

**CITY OF NORTH LAS VEGAS
SPECIAL CITY COUNCIL MEETING MINUTES**

April 16, 2008

CALL TO ORDER: 4:38 P.M.

ROLL CALL

COUNCIL PRESENT

Mayor Michael L. Montandon
Mayor Pro Tempore William E. Robinson
Councilwoman Stephanie S. Smith
Councilwoman Shari Buck
Councilman Robert L. Eliason

STAFF PRESENT

City Manager Gregory Rose
Assistant City Manager Sam Chambers
Assistant City Manager Maryann Ustick
City Attorney Carie Torrence
City Clerk Karen Storms
Communications Director Brenda Fischer
Fire Chief Al Gillespie
Parks and Recreation Director Mike Henley
Acting Planning and Zoning Director Frank Fiori
Senior Deputy City Attorney Nick Vaskov
Business License Manager Lana Hammond
Planning and Zoning Manager Marc Jordan
Parks and Recreation Manager Michelle Menart
Assistant City Clerk Anita Sheldon

VERIFICATION: Karen L. Storms, CMC
City Clerk

BUSINESS:

1. **DISCUSSION AND/OR ACTION REGARDING WILLIE MCCOOL REGIONAL PARK AIRFIELD ISSUES.**

Parks and Recreation Director Mike Henley explained there was a compatibility issue between airfield users and an adjacent residential development at Willie McCool Regional Park.

Director Henley showed an aerial view of the site to Council and pointed out the development to the south in relation to the airfield. He explained the airfield was moved in 1993 and was operated previously at the location currently Sandstone Ridge Park. Airfield membership cards were required, members were registered with the Academy of Modern Aeronautics for liability coverage and were required to sign an acceptance of the City's and Academy of Modern Aeronautics' flying rules. There were 123 registered flyers with 44 being North Las Vegas residents. The daily hours of operation were from 8 a.m. - 9 p.m. There were three other flying sites in the Valley; Sam Boyd Field, Clark County Fairgrounds parking lot and Red Rock State Park.

Director Henley explained that when development occurred in 2006, the first noise complaint, tied to the Centex development, was received. The City responded by implementing hours of operation for the airfield. The normal park hours were from 5 a.m. to midnight and were adjusted effective January 1, 2007 to 8 a.m. - 8 p.m. daily. Over the past year, three complaints were received from two of the adjoining residents which resulted from multi-use special event tournaments that involved overnight stays on the site. The local Homeowner Associations that served the three areas indicated they received one complaint over the last year. The policies and procedures in place were reiterated to the flying clubs at the site and implemented for airfield special events including provisions when requests were received for overnight camping. The airfield was monitored to minimize ineligible flyers from using the airfield after hours.

Director Henley explained some options proposed were to continue utilizing the past mitigation measures mandated by the Parks and Recreation Board in 2007, modify the measures by implementing the elimination of airfield special events which required the overnight camping, hire staff to monitor and enforce noise standards or close the park on Sundays. He also proposed partnering with the clubs on a longer term to find a suitable location in the north end of the Valley, implement all the options and report the progress after twelve months or close the airfield.

Director Henley explained that some inquiries were done with other jurisdictions. He spoke with Clark County regarding the shooting park where there were 2000 acres legislatively deeded. He explained that the key issue was that the airfield was protected, with this type of leisure activity, from further encroachment and compatibility issues with residential development. There was also a discussion with the City of Las Vegas regarding land at Floyd Lamb State Park. Staff reviewed the development cost estimates for recreating the airfield runway, support facilities such as restrooms and picnic facilities, information and parking and estimated a cost of \$1 million to complete.

Staff recommended partnering with the clubs and working with other jurisdictions to locate property to accommodate the airfield, limit special events over the next 12 months that required the overnight camping, hiring staff to monitor and regulate noise, or close on Sundays.

Brian Ward, 3429 Golden Sage, North Las Vegas explained he had been involved in the hobby of model airplanes for 2 years and had seen changes at the park. He felt that most people reviewed and abided by the rules. He did not feel the noise was a quality of life issue since they did not start flying the planes until 8:00 a.m. and stopped between 6:00 p.m. - 7:00 p.m. He requested that, if they were to be relocated, Council consider a park on this side of town and that the current park be kept open until an alternate location was found.

Norman Kapaska, St. George, Utah spoke about the numerous people in the area who fly aircrafts year round and the benefit of having the McCool Airfield in the area.

Frank Kelly, 3052 Fresco Court, Las Vegas, explained that 50% of the airfield users belong to one of the two clubs in the Valley and were required to obtain and maintain their annual \$25.00 park usage badge. One of the requirements for the usage badge was proof of valid membership in the Academy of Model Aeronautics which covered the members with \$2.5 million of insurance provided the Academy of Model Aeronautic safety codes were followed. The Parks and Recreation Department was listed as the additional insured on the liability insurance carried by each club, which was also \$2.5 million and included liability protection for the site owner. Mr. Kelly explained it was a self-policing system with the majority of members obtaining new rules by dissemination of information at monthly meetings and/or monthly newsletters. When a new flyer came to the field, a member oriented them to established rules. He explained that park maintenance for the field was minimal and all members contributed to the clean up of the field, although the park was also used by off-roaders. Mr. Kelly recommended that Council reorient the runway on the park property to the northern edge with an east/west heading which would alleviate the problems and move the sound further north.

Paul Schmitz, 1248 Douglas Drive, Las Vegas, President of the Rebel Squad at RC Flying Club explained that the club had an additional \$7.5 million umbrella policy which was submitted yearly to the City. He explained that on the last Saturday of every month, from 9:00 a.m. - 2:00 p.m. members of the community were able to come to the airfield and fly the model airplanes free of charge.

Renee Thompson, 4212 Cathedral Falls Avenue, North Las Vegas, was opposed to the noise and requested that an appropriate venue be found for the hobby that would not interfere with the peace and enjoyment of the residents. She explained that the noise generated from the radio controlled airplanes was equivalent to the operation of multiple leaf blowers swarming at an altitude between 50 - 300 feet above and continued for 10-12 hours daily. Ms. Thompson requested that Council considered the needs and desires of the residents.

Mayor Pro Tempore Robinson questioned whether Ms. Thompson's house was in the direct path of the runway. Ms. Thompson showed the location of her house on the map.

Councilwoman Buck questioned Ms. Thompson on her thoughts regarding the measures proposed by Director Henley. Ms. Thompson suggested limiting the size of the aircraft.

Mayor Montandon explained that the park had been there since 1986 and that the land was on a long term lease from the Bureau of Land Management under the Recreational and Public Purpose Lease. He explained that the most reasonable options were to research the modifications that could be made to reconfigure the runway to have it point away from the neighborhood and review what could be done to enforce the rules for the few that violated them.

Councilwoman Buck questioned the number of North Las Vegas flyers that were in attendance and was surprised that only one had spoken. She had received several calls from residents who were upset about the noise and the inability to use their backyards. Councilwoman Buck felt the airfield needed to be moved and was concerned about the people camping overnight in their motorhomes and the noise from generators.

Councilwoman Smith felt a long range plan for the use within the park or at the Clark County shooting range and a compromise for the current usage was needed.

Mr. Schmitz explained that 75% of the newer models sold and 50% of airplanes flown at the field were powered by electric motors which limited the noise. He explained that the planes took off away from the residents and the Academy of Modern Aeronautics stated there was no flying over residences.

Councilwoman Smith questioned whether there were people that were not members that did not follow rules or had noisier planes. Mr. Schmitz explained that the planes came with motors and mufflers and could not be flown without the mufflers.

Mayor Pro Tempore Robinson explained that a long term solution was needed as well as a short term solution.

Mr. Schmitz explained that people were not there consistently for eight hours, but a typical schedule was from 8:00 a.m. - 10:30 a.m. and again from 3:00 p.m. to sundown. He also suggested that the club provide Council with manufacturing information regarding decibel ratings of the engines.

Councilwoman Buck requested information on different types of planes, engines that could be prohibited for excess noise and Sunday usage.

ACTION: STAFF DIRECTED TO DEVELOP LONG TERM SOLUTIONS TO MOVE THE PARK AND DEVELOP STRATEGIES FOR SHORT TERM SOLUTIONS TO BE BROUGHT BACK TO THE CITY COUNCIL WITHIN THIRTY DAYS

MOTION: Councilwoman Buck
SECOND: Councilwoman Smith
AYES: Mayor Montandon, Mayor Pro Tempore Robinson, Councilmembers Smith,
Buck and Eliason
NAYS: None
ABSTAIN: None

The meeting recessed at 5:59 p.m. and would reconvene following the Regular City Council Meeting.

The meeting reconvened at 6:51 p.m.

2. PRESENTATION, DISCUSSION AND/OR DIRECTION REGARDING TITLE 17 REVISIONS FOR “ON-SALE” ESTABLISHMENTS.

Principal Planner Robert Eastman explained that he met with George Garcia, of GC Garcia Planning & Development Services Corporation, regarding issues he had with the proposed ordinance. The first item requested was a different definition for a commercial center. He explained what needed to be done was to ensure that a commercial center was large enough and required 200,000 square feet. The requirement for the anchor store was removed but he wanted to make sure that the development was one development, not a string of strip centers that got gerrymandered and met 200 - 200,000 square feet.

Another item dealt with the grandfathering issue which had been placed into a clause in the revised ordinance.

The next amendment dealt with mixed uses and liquor uses in the mixed use. Staff felt the proposed language allowed on-sale uses, without a use permit, with the approved mixed use. Principal Planner Eastman explained when the mixed use was heard either as a planned unit development or mixed use development, Council would approve all the on-sale uses, with the current ratios, the one on-sale use per 50,000 square feet, and using the current ratio of restricted gaming to full on-sale. The concern was that Council would only get to review the mixed use when that mixed use was approved and not as it normally would be. He explained if Council wanted it to be that way the language in the ordinance needed to be amended.

Mayor Montandon questioned the procedure for submission of a planned unit development or a mixed use development and the language that would be in the Staff analysis. He also asked whether the applications would say they were reviewed and, based on the square footage and ratios, met the requirements and were approved. Principal Planner Eastman explained the applications would not be brought forward unless the square footage and ratio requirements were met in the mixed use ordinance.

Councilwoman Buck questioned if there was any way that Council could have the ability to make the applicant cease doing business or have a show cause hearing if they were not in compliance. Principal Planner Eastman explained that Council would have the ability to place conditions on the mixed use or planned unit development at that time to govern the uses.

Mayor Montandon questioned what enforcement rights the Council had on people that were not living up to their zoning conditions. Senior Deputy City Attorney Nicholas Vaskov explained that through any conditions that were established on the planned unit development or mixed use development it would be specific to the on-sale. He also explained that through the business license process, there was a process for disciplining business license holders and it could be used in this case also.

Mayor Montandon questioned what would happen if some C-1 zoning was approved and someone used the site for something that was only allowed in C-2. He asked what rights the City had to shut them down and would the process differ from violation of the planned unit development provisions. Principal Planner Eastman explained they should be denied at the business license stage or tentative improvement on a building. During the review if there was a violation of the C-1, then it would be denied. Senior Deputy Attorney Vaskov explained that if the applicant was operating a use not compatible with the zoning it was a Code Enforcement issue and a citation would be issued.

Councilwoman Buck felt that there should be a condition or conditional permit to know what was going on inside the planned unit development or mixed use development and give Council the ability to enforce ordinances.

Principal Planner Eastman was concerned with the requested waiver provision for distance and separation requirements between uses and explained it said that an adequate barrier was any planned or constructed roadway with a minimum width of 120 feet. This would give the applicant the ability to ask for a waiver for any 120 foot right-of-way that was currently planned but not constructed and may not get constructed for a few years, to classify as an adequate barrier. He explained that if there were different future Councilmembers it might create a different set of circumstances of what may or may not get waived.

Principal Planner Eastman explained another item eliminated all separation requirements for any use within a mixed use, and that any use within that mixed use did not create a separation requirement.

Principal Planner Eastman spoke about the issue dealing with vesting of on-sale uses. He explained the use would vest once it was approved and the on-sale use would not need to come back for extensions of time if it was located within a mixed use. If a mixed use was chosen and placed in the ordinance it would eliminate that portion. The other would be that if it was in any commercial center, using the definition of commercial center that was established, the applicant would not need to come back for extensions of time, and would have their use by right in perpetuity, like most other use permits.

Councilwoman Buck questioned whether there would still be use permits. Principal Planner Eastman explained it was only in mixed use that there would not be use permits. There would be a use permit for a tavern outside of a mixed use development.

Mayor Pro Tempore Robinson questioned whether a vacation would be created if an applicant submitted a mixed use development or a planned unit development and decided that what they were getting into perpetuity, ten years, was vested and would not have to prove to Council if they were trying to build.

Senior Deputy City Attorney Vaskov explained it would be a conditional use process, provided the ratio established in the mixed use ordinance was met, the project would be entitled to that number of on-sale establishments.

Councilwoman Buck questioned the same problem the City had with Pardee Homes would occur when future residents would say they did not know that there were going to be ten taverns adjacent to their properties. Senior Deputy City Attorney Vaskov explained if the residents came down to review the ordinance they could find out.

Mayor Montandon questioned if the applicant could go in and build the on-sale ahead of the square footage. Senior Deputy City Attorney Vaskov responded it could not be done. He explained if there was a use permit with no expiration date on it you can build at any time. It would be the same process that would be used if the City allowed the conditional uses of on-sale establishments with the language proposed by Mr. Garcia. He also explained that the applicant would be allowed to get a conditional use permit provided the conditions and ratio required under the Code were met.

Councilwoman Buck questioned if there were standards as to what type of tavern could be built. Senior Deputy City Attorney Vaskov explained that if it were about design criteria, the applicant would need to comply with the general design guidelines. Principal Planner Eastman explained that the design of the center, both from the site plan and the elevations, were reviewed and approved at the time of the approval of either the planned unit development or the mixed use development, so a good representation of how the site plan was going to look and how the buildings were going to appear would be obtained.

Councilwoman Buck questioned whether there were safeguards that could be placed in the ordinance to protect a neighborhood that was not there before the development. Senior Deputy City Attorney Vaskov explained one of the ways that could be done was to state that if the applicant was within a planned unit development or mixed use development, the City would protect them from outside uses such as church and parks that come in so that the development potential of the site was not compromised. But, the City would still require the applicant to come forward with a use permit so that Council could determine whether that use was appropriate.

Councilman Eliason questioned what guarantee was given to the developer. Senior Deputy City Attorney Vaskov explained it only gave the certainty that the developer could still apply. He also explained that if the applicant was only a restaurant and they were not interested in gaming, there were no separation requirements.

Councilwoman Smith commented that she felt Council should either leave the definition as it was or take the modified one recommended by Staff.

Councilman Eliason questioned how many acres would encompass 200,000 square feet of retail. Mayor Montandon responded it would encompass twenty acres.

ACTION: ACCEPT STAFF'S RECOMMENDED WORDING OF AMENDMENT NUMBER ONE

MOTION: Councilman Eliason

SECOND: Councilwoman Smith

AYES: Mayor Montandon, Mayor Pro Tempore Robinson, Councilmembers Smith, Buck and Eliason

NAYS: None

ABSTAIN: None

Jeff Silver, (no address given) explained that the issue of the grandfathering language addressed the specific points and he was concerned that the grandfathering language said the City could either keep what was approved under whatever ordinance might have been effective for a particular project, or could adopt, in its entirety, the language that might be proposed in the amended ordinance. Mr. Silver also explained that the applicant should be able to select items that might be an improvement over what they had, while maintaining the certainty of the ordinance that they had already been approved under. He commented that if the new ordinance was adopted, the applicant should not be penalized when others came after and took advantage of it. He explained that what was being suggested was the fact that the developer would have to prove themselves, buy the land and build the 200,000 square feet in order to get certain entitlements.

Mayor Montandon questioned the language Staff recommended versus the language Mr. Silver recommended. Senior Deputy City Attorney Vaskov explained he did not feel it was substantively different.

Mr. Garcia explained that the current ordinance had inherent flaws and if asked to follow that ordinance the developer would be stuck with the flaws.

Mayor Montandon questioned the number of existing planned unit developments that were undeveloped. Senior Deputy City Attorney Vaskov explained there were four; Athena, Alhambra, North Gate and Binion's.

Senior Deputy City Attorney Vaskov felt that Mr. Silver's position was that he wanted some of the benefits of the new Code, but using the old Code, because the old Code allowed for supper clubs, which the new Code did not and felt that was the crux of the issue.

Councilwoman Smith questioned which waivers Mr. Garcia was concerned about. Mr. Garcia explained that it was with any of the proximity waivers.

Councilman Eliason questioned why the other Planned Unit Developments did not have the same issue.

Jennifer Lazovich, 3800 Howard Hughes Parkway, Las Vegas, represented the Binion project and explained that the conflict occurred with the Binion site. She explained that under Title 17, a planned unit development was approved, and as part of that planned unit development eight taverns were approved on that site, but under Title 5, there were conflicting licensing provisions which did not match with what Council approved on Title 17.

Councilwoman Smith questioned whether the proposed ordinance would give the entitlements. Senior Deputy City Attorney Vaskov explained that with the Binion project the developer received eight use permits with no expiration date which meant they were vested at the time it was granted by Council. He also explained that the City could not have that and then go under Title 5 because it would not allow Council to grant the eight business licenses associated with the use permit. Staff's position was always that if Council granted the use permits, the only way to reconcile them was to acknowledge that they gave an implicit waiver of the Title 5 requirements that would prevent that kind of development.

Mayor Montandon commented that he was willing to support leaving the four projects in place while allowing the features from the new ones.

ACTION: STAFF DIRECTED TO MAKE CHANGES AS DISCUSSED AND BRING BACK TO COUNCIL

MOTION: Councilman Eliason

SECOND: Councilwoman Smith

AYES: Mayor Montandon, Mayor Pro Tempore Robinson, Councilmembers Smith, Buck and Eliason

NAYS: None

ABSTAIN: None

Mr. Silver explained that the language may be in place but the applicant should not have to come back for approval of a special use permit for the number of locations that mathematically they might be entitled to. He explained that although the ordinance said the applicant was entitled to ten on-sale licenses, they would have to come back each time for a special use permit and questioned at what point the entitlement for an on-sale license was vested.

Principal Planner Eastman explained that what Mr. Silver was looking for was that the developer get their planned unit development or mixed use development, and then have any on-sale use covered by a conditional use permit that was reviewed and approved as long as all the conditions of approval were met.

Councilwoman Buck questioned if there was a way that Council could have the ability to review the application. Senior Deputy City Attorney Vaskov explained that the way it could be envisioned would be to present a mixed use project, which was both a rezoning and a site plan at the same time. The City would ask the applicant to identify the maximum number of on-sale establishments that they believed they were entitled to under the ratio established by the mixed use ordinance and as those on-sale establishments were built, the ratio would need to be met, but they would get a conditional use permit every time. He explained that Staff could review those applications administratively, and if there was a concern about a particular design, site conditions or theme that did not comply with the Code, Staff could condition the application or recommend that it be heard by Council.

ACTION: STAFF DIRECTED TO MAKE CHANGES AS DISCUSSED AND BRING BACK TO COUNCIL

MOTION: Councilman Eliason

SECOND: Councilwoman Smith

AYES: Mayor Montandon, Mayor Pro Tempore Robinson, Councilmembers Smith, Buck and Eliason

NAYS: None

ABSTAIN: None

Mr. Garcia questioned if there was a way to find treating a supper club different than a tavern. Mayor Montandon explained that the way the ordinance was currently structured, with so few supper clubs that existed, he only supported leaving it as it was and if there was a need for a change the ordinance could be reviewed at that time.

Mayor Montandon explained about the adequate barrier exception and said he would like the ability as a Council to review it, but also had concerns about the issue of planned not constructed.

Councilwoman Smith felt that the policy deciding an adequate barrier was not a good idea.

Mr. Garcia explained that the thought was to give Council the discretion to make those decisions on a case by case basis.

Mr. Silver explained that if there was language that said that proximity did not apply to the four MUD/PUD users, then it became much less of a problem. He also explained the idea of having discretion was important to Athena at every turn, but, they would have to deal with that specific issue with the other language that was recommended for the Council.

Senior Deputy City Attorney Vaskov explained another issue regarding the language which said “any and all conditions and stipulations shall be fulfilled.” He felt that it should be kept in because it applied to a broader range of use permits and hoped that the conditions set in the use permit were complied with.

Mayor Montandon questioned whether there was an amended ordinance for approval. Senior Deputy City Attorney Vaskov explained there was not. City Attorney Torrence explained she wanted to be sure that there was sufficient direction on the remaining issues to bring back a more comprehensive ordinance to the May meeting.

Senior Deputy City Attorney Vaskov summarized that the direction was for the big mixed use projects that were already approved to have the on-sale use permits vested so they could be protected from encroachment from other developments. He also summarized that Council wanted future big mixed use projects to have a conditional use permit process to have the applicant identify the maximum number of on-sale establishments that they had the potential to build in their mixed-use application.

Mayor Montandon explained that the conditions for those permits would go forward and grant a conditional use permit upon completion of those conditions as an administrative matter of right, and if they did not meet the conditions they would have to come before Council for a special use permit.

Councilman Eliason questioned how information would get to the general public as they purchased their home to be assured they were aware that there was going to be the possibility of ten bars.

Mayor Montandon explained that would need to be addressed at the State Legislature because currently the State said it should be identified as a planned unit development but there was no need to have it identified as a planned unit development with the site plan.

Councilwoman Smith questioned whether the realtors could be demanded to disclose. City Attorney Torrence explained that State law dictated the mandatory disclosures. She also explained that what could be done was as part of them coming in as a mixed use development was tell the applicant they need to disclose to all the residents what would be built but that would only affect the houses that were sold by the developer. If someone bought a house and resold it, there was nothing that could be done.

ACTION: STAFF DIRECTED TO MAKE CHANGES AS DISCUSSED AND BRING BACK TO COUNCIL

PUBLIC FORUM

There was no public participation.

ADJOURNMENT

ACTION: THE MEETING ADJOURNED AT 8:11 P.M.

MOTION: Councilman Eliason

SECOND: Mayor Pro Tempore Robinson

AYES: Mayor Montandon, Mayor Pro Tempore Robinson, Councilmembers Smith, Buck and Eliason

NAYS: None

ABSTAIN: None

APPROVED: June 4, 2008

/s/ Michael L. Montandon
Mayor Michael L. Montandon

ATTEST:

/s/ Karen L. Storms
Karen L. Storms, CMC
City Clerk