage entrepreneurship and people to have hobbies and be well-rounded, you should allow people to sell things up to a certain point and that it not be considered a business. As so if James makes clocks in his garage and he's proud of them and he wants to sell them to his neighbors and he makes seven hundred dollars (\$700.00), he doesn't need a license to do that. But if he hits our threshold, two thousand (\$2,000.00), five thousand (\$5,000.00), whatever it is, doesn't mean that we want to know as soon as you hit thirty (\$30,000.00) so that we can get our piece. We don't care. You, as soon as you hit two thousand (\$2,000.00), boom, you're a business, you pay the fee. And whether you do twenty-five hundred dollars (\$2,500.00) in sales or two hundred and fifty thousand dollars (\$250,000.00) in sales, you pay fifty dollars (\$50.00).

John Charleston: Right, exactly. I agree with that.

Jacqueline Kelly: It's important. Now, since you're comfortable with the three-tier, let's talk about a two-tier. I like what you said, Commissioner Floyd, about a threshold. So the two-tier process, if you want to be less regulatory, if you want to regulate businesses less and you want a broader spectrum of that kind of like 'do you want on your property,' the two-tier process might be the one you want to recommend to council. This one, direct sales, professional desk work, teaching classes, internet businesses, and artists, we imagined this category, the tier-one category, being broader and bigger. It almost encompasses what would be one and two. So you're being more liberal and understanding that, okay, there are going to be more traffic, there will be more people coming and going, there may be a little more packages dropped off or noises or etc. So that category is broader because the cut-off is so steep. Once you're not in that category, now you're into the conditional use process and that captures everyone else, so if you want to regulate less, which I've heard from you all and I heard from council too, you create that broader category, but it's harder to catch the annoying relationships that neighbors may have. Quiet enjoyment might be compromised somewhat when you have a broader category of what is allowable, as you have here. With the three-tier, you can kind of guide a business along the way a little more. So, that's kind of what we saw as the two-tiered. Not really much difference. The first-tier there is no cost, no contact with the City and the second-tier, as we talked about before, is like a standards process. So, I guess the trigger is how much do you want to get involved. I think one way to think of it is what do you want to send in a water bill that everyone will understand and be able to, generally, find out whether or not they meet it.

Phillip Jordan: And that, to me in my mind, my answer to what you just said is that two-tiered system. It's just like when you're e-mailing people, right. If you don't make that in maybe like four (4) sentences, you're going to have people that don't even read it.

Jacqueline Kelly: This is true.

Phillip Jordan: Do not put three (3) paragraphs in an e-mail to anybody that you want to read it. Make it succinct. The same way these same three (3) or four (4) e-mails with two (2) sentences. So just like the 15,000ft level, when you send out a mailer in people's water bill that said, 'Hey, we've come up with and revised the code and we have a three-tier process.' I bet you ninety percent (90%) of the people hear that right then and they're like, 'Three tier's, too complicated, turn on *Dancing with the Stars*.' I don't want to read this. I just think the more succinct and the two-tiered process, I think just as a fifteen thousand foot (15,000') view is going resonate with people than a three-tier process.

David Floyd: Well, I'll add to that. If you re-branded the two-tier process as a one-tier process that is less restrictive. I mean, what's the bottom tier of a two-tier process? It's not part of the process. And if you're in favor

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of being less restrictive, why not sell it that way. What looks better in the water bill? Well, it says local government promotes less restriction. Rather than a two-tier process, you just have a more of a limited regulation.

Phillip Jordan: Right. So, I think the three-tier has really good things and I think you guys did a good job, but just by the nature of the “two” anything verses a “three” anything, is what I’m saying. I’m thinking a two makes sense.

David Floyd: We run into a problem with the fee structure though, and I think we’ll lose things at the margins. I think that there is a middle there that’s going to be split. So there’s a lot of activity that would go into the potential second-tier that has to either go to a “no process” or “the process.” Then all the sudden you have the guy who’s right there on the margin back in tier-two. We’re not saying that everything that would be in tier-two and three-tier process is in tier-two in the tier process.

Jacqueline Kelly: But the problem you’re raising is legitimate.

David Floyd: We still have the issue of where the cut-off is and who suffers at the margin? So, you know, because first of all there is no fifty dollar (\$50.00) [fee in the first tier] in a two-tier system; one hundred seventy-five dollar (\$175) the initial fee for the conditional use tier and \$50 for the annual fee. So I think that while we may be gravitating towards the less restrictive two-tier process, I think there are positives within the three-tier process that we shouldn’t walk away from because they’re in the three-tier process. 1:32:42

James Schmidt: To me, the three-tier process is actually a two-tier with the addition of a conditional use. You can go to the conditional use if you need to, and you can do that with the two-tier, but you go to two-tier, but if we need to go the conditional use, we can do that too, correct?

John Charleston: You’re just doing a three-tier.

Jacqueline Kelly: Right.

James Schmidt: We’re just adding the current conditional use to the two-tier and maybe calling it a three-tier.

Jacqueline Kelly: Right.

James Schmidt: That’s all we’re doing.

Jacqueline Kelly: I think your initial point is very valid. The simpler the better. No matter what, adding the second category or calling it a third-category makes things more complicated. But, if you’re interested in capturing some of that middle ground, maybe a solution would be to, in the water bill, drop off those who are allowed by right and go to this is who must go through the process A or B.

James Schmidt: Yeah. Two or three.

Jacqueline Kelly: Two or three, right.

Dee Roths: If you have a business and it meets these qualifications, you need to do blah, blah, blah. And everybody else is going to say, “Well, it doesn’t apply to me.

David Floyd: How about this? Right now it either has a conditional use or it doesn’t. It’s either a business and it has a conditional use, so aren’t we really determining what things we’re removing from the list of conditional uses.

Keith Price: Yeah, it is. The broad categories or generalized categories or non-inclusive list if you get it down to chicken eggs or farmer. So, either having a list like we do have, the tier, the direct sales, professional desk

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work, those kinds of things, or specifics. But, not all are inclusive, so we can either have a cookbook approach like it's set up with so many cars a day, so many deliveries a day or an actual label on a business.

Dee Roths: Like you said, full scale business.

Phillip Jordan: This is going with what I'm hearing you say, is to think out loud and help solidify it. Yeah, I kind of like dropping off that obvious tier-one and saying it goes away. Go do what makes you happy, and we're turning the tier-two into tier-one, and tier-three into tier-two. And then the headline in the *Bel Aire Breeze* is 'City reduces fees for conditional uses, low impact conditional uses.'

David Floyd: And you have the same net affect that you have here, but it's just that tier-one is assumed, along with everything else.

James Schmidt: Right.

Jacqueline Kelly: That's one way to definitely handle it.

Phillip Jordan: And then put in the parameters that we need to put in. Again, we don't need to tell them what they can do, right. We just need to tell them, 'Here's at what point where you need to come talk to Keith with the City of Bel Aire.' When you're coming and goings or whatever gets above whatever number, fill in the number six (6) a day, when what you were doing as a hobby all the sudden hits a mark.

James Schmidt: For my simple minded view, if we look at this page that says three-tier process, if I'm hearing what you're saying, let's get rid of tier-one, we'll make tier-two now tier-one and make conditional use tier-two.

Keith Price and Jacqueline Kelly: Right.

James Schmidt: Correct?

David Floyd: Compare that to the two-tier process right now. The two-tier process that you've lined out, tier-one of the two-tier proposal is much like tier-one of the three-tier process.

Jacqueline Kelly: Correct.

David Floyd: And tier-two is a hybrid of tier-two and tier-three of the three-tier proposal.

Phillip Jordan: Right.

David Floyd: And so, do we want to strike tier-one entirely? Do we want tier-one to begin where tier-two and the three-tier process begins or a hybrid of the two?

Jacqueline Kelly: That's the question.

Phillip Jordan: A quick-study answer on that, I would say, just shoot from the hip, would be starting from tier-two and call it tier-one and tier-one becomes 'you're fine'.

Jacqueline Kelly: So the minimal impact process is broader. You want to try and get as many businesses as you can in there. The standard conditional use process, you want to try to narrow that down a little more. Is that what I'm generally hearing?

Phillip Jordan: Yeah. I'm thinking about the fact that you make this tier-one, but you just converted from tier-two into tier-one, right. You want to take tier-one on a three-tier process and you throw that in the trash.

Jacqueline Kelly: Yes.

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Phillip Jordan: Then you define, of course, your now tier-one.

Jacqueline Kelly: Right.

Phillip Jordan: And you probably need to take some of what once was conditional use, onerous, expensive, complex stuff and you move that over to tier-one.

Jacqueline Kelly: To tier-one. Right.

Phillip Jordan: You're old tier-two, or your proposed tier-two.

David Floyd: What's the difference between a tier-one no impact business and not running a home business if you don't have a process? We don't know. We don't know whether or not he has his own business because he doesn't have to tell us that, right?

Jacqueline Kelly: Um hum, so we're just kind of hands-off, washed.

Dee Roths: I would say he has two employees, because if you say you have one employee, the ones in tier-one right now have one employee. So, in other words, an additional employee besides the current owner.

David Floyd: Currently we defined that as like non-familial employee. Would we keep that language? Someone who does not live in the house. It doesn't have to be a family member.

Keith Price: Right.

David Floyd: Just someone that doesn't lives in the house.

Jacqueline Kelly: So two or more people that do not live in the house would be the trigger.

John Charleston: Two or more paid employees.

Phillip Jordan: Is that two or more or more than two.

John Charleston: More than two or however. But, paid employees. If they're paid, whether it's family not, you're an employee.

James Schmidt: If you're getting paid. Good point.

Keith Price: But if you're living there, the impact to the neighborhood is what?

Jacqueline Kelly: Less.

James Schmidt: Right.

Keith Price: Your car is already parked there. Your job's there. You're not leaving to and from.

John Charleston: No, but it's the same as your five (5) cars though.

Keith Price: Yeah.

Dee Roths: Your college son is helping you out.

James Schmidt: More than two (2) then.

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Jacqueline Kelly: More than two non-resident employees, you're going through the conditional use process.

Phillip Jordan: That's a great place to start.

David Floyd: More than two non-resident paid employees. That's a good starting spot.

James Schmidt: Mr. Jordan, you said we're going to do away with tier-one, and I agree. Tier-two is the same and you're wanting to move the standard and current conditional use process to tier-one.

Phillip Jordan: No, I'm wanting to take some of the less impactful, what now, like Jim Benage got nailed with, in that tier-three, what I'm going to call tier-three standard, 'cause that's what it is, the owner's impact. Move those things over into the new tier-one.

Jacqueline Kelly: So I understand that the new tier-one, where you pay a fifty dollars (\$50.00) fee is going to be broader. You're going to get in more cars, more inventory, and more employees. It's going to be a broader category.

Phillip Jordan: More liberal.

Jacqueline Kelly: More liberal, right. More people will fall into that category, ideally. Then the tier-three will be kind of like strict, 'We can't help you. Your business makes too much noise.' The neighbors need to know about ten (10) day care kids coming over or other businesses that fall into that.

David Floyd: Under this system we won't know that Jim Benage's business exists.

Phillip Jordan: And I think that's fine. Because Jim Benage's business does not have any impact and I don't need to know what Jim does.

David Floyd: That's the net effect of turning tier-two into tier-one and standard impact current conditional use into tier-two is businesses like Jim Benage. We never hear about them, because they don't rise to the level of noise and everything else that makes it a tier-one.

Phillip Jordan: Which his exactly why the counsel brought this up to start with.

James Schmidt: Then, Keith, when you have to notify people, is that under the conditional use or is that going to be under the new tier-one?

Keith Price: Yeah, you've already done the hybrid, so we're back to really just two-tiers. One of them will have a business license. The other one will have to go through conditional use to determine.

Dee Roths: And the fee needs to be high enough to cover any of the charges.

Keith Price: Now, I think everything that we've done, short of, there's been a few areas that when we are near Wichita, one of the apartments has eighty (80) households within the Buck Alley area, I remember that one. And there's some over by Sunrise that has similar situation where the contact list is near eighty (80) people. But the majority of the time it's a dozen or less.

David Floyd: It's unfortunate that you can't just notice the homeowners' association when one of these exists.

Keith Price: They get one plus each of the homeowners.

David Floyd: One plus?

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Keith Price: Yeah. Anyone that owns real estate.

David Floyd: Including the homeowners' association.

Jacqueline Kelly: Okay. Can I get a couple of questions in? We'll incorporate this. Now we kind of have a bird's eye view. It'll come back to you as a code advisement. So you'll see it on paper as words rather than the PowerPoint. But there are a couple of things that I need to hit to make sure we cover the whole scope of the directive. Do you think that the bi-annual fee should remain at one hundred dollars (\$100.00)? Remember that initial notification fee now covers the cost to notify neighbors and for staff time to do the process and what not. We're still charging one hundred dollars (\$100.00) a year to keep track of those more conditional use businesses. Also you're, again, answer that for the tier-one businesses who pay that fifty dollars (\$50.00). Are they paying that fifty dollars (\$50.00) a year? The argument from staff is the maintenance of those records, any kind of complaints that come through, those records have to be reviewed and maintained, and there is a clerk system, a way of managing city records. The arguments against that, of course, are you're getting money from people who could be using that money to do other things. So, how do you want to address this?

The commissioner discussed the fees again. The consensus was that the fees are a business expense. The fees should be accessed annually, and cover the process.

James Schmidt: I don't think we need to [notify them] again unless there is a big turnover in that neighborhood and these people don't know it. But, I would think then that, "Keith we've got problems over here" "Well, I'm sorry, but he's got a license and you moved in after the process and the neighbors that were here that were notified didn't complain about it, so, I'm sorry".

Commissioners discussed allowing a sign on the house or in the yard the size of a real estate sign. A conditional use process it would seem fair to allow a sign.

Dee Roths: When somebody moves in, James is going to hopefully set a sign.

James Schmidt: Well, that's true. Yes, they would know then.

David Floyd: When you buy a piece of property in an incorporated city, you are buying into a piece of that corporation and everything that it chooses to do. So, whether you know it or not, you're bound by its code.

Jacqueline Kelly: And you can come down and get the records.

John Charleston: I agree with bi-annual. I'm all for that, because there's going to be your costs and the other City costs of record keeping and things like that. That should help cover some of that cost. And like you said, it's a business, it's part of a business. You're going to have to have all your fees. If you're a big corporation you have your other fees. Your states and federal.

David Floyd: What do other cities charge? Derby, Andover and Maize.

Jacqueline Kelly: We can check into that.

Phillip Jordan: That is relevant.

David Floyd: What Wichita and surrounding suburbs charges. It'd just be nice to know what Park City charges per year for a business license.

John Charleston: That way can undercut them.

Phillip Jordan: Kechi, surprisingly, has a higher per-household income than Bel Aire. I find that very surprising.

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David Floyd: They also have a higher property tax mill levy. Yeah. It actually is substantially higher. Like to the tune of eight or ten thousand dollars per year per household.

David Floyd: Less than two thousand (2,000).

Keith Price: It only takes a couple of billionaires.

David Floyd: My point is yes, I'd really like to hear what Kechi, Park City, Derby, Maize, whatever.

Jacqueline Kelly: So we'll leave that in there for now.

Phillip Jordan: And I also just as a point of clarity, and simplicity. I'm not sure right now if I'm in favor a hundred dollar (\$100.00) annual fee. I'm not right now comfortable with that; but, I am in favor of an annual fee verses a bi-annual fee.

Jacqueline Kelly: We give people just enough time to say, 'Was that this year I paid that or last year?'

David Floyd: Can we ask Ted if he knows what it really costs to administer or if he can ballpark what it really costs to administer these processes and factor that in?

Jacqueline Kelly: Sure.

Phillip Jordan: I'm just thinking simplicity. People know every year they have to do that. Now, if they give fifty dollar (\$50.00) annual fee, I'm not talking about the amount for a minute, I'm just talking about having them both annual.

David Floyd: I don't want the City to lose money because we kind of, our best estimate of being fair here, is fifty dollars (\$50.00) is what we started and at the end of the day, if it's costing the City seventy-five (\$75.00), then it needs to be seventy-Five (\$75.00).

Keith Price: My theory was that if it's collected annually that the information that they sent it in with is more current at the right time that you want it.

David Floyd: This could be adjusted in the future.

Jacqueline Kelly: A lot of that money is spent on reminding people that it's time to renew the business license and my annual data is different than yours. So it sounds like I hear you saying that you want an annual fee, you want more information on what other cities are doing with their annual fee; but right now you are somewhat comfortable with the numbers we've suggested.

Phillip Jordan: Yeah, except you bring up a good point. If it costs the City more money to run around and track stuff every year, then maybe it's less cost to our city by doing it bi-annually every two years. I don't know.

Dee Roths: You could possibly have something you pro-rate and have every July 1<sup>st</sup> you renew your license.

Jacqueline Kelly: This is true.

Keith Price: I think we do pro-rate.

Dee Roths: And then you pro-rate.

Keith Price: New business coming in October, we'd probably pro-rate anyway. We just basically charge them a quarter of the cost and then they renew when everybody else does with that business license in January.

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Dee Roths: So does everybody renew now in January?

Keith Price: That's the way it is now. Everyone renews in January.

Jacqueline Kelly: One date.

Dee Roths: Okay, good.

Jacqueline Kelly: This brings us to our definitions, and I think you've talked about the definitions, look at them and e-mail me if something stands out to you. The main thing that we discussed bringing to you all is guiding us on the definitions of a home occupation. Like you said, there's the issue of when does a hobby become a home occupation? Should the definition of a home occupation have a minimum threshold for income?

David Floyd: What is the threshold for when you need to start filling a tax return?

Jacqueline Kelly: I've looked at that and from what I understand, just with just a cursory look, there is no minimum threshold for when you should start filing a tax return; but, there is a threshold where it benefits a person to file or not file. That's my understanding. I'll talk to a tax attorney and try to find out more. But, from what I understood the number was somewhere between one and two thousand dollars (\$1,000.00 and \$2,000.00) that made sense to file some sort of tax return. For a person who is doing a hobby in their garage, do you want a number like in the thousands before they have to turn that into a home-based business? I think somebody mentioned twenty-five hundred (\$2,500.00) here. Do you want people to be pulled in who are two hundred dollars (\$200.00) or do you want to not define a number and just define that it's for gain or support and then flip over to the matrix and see where they fit?

Phillip Jordan: Well, I can tell you what's rattling around in my head. When you e-mailed this to us right away, I thought two hundred (\$200.00) was way too low.

Jacqueline Kelly: Okay.

Phillip Jordan: Way too low. As you just threw out those numbers, in my mind, "Yup, that's what I was thinking." That two thousand five hundred (\$2,500.00) or two thousand (\$2,000.00). I wouldn't go lower than two thousand (\$2,000.00) or fifteen hundred (\$1,500.00).

David Floyd: I don't want to do anything to prevent people from having hobbies where they can sell their hobbies. But, at a certain point, your hobby becomes a business.

Jacqueline Kelly: So the concern with that is someone who sells ten dollar (\$10.00) bracelets and they have people come to their house and looking at their bracelet collection and they have a lot of traffic. We wouldn't be the ones to go after them. Now that case may be few and far between. You may be comfortable with excluding that, but think about the cases where the revenue generation is much smaller – a bakery. Someone baking cookies for profit. Twenty-five hundred dollars (\$2,500.00) is a good threshold, but it could leave out some people who are knocking around having a lot of people coming to their house, making money, but we can't come after it.

Phillip Jordan: In mind there's always going to be the exceptions. You cannot pass another law to achieve perfection I would argue that there's not going to be a whole lot of traffic coming to buy three dollar (\$3.00) bracelets at somebody's house. This is not a high commodity.

Keith Price: So selling cars, what do you think about selling cars?

Phillip Jordan: Selling cars. I would say that's going to go over that threshold of twenty-five hundred (\$2,500.00) pretty quick. By the way, just let me slide this in there, if anybody is selling them in their car or a car or two cars

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a year, they're not going to be meeting the people at the house initially. They're going to be meeting at a Dillon's, meeting them at Quiktrip.

Keith Price: But once you open up the rules to a certain level and there's a loophole or an opening, that's when you discovery that those kinds of things come out. So I don't know if changing a number is exactly it.

John Charleston: You guys are talking about the number, but you're not putting in the other aspects of this. Noise, the amount of people coming to the door. Amount of deliveries and things like this. If a guy sells a car out of his driveway, I mean, if he buys a car and keeps it for a couple of weeks and sells it – he has nobody coming to his house. He might, but ninety percent (90%) of the time they don't. Or selling bracelets or the cakes or things like that. If they're bringing in people, even though they're reaching that twenty-five hundred dollar (\$2,500.00) threshold, they're bringing in a lot of the traffic and stuff. Then they fall into that other category.

Jacqueline Kelly: Well, and now the way we have it, the way that we're suggesting it – no. First you have to be a home occupation. Then once you're defined as a home occupancy, you're making that twenty-five hundred dollars (\$2,500.00) or more, then you come into the categories, tier-two or tier-three. So now I make twenty-five hundred dollars (\$2,500.00); well, how many people do I actually have coming to my house and how much noise.

John Charleston: Why do we have to put an astronomical door amount?

Keith Price: If that's the trigger for the definition, that's what we're working on.

Jacqueline Kelly: It's very common to have people venture out into a business, never hit twenty-five hundred dollars (\$2,500.00). It could be interpreted as an undue burden. They only make fifty dollars (\$50.00) in their business and then we charged them fifty dollars (\$50.00) because they were in business automatically. You always want to catch for the people who mistakenly sell something and you don't want them to be automatically in violation of the law, if you can avoid it. Those are the reasons I recommend having an amount. We haven't had an amount since 2014, a minimum threshold. Other cities sometimes don't have an amount. I just recommend it so you can kind of catch those throwaways or those mistakes.

David Floyd: I have a suggestion. Rather than have a minimum for the visitors, why don't we have a maximum for the hobbyist? Why don't we say that you may have a hobby where you can sell things up to a maximum twenty-five hundred dollars (\$2,500.00), at which point you are now a business, but we do not use the twenty-five hundred (\$2,500.00) to define what makes a business. We say that you can have a hobby and sell things, but once you hit twenty-five hundred dollars (\$2,500.00) it's no longer a hobby.

Jacqueline Kelly: I don't see an issue with that, that's your tiers.

Keith Price: That way you're not knocking one of the legs out of a home-based business.

Jacqueline Kelly: Right, because now you're absolutely right. It's like, "Well, I didn't make twenty-five hundred dollars (\$2,500.00), so you can't come after me.'

David Floyd: We restrict the hobbyist, we don't limit the business.

Keith Price: Right. There is a hobbyist kennel status at the state level. I don't know all the details related to it, but that's one thing I'll be checking, to see if that skews that definition, our animal code may say one thing, and then our definitions in the zoning code may skew it.

Jacqueline Kelly: One more bubble and then we've covered all of it. Someone brought up do we really want to bring in the kids who have a lemonade stand and we said, 'Well, no. The lemonade stand would be a one-time thing. They wouldn't hit any thresholds.'" However, a lemonade stand to raise money over a month could become an issue. It's a daily thing, traffic is coming. We suggested at staff to take the lemonade stand youth businesses out of this process, agree not to address them through this process, have them go through the special events

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process. Which, through that process, the zoning administrator and the city manager sign off on a plan to have a short-term, temporary anything you can imagine.”

Dee Roths: But then you get into the schools, and the boy scouts.

Keith Price: But that’s not home-based.

Jacqueline Kelly: Yeah. We’re saying taking them out of the process. So, if a kid decides to cut grass for the summer. You come up to the City and they can get a special event permit and that would take them through our business code and not our home-based business costs.

Keith Price: Special events are subjected to whatever the managers, city manager, decides.

Phillip Jordan: I don’t think we need to have a kid that wants to cut grass this summer come up to the City at all.

Jacqueline Kelly: Okay.

Keith Price: But some parents want them to go through the process.

Phillip Jordan: Oh.

Keith Price: That’s how we’re encompassing anything under the sun that comes our way.

David Floyd: People are not coming up to the City and talking to the city manager. There’s no penalty for not doing it.

Keith Price: It’s not in his purview. We’re not negotiating that part of it tonight.

James Schmidt: To me, I like the kid that’s mowing grass or whatever, coming up and getting their special permit. They learn about government. I’m willing to bet a nine (9) year old kid would ever remember it once they get this, but they might. I’m all for kids. Get out there and get her done boys! Man, if you can get a kid off the couch and quite playing with Game Boy and mow the yard, I’d give them a hundred (\$100.00) bucks.

Keith Price: I was going to say we can put an App on the website they can download and be a business operator.

David Floyd: They need to come meet Ty [Ty Lasher].

James Schmidt: Here’s a process and this is why we do it. If somebody mows his yard and was too short and they call up here.

Jacqueline Kelly: And then also it protects the City, not you all – you are immune. It protects the City from the case of the lemonade stand that got everybody sick. “Well, why didn’t the City do something about that?” “Well, we have a process that’s semi-formal and the person chose not to use that process, so we didn’t know about it.” Rather than bringing it into this more formal process.

James Schmidt: And once we get this done, everything’s done, we’re going to send something out to everybody?

Keith Price: Yeah.

James Schmidt: When we put this out as special events, put in there that the little kid mowing or doing lemonade stand or whatever, explain that we want them to learn government. At this age we need them to start getting on board, it’s a learning experience. It’s not a penalty. We’re not “being mean” or anything like that, we just want them to understand that when they get older there’s a process that you have to work through.

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John Charleston: Did you have to do it when you were a kid?

James Schmidt: I didn't know anything about it. I can guarantee that I had to mow yards.

David Floyd: I don't think it's necessarily you have to, it's that the process is in place for you to learn it. And the City, 'Look, it's all good and well until you have a salmonella outbreak or something.' Then people start using the word negligence and going after anyone and everyone starting at City Hall. So the fact that they just got a form available and promote letting us know that you're going to be selling something that people are going to be putting into their bodies. If you run a restaurant and you sell something that people put into their bodies, the Kansas Department of Agriculture wants to know about it. So, if a kid is whipping something up in his kitchen, there's some liability there.

James Schmidt: Well, they may have a lemonade stand, that's what they're telling us, but all the sudden mom thinks, "You know what, I'll make a dozen cupcakes and we'll put them out there too."

Phillip Jordan: If they do come to the City and they get the paperwork or whatever, what does that paperwork say? It doesn't mean that the City is the cupbearer that goes and tries their lemonade.

Jacqueline Kelly: Right.

Phillip Jordan: Basically, eliminates the liability of the City, but practicality wise, I don't see that that insures public health safety welfare at all. Because they came up and filled out a form.

James Schmidt: What does it ensure?

Jacqueline Kelly: It doesn't, but the City is given an opportunity to inform them that, 'Do you know that you should take a food handler's class, you should contact the Kansas Department of Health, be safe and we're not liable.'

Keith Price: Don't set up on the sidewalk. It has to be on property. That kind of stuff.

Jacqueline Kelly: And they do tell them those things.

James Schmidt: You go to a restaurant and they're don't ensure they give you good food.

Keith Price: And we can add in that they'll meet the chairman of the planning commission.

Phillip Jordan: He's going to be the first customer.

James Schmidt: So, okay. There's no other bubbles? We've got them.

Jacqueline Kelly: That's it, we've got them all. You can e-mail me and Keith anything that you think of that comes up. We're just going to bring the next recommendation and then take it from there.

James Schmidt closed the hearing

**James Schmidt** made a motion: to table this item so we can continue to study and get things back next week, and staff will bring more information to us or e-mail to us.

**Dee Roths**: Seconded it.

Phillip Jordan: So what do you see the time-line being? Like, next week we bring it back. We mull this over, kind of like we are. There's a chance that you guys are happy or unhappy and we make a motion to accept

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changes and send it then to city council. Then there's also a chance, is there, of another long meeting and good conversation and changes again. Right? Then we go to a third meeting on this, true?

Jacqueline Kelly: There could be.

Phillip Jordan: There's no five alarm fire waiting for this?

Jacqueline Kelly: No. That's a good point. I think we've got the jest of the direction you want the ship to go. Hopefully we'll bring that back if it changes. We've advised counsel that they should expect that progress is being made, obviously, but they should expect to see it in November or December.

Phillip Jordan: Oh, perfect.

Jacqueline Kelly: So, we have a month. It seems better to present you with the information and discuss it hear than to try to do e-mails, unless you want to do that.

Phillip Jordan: It seems like it's more productive when we're here, because we can exchange ideas.

Commissioners and staff discuss pending home-based inquiries from citizens and new residents. Consensus is to explain the city is working to change the current code, but the rules still apply until changed by city council. If you wait, it be a benefit

David Floyd: Well, I feel really good about how everything came out today. If you can bring it back in the form of an ordinance, I'm going to be eager to see it.

Motion by James Schmidt to table the discussion until next meeting.

Approved 5-0.

This discussion was tabled until next meeting.

James Schmidt: Okay, we've tabled that. We have two more items real quick everybody. We have one seat open over here. We've had two (2) people apply. One of them I can't get him to answer the phone – won't return phone calls. I've talked to a Mr. Luke Lear. Does anybody know him?

Phillip Jordan: I've heard the name.

Commissioners and staff talk about the application received for the planning commission volunteer.

David Floyd: We do have a process if a member is absentee, they can be replaced. No us, but the city council, right?

Jacqueline Kelly: Right.

David Floyd: So if we have someone that just disengages, we don't see them anymore, they can be unappointed, right?

Jacqueline Kelly: Yes.

David Floyd: So we're protected from that.

Dee Roths: Isn't the Mayor the one who appoints them?

James Schmidt: We will recommend it and then yes, it will go to the council.

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David Floyd: Well, we need to fill some seats on this board for sure. It's troublesome when we have four (4) people here. Aren't we supposed to be a seven member body?

Jacqueline Kelly and Keith Price: Yes.

James Schmidt: Council wanted us to make a recommendation last month so they could get him in here. I told Ty I didn't really want to bring a new guy in here in the middle of this war.

David Floyd: I'm trying to say this and still be appropriate. I guess I can say it this way. I've known many people that were recruited and have or still do work at Koch Industries and they're all exceptional people, in my opinion.

Phillip Jordan: I'll agree. I've live with two guys on my cul-de-sac. One's the president of the council and the other one I've tried to get to apply for this and he didn't think that he had the time. But I want to ask you just one thing James, you didn't have any problem bringing me on right in the middle of a mess.

David Floyd: We needed a quorum.

James Schmidt: Okay, so do we want to recommend him then?

David Floyd: I'd like to.

James Schmidt: Okay.

David Floyd: He wants to be here.

James Schmidt: You want to recommend him?

David Floyd: Yes.

James Schmidt: We'll recommend Mr. Lear to join us next month. Okay. I want to bring up one more thing, and maybe I'm all wet, maybe we can't get it done. I don't know. We've had some items, especially this Aurora Park. Is there a way to say to somebody, 'I need this information before today, and if it shows up after this too bad.'

Keith Price: Our bylaws are coming.

James Schmidt: We need to get that changed. We need to say, "We need it two weeks before commission so we can get a packet more than four (4) days. It's not Keith's fault, okay. But, I need more than four (4) days. Something like this, or when we sat at down at the bench.

Keith Price: That was the case with the most recent information that the developer gave us. It's like the first time we're seeing it.

James Schmidt: If can get that fixed, we really need to. It'd take pressure off of you.

Keith Price: You have the ability to table something because you haven't had time to review it and that's how you slam the door.

Jacqueline Kelly: But, in some of those more hot cases, like Aurora Park, we did get someone who tried to submit documents for you all for your packet forty-eight (48) hours before. Based on your directive, staff just sent an e-mail saying that the chairman of the commission has said no documents after a certain point because they can't give due diligence to reviewing them; therefore, we cannot accept this. And that was enough, to voice that directive.

Approved minutes 10.11.18

Keith Price: But those folks were not the applicant. The applicant, you're trying to view what their asking you to do, but you have the ability to say that they didn't submit this in time. We didn't get a chance to review it, so we're going to table it. That's your recourse. If you don't feel I've notified the neighborhood good enough and you look through things and it doesn't look like it meets statute or our city code, you table it. That's kind of how you deal with it. We had one case that someone said that we missed notifying an individual, but the abstractor put together a list, we notified everyone on the list, it wasn't our fault. There's instances when it doesn't look right you table it. If that's the penalty they're paying, thirty (30) days for a commercial project or another kind of project, it hits home pretty quickly. We're trying to greet them and treat them like they're going to bring revenue and new buildings to the City.

James Schmidt: That's all I have. Anybody else got anything?

Phillip Jordan: I agree with what you just said. I just kind of panicked when we had fifty (50) people out here and they suggested an entire new plan. It was like, 'Oh, man.'

David Floyd: In talking about it, the people in the back row are letting us know that they can't hear us.

James Schmidt: I think the thing that irritated me was that before the meeting started they brought those folders up. They went to a lot of work. When are we supposed to have time to look at that? They shouldn't have been coming up here in the first place.

Jacqueline Kelly: Right. Yeah, we should have stopped that.

Keith Price: Those are not applicants, those are protesting the process and they're given three (3) minutes. There's nothing in there that says they have to provide you.

David Floyd: Come fast, come loose. I was trying not to get the room riled up. I failed at that.

Keith Price: Actually I think you did an excellent job.

Jacqueline Kelly: Absolutely.

Keith Price: You controlled the room and then you're wing man over here. Having a quorum was very special too.

David Floyd: I thank you Dee for that. I think I'll get you a Christmas bonus or something.

Dee Roths: Thank you.

Jacqueline Kelly: Without that you'd be handling that now, tonight.

David Floyd: The room was already full.

Keith Price: You all did excellent. James, I don't know what your excuse was, but you did well.

James Schmidt: We have two chairs and we're going to fill one. I remember talking about this. Do we have to have somebody in the county right now, because that's the way the by-laws read, right?

Jacqueline Kelly: You need to have someone from the unincorporated part of the county because that's the way this commission is set up. Council would have to change the commission to just be an internal commission. It would reduce some of the control that the City has on the perimeter. The area right around the City.

James Schmidt: So we have two.

Approved minutes 10.11.18

Jacqueline Kelly: Two. For right now you're okay. It's a vacant slot reserved for someone outside of the City of Bel Aire.

James Schmidt: Because we have our permanent, unincorporated chair right here [Dee Roths]. Unincorporated means somebody lives in the county, not including Kechi.

Jacqueline Kelly: Right.

Keith Price: Within three (3) miles of our corporate limits.

David Floyd: Is that set by statute, the extra-territorial jurisdictions requirements.

Jacqueline Kelly: I think it's set by charter. You can do either way. What's your question, I think I missed it.

David Floyd: How do we maintain the extra-territorial jurisdiction with one member from out in an unincorporated area?

Jacqueline Kelly: Because we have seats for two and we just have a temporary vacancy for that other seat.

David Floyd: So, I guess what's saying that we have to have those two seats in order to have that power?

Jacqueline Kelly: I believe that comes from our charter ordinance. It's something within our code that drives the type of planning. You either have a planning commission that exercises authority within the City and that is the statute that says that.

Dee Roths: Okay, I see what you're saying now.

Jacqueline Kelly: The statute says you can either have a planning commission that controls extra-territorially or within the City. The turning point is if you have two members from outside of the jurisdiction.

David Floyd: Okay.

Jacqueline Kelly: So the City has, and I think we've incorporated that into our code, to say that we will have our planning commission which has extra-territorial jurisdiction.

Phillip Jordan: So what does that mean, extra-territorial? I know what it means, so this planning commission can effect things outside of the city limits of Bel Aire.

John Charleston: A certain radius.

Keith Price: We have an obligation to include our future growth area, which is what the county has agreed with the City that we have control over. So anytime the county has a case, they'll bring it to us, basically our body can weigh in that. We don't get the final say, but do bring those to us from time to time.

David Floyd: Does that have any bearing on the unilateral annexation?

Jacqueline Kelly: Sometimes, I have to look at that again with fresh eyes. If that annexation falls within that territory, one of the ways that we can annex that property is by proof that we have an interest, we exercise control on that extra-territorial area.

Keith Price: And we can provide services.

David Floyd: This gives us kind of a first right of refusal, almost.

Approved minutes 10.11.18

Jacqueline Kelly: Almost. It's one of the factors that allow us to exercise that unilateral annexation authority or to justify why we would be in the position to exercise it.

Dee Roths: But there's a stipulation as far as when you provide services, isn't there also?

Keith Price: Within five (5) years. You basically have to abut the land. You can't technically do an island annexation, those kinds of things. If it's in our area we do have a first right of refusal.

Dee Roths: And the boundary is basically three (3) miles.

Keith Price: That's different than the area of influence.

Dee Roths: You sent me a map.

David Floyd: Yeah. There's a map in the Sedgwick County Comprehensive Plan that shows the urban area of influence.

Jacqueline Kelly: That's it.

Keith Price: It's also in our Master Growth Development Plan.

James Schmidt: Anybody else have anything?

Keith Price: Check the website for the brush pile information. I don't know anything else.

Phillip Jordan: I'm going to be there at 9:00.

David Floyd: It's this weekend.

## **NEXT MEETING**

Next meeting October 11, 2018. Motion to approve?

Dee Roths motioned to approve.

David Floyd seconded.

Motion carried 5-0.

## **ADJOURNMENT**

Dee Roths motioned to adjourn the meeting Phillip Jordan seconded.

Motion carried 5-0.

Meeting adjourned. 8:40 pm

Submitted by Keith Price, Building and Zoning