

MEETING RECORD

Advanced public notice of the Nebraska Capitol Environs Commission meeting was posted on the County-City bulletin board and the Planning Department's website. In addition, a public notice was emailed to the Lincoln Journal Star for publication on Wednesday, April 13, 2022.

NAME OF GROUP: NEBRASKA CAPITOL ENVIRONS COMMISSION

DATE, TIME AND PLACE OF MEETING: Friday, April 22, 2022, 8:30 a.m., City Council Chambers, County-City Building, 555 S. 10th Street, Lincoln, Nebraska.

MEMBERS IN ATTENDANCE: Andrea Gebhart, Delonte Johnson, Kile Johnson, Karen Nalow, Ann Post and David Quade; (Heidi Cuca absent).

OTHERS IN ATTENDANCE: Paul Barnes and Teresa McKinstry of the Planning Department; Lynn Johnson with Park and Recreation; Bob Ripley with the Nebraska Capitol Commission; Jason Jackson and Michelle Potts from Nebraska State Building Division; Dave Meagher; and other interested citizens.

STATED PURPOSE OF MEETING: Nebraska Capitol Environs Commission Meeting

Chair K. Johnson called the meeting to order and acknowledged the posting of the Open Meetings Act in the room.

K. Johnson then called for a motion approving the minutes of the regular meeting held March 25, 2022. Motion for approval made by Nalow, seconded by Quade and carried 5-0: Gebhart, D. Johnson, Nalow, Post and Quade voting 'yes'; K. Johnson abstaining; Cuca absent.

DEMOLITION AND NEW CONSTRUCTION AT 1432 N STREET

PUBLIC HEARING AND ACTION:

April 22, 2022

Members present: Gebhart, D. Johnson, K. Johnson, Nalow, Post and Quade; Cuca absent.

Paul Barnes stated that this is a continued hearing item from last month. Some revised plans were submitted. He believes the focus today will be mostly on the upper patio spaces that were located in the right-of-way on Centennial Mall. The new design shows the patios recessed and not located in the right-of-way.

Dave Meagher showed the updated recessed patio spaces based on feedback they received from the Commission last month. He showed a new plan for the new design.

K. Johnson asked if the number of units was reduced from four to three to accommodate the new design. Meagher replied yes.

D. Johnson noted the units appear wider. Meagher responded they have grown a little to accommodate the new design.

Post inquired why recessing the patios forced them to eliminate one unit. Meagher replied that they don't have a view that shows the changes. He noted that by pushing the square footage with the recessed patio, you would eat into a lot of living space for circulation as well as the bedroom. He doesn't know how large the patio spaces are. It makes it difficult to get four spaces in. It did make them a little longer.

Nalow thanked the applicant for looking into this concern and finding another solution.

Bob Ripley asked if any of the patios are still proposed to be located in the right-of-way. Quade stated they are all recessed with the new proposal.

ACTION:

Post moved approval of a Certificate of Appropriateness for demolition and new construction with conditions agreed to by the applicant and noting that the construction of the porches no longer extends into the Centennial Mall right-of-way, seconded by Gebhart.

Nalow asked for an amendment to have the applicant bring back the plan for landscaping adjacent to the building along Centennial Mall. Lynn Johnson would like to speak with the applicant to discuss the plantings as well. Parks and Recreation would be happy to work with the developer on updating the landscape plan, particularly between the sidewalk and the east face of the building. Meagher will work with L. Johnson on the redevelopment process. L. Johnson stated he is happy to coordinate those conversations

Barnes noted that the design standards say that work in the public right-of-way would come back before this commission. It would be on a future agenda.

Motion for approval carried 6-0: : Gebhart, D. Johnson, K. Johnson, Nalow, Post and Quade voting 'yes'; Cuca absent.

PLACEMENT OF NEW SIGNAGE AND A SCULPTURE ON THE EAST SIDE OF 521 S. 14TH STREET

PUBLIC HEARING AND ACTION:

April 22, 2022

Members present: Gebhart, D. Johnson, K. Johnson, Nalow, Post and Quade; Cuca absent.

Barnes noted this was also on the agenda last month. There is more information to present today. Staff is here from the State of Nebraska.

Jason Jackson, Director of Administrative Services for the State of Nebraska appeared. He is happy to be here today for some aesthetic enhancements. This application is asking for approval of new signage and a sculpture of Chief Standing Bear, with a plaque to be located in front of the building. Legislative Resolution 271 named two new buildings. The first was already approved by this Commission. The same resolution renamed the former Executive Building as the Chief Standing Bear Building. The State is excited.

They have some enhancements they want to add. They want to enhance the aesthetic character of all our buildings. We think this gives the public a wayfinding perspective as well. He showed an image of the proposal. There would be a sculpture and accompanying plaques. Benjamin Victor is doing this statue as well. He did the sculpture in Statuary Hall in Washington, D.C. He noted the proposed language for the plaques. It was borrowed heavily from the language that was approved for Statuary Hall. He pointed out an image that shows how the new title of the building will be displayed on the facade. This building houses the administrative branch of the judiciary. He also showed a mural that is proposed for the interior of the building as you enter from the front in the foyer. It tells the story of Chief Standing Bear's life and journey. Everyone is excited for this opportunity to celebrate Chief Standing Bear's contribution to the state.

K. Johnson thinks this is a neat project. He asked how this bust compares to the size of the bust on Centennial Mall. He also wondered if the sculptor imitated the head statue on Centennial Mall. Michelle Potts replied no. She believes this to be a completely separate piece. K. Johnson inquired who created the mural. Potts will find out and let the commission know.

ACTION:

Post moved approval of a Certificate of Appropriateness for the placement of new signage and a Chief Standing Bear sculptural bust, seconded by Quade and carried 6-0: Gebhart, D. Johnson, K. Johnson, Nalow, Post and Quade voting 'yes'; Cuca absent.

PROPOSED TEXT AMENDMENT TO SECTION 27.56.140 OF THE LINCOLN MUNICIPAL CODE WHICH ADDRESSES THE APPEAL PROCESS FOR DECISIONS MADE BY THE NEBRASKA CAPITOL ENVIRONS COMMISSION

PUBLIC HEARING AND ACTION:

April 22, 2022

Members present: Gebhart, D. Johnson, K. Johnson, Nalow, Post and Quade; Cuca absent.

Barnes explained that this came up somewhat recently with an application by the State Dept of Administrative Services. The application was for an antenna on the 501 building, along with improvements to the building with screening requirements. It came up in the conversation that the appeal process would go to the State Administrative Services if the application was denied. There has been a lot of change at the Capitol including the Nebraska Capitol Commission. By Definition, an appeal should go to a separate body, not the same body that was making the application. City staff is proposing that an appeal at this level would go to the Nebraska Capitol Commission. That change to the Design Standards is being proposed. There is one change to note. They struck the Dept. of Administrative Services and added the Nebraska Capitol Commission. Collin Christopher was in conversation with Bob Ripley. This would go on to Planning Commission and City Council for formal adoption. Departments could choose to go to the Nebraska Capitol Commission on an appeal.

Post believes that the perception is that the Nebraska Capitol Commission generally has purview over the Capitol building itself. This gives more jurisdiction over the Capitol grounds. Ripley believes there is a statutory link between the Capitol Commission and the Capitol Environs Commission. That is why there is an annual meeting of the two bodies. There is a requirement that this Commission reports to the Nebraska Capitol Commission on activities that take place in the Capitol Environs.

Gebhardt questioned if in the history of this Commission, if the Nebraska Capitol Commission has ever brought anything to this body for review. Ripley was present when these documents were drafted and

knows that the structure of government could change. At time the Design Standards and appeal process was drafted in 1987, the structure that oversaw the Capitol building was different. In 2004, the Capitol Commission was created. That would have been the time to go through and update regulations for the new commission. In his history, there has never been an appeal. Christopher and Ripley helped to create the updated text.

K. Johnson asked if this language covers all appeals. Ripley believes this covers government agencies. He doesn't expect it to become any more involved than it has in the past. K. Johnson noted the language speaks to government units. Ripley doesn't know if this was reviewed at the City Attorney level. The wording could cover City, State or local. The decision was made in the 1980's for government entities to appeal at the State level. It is unusual for a Commission decision to be placed in the hands of an individual. The recent appeal was one for the Dept. of Administrative Services appealing to the Dept. of Administrative Services. Christopher believed this should be addressed. The new structure dictated new regulations in the case of a rare occasion of an appeal.

Post understands that if the City of Lincoln had an application in front of the Nebraska Capitol Environs Commission, an appeal would be taken to the City Council. If the State had an application in front of the Nebraska Capitol Environs Commission, an appeal would be taken to the State. Ripley believes so, but he doesn't know. He knows the body hearing the appeal was meant to be a government agency that was above the level of the City.

Barnes believes that for example, an application by Lincoln Transportation and Utilities to rehabilitate the mall would go to City Council on appeal if denied at this commission, but not the State. Other government units would appeal at the State level. The point of this amendment is to clarify the separation of the appeal process to a separate body. They didn't get into all the details for the appeal process. Staff believed this was a proper correction.

K. Johnson believes this proposed change makes sense. He is concerned a City decision can be appealed to the Capitol Commission and then the Governor is controlling a City issue. He isn't comfortable with having everything go to the Capitol Commission.

Ripley asked if the County were appealing if it would go to City Council. K. Johnson believes that could be taken care of and they could have an option to appear before either. He was seeing this as someone above the level of the City going to a higher governing body. He also noted that the language speaks to a government unit, not agency. He would be more comfortable with government agency. He thinks the language needs to be strengthened a little. He asked for any comments.

Jackson had a couple of observations which would weigh against action today. He believes this mirrors State law which governs appeals from the Nebraska Capitol Commission and specifies that any action can be appealed to City Council, except that governmental options may opt to appeal to Nebraska Administrative Services. He would offer that the Capitol Commission was enacted in 1993 and if the Legislature saw fit, it could have modified the language. It apparently didn't elect to do so. He believes the process has merits. This is a rare occurrence. He believes there are benefits for accountability. The second benefit is the speed at which we can adjudicate. He is not familiar with how often the Capitol Commission meets whereas his office could hear an appeal more timely. He can assure this Commission it would be his opinion to evaluate the circumstances. This is an appellate process to his knowledge that has never been utilized. He would encourage the Commission to not take any action and a more appropriate vehicle would be to go to the State Legislature and modify State law.

K. Johnson believes it is appropriate to refer this to the City attorney to look at the State statues and review this language.

Barnes agreed that we don't want to be in conflict with the State.

ACTION:

Post moved to defer this application until more information can be obtained from the City Attorney regarding State and City language, seconded by Nalow and carried 6-0: Gebhart, D. Johnson, K. Johnson, Nalow, Post and Quade voting 'yes'; Cuca absent.

There being no further business, the meeting was adjourned at 9:10 a.m.