

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, August 11, 2010, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Michael Cornelius, Dick Esseks, Wendy Francis, Roger Larson, Jeanelle Lust, Jim Partington, Lynn Sunderman and Tommy Taylor (Leirion Gaylor Baird absent); Marvin Krout, Steve Henrichsen, Tom Cajka, Christy Eichorn and Teresa McKinstry of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Chair Lynn Sunderman called the meeting to order and acknowledged the posting of the Open Meetings Act in the back of the room.

Sunderman then requested a motion approving the minutes for the regular meeting held July 28, 2010. Motion for approval made by Francis, seconded by Larson and carried 6-0: Cornelius, Francis, Larson, Partington, Sunderman and Taylor voting 'yes'; Esseks and Lust abstained; Gaylor Baird absent.

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

**August 11, 2010**

Members present: Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor; Gaylor Baird absent.

The Consent Agenda consisted of the following items: **STREET AND ALLEY VACATION NO. 10009 and STREET AND ALLEY VACATION NO. 10010.**

Ex Parte Communications: None

Cornelius moved to approve the Consent Agenda, seconded by Francis and carried 8-0: Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'; Gaylor Baird absent.

**MISCELLANEOUS NO. 10006**  
**TO RELEASE A PORTION OF AN**  
**EXISTING PUBLIC ACCESS EASEMENT**  
**AND CONVERT THE REMAINING PORTION**  
**TO A COMMON ACCESS EASEMENT,**  
**ON PROPERTY GENERALLY LOCATED**  
**WEST OF S. 6<sup>TH</sup> STREET AND CALVERT STREET**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** August 11, 2010

Members present: Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor; Gaylor Baird absent.

Ex Parte Communications: None.

Staff recommendation: Approval.

Staff presentation: **Christy Eichorn of Planning staff** stated this is an application to release an existing easement. The easement to be released is a public access easement about 53 feet wide. The existing easement has both a public access easement as well as sanitary sewer lines and utilities. The purpose of releasing the public access easement is so the only access would be to the property owners to the north and south. The staff report talks about having a common access easement over the east 70 feet. The property owner to the north has their property on the easement. Allowing a common access easement on the east 70 feet would allow them to keep their driveway and access their property to the north.

Two weeks ago, it came to staff's attention that Burlington Northern Santa Fe Railroad has a driveway at the end of the public access easement to access their property. Staff has been in contact with the railroad. BNSF has drafted two different easement agreements. One is for a common access easement over the east 70 feet that BNSF, the property owner to the north and the property owner to the south would all abide by. The City Attorney's office has reviewed the agreement and finds it satisfactory.

BNSF drafted another private easement agreement for the remaining portion between BNSF and Morningstar Investments, which is the property owner to the south. The City Attorney's office has also reviewed this agreement and finds it satisfactory.

The staff recommendation is approval of the release of the public access easement, conditioned upon the two agreements that were drafted by the railroad being signed and filed with the Register of Deeds.

Larson questioned if Morningstar Investments is agreeable to this condition. Eichorn replied that Morningstar Investments has agreed to the two agreements.

Proponents

1. **David Rasmussen** appeared as attorney for Burlington Northern Santa Fe Railroad. The railroad needs unrestricted access to reach their property. This road is used quite frequently. As long as the common access easement agreement and private easement agreement are agreed upon, they are agreeable to this release. They would like to have an executed copy of both agreements in their hands to file with the Register of Deeds when the City approves the release of the existing easement so that there is no interruption of service for BNSF.

No one appeared in opposition.

**ACTION BY PLANNING COMMISSION:**

August 11, 2010

Taylor moved approval with the condition that written agreements be filed with the Register of Deeds for a common access easement over the east 70 feet and a private easement agreement for the remaining portion of the existing public access easement, seconded by Larson and carried 8-0: Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'; Gaylor Baird absent. This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 1:10 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on August 25, 2010.