



PLANNING COMMISSION MINUTES

September 8, 2022

Planning Commission Chairman Gary Poole called the meeting to order at 7:00 p.m.

The Planning Commission and audience joined in saying the Pledge of Allegiance.

Also present and seated were Commissioners Rich Foerster, Roxy Colette, Nick Metz, Eliana Burke, and Kim Rodell.

ADDITIONS TO OR DELETIONS FROM THE AGENDA

None

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Bryce Matthews requested the removal of Item 9.A. "Staff Item for a motion to set a Special Study Session Meeting for October 6, 2022", due to scheduling conflicts.

APPROVAL OF MINUTES

Commissioner Richard Foerster moved to approve the August 25, 2022, meeting minutes. Commissioner Roxy Colette seconded; a vote was taken and passed unanimously.

PUBLIC HEARING OPENED: 7:02 P.M. – A BILL FOR AN ORDINANCE TO AMEND TITLE 13 OF THE PARKER MINICAPAL CODE ADDRESSING CERTAIN DEFINITIONS. The applicant, Town of Parker, will amend certain definitions of "nudity or state of nudity"; "semi nudity", specified anatomical areas, and "specified sexual activities" to make them gender-neutral, based on recent case law.

Department: Town Attorney, Kristin Hoffmann

STAFF PRESENTATION

Kristin Hoffmann, Town Attorney, presented the staff report to propose an ordinance that will amend certain definitions of "nudity or state of nudity"; "semi nudity", "specified anatomical areas, and "specified sexual activities" to make them gender-neutral, based on recent case law. Ms. Hoffmann concluded with the determinations in the staff report that the Planning Commission recommend Town Council approve an ordinance to amend the Parker Municipal Code addressing certain definitions.

Commissioners discussed with staff and applicant:

- Commissioner Roxy Colette said that his interpretation of the proposed amendment is that the Town was including male chests with the female chests in the definition of nudity. Why not just remove both if the goal is to allow the showing of the Rocky Horror Picture show and other movies showing upper anatomy; *(staff said it was decided to be more restrictive in the definitions for the land development ordinance to include both males and females needing to have their chest areas covered. The way it is addressed for the Rocky Horror Picture Show was through the definition of lewd and indecent displays which includes the removal of the reference to the female breasts entirely and then adopts a definition for 'obscene' that's in-line with state law.)*
- Commissioner Kim Rodell said she is unclear on how this falls into the land development code because she understood that the reason the Town is doing this is so the PACE Center can show the Rocky Horror Picture Show and serve drinks during intermission or during the show; *(staff said that's not the only reason the Town is proposing the changes. The proposed changes are intended to make our code compliant with current law. What initiated the conversation regarding changes to code was the question about the Rocky Horror Picture Show and the ability for establishments with liquor licenses to show movies that might have an exposed female breast in them. In doing so the Town looked at the code more globally, including the land development ordinance, to make sure that the four definitions in the land development ordinance were in line with current law where they referred to the female breasts, and making the definitions gender neutral)*
- Commissioner Kim Rodell said she doesn't quite understand how nudity falls in the land development code. Can you give me some examples of where this might come into play? Are movie theaters in town noncompliant; *(staff said the liquor code would impact movie theaters because of this restriction on the type of films that they can show, which may explain why movie theaters in the Town of Parker do not have liquor licenses. This may open the door for movie theaters to be liquor licensed establishments. As far as why these definitions are in the code, in the Land Development Ordinance, they are tied into other definitions such as "adult cabaret" or "adult arcade," which refer to "specified anatomical areas," and part of Title 5 of the Municipal Code refers to the Land Development Ordinance for that "specified anatomical area" definition)*
- Commissioner Kim Rodell asked if this is mostly for entertainment purposes? I'm having difficulty understanding why these definitions are in the land use code. Are we saying that movies with upper chest nudity can play in theaters and the PACE Center and serve alcohol; *(staff said that within the Land Development Ordinance, these definitions apply to sexually oriented businesses, that can only be in very limited locations with very specific distances and zoning, and that these definitions describe sexually oriented business. These definitions are focused on those types of uses, not broader uses in different Titles of the Municipal Code)*
- Commissioner Nick Metz asked for clarity that this applies only when serving alcohol; *(staff said alcohol is Title 5 and we are only discussing definitions associated with sexually oriented businesses as they apply to Title 13, the Land Development Ordinance)*

- Commissioner Kim Rodell asked for confirmation that this goes no further than the land use and sexual oriented businesses and doesn't go into the police department; *(staff said there is a companion ordinance that will be brought before Town Council that will modify Title 8, which is the criminal code dealing with public indecency. But that is not before the Planning Commission tonight).*
- Commissioner Roxy Colette asked why it was decided to become more restrictive in the definitions; *(staff said we wanted to make sure that sexually oriented businesses and the definitions that relate to "specified anatomical areas" include the required covering for male chest area and female chest area. Additionally, if the Town made it so that neither had to be covered, then there could be a situation where you would have a topless bar that would perhaps not be considered a "topless bar". We prefer that everyone in a liquor license establishment and everyone in a regular establishment need to be fully covered. An adult cabaret, for example, would be classified, if they're not fully covered, as an adult cabaret.*
- Commissioner Roxy Colette referred to the definition of an adult cabaret in Title 13 and asked if the definition is changed as proposed, would someone at a public pool without a shirt on, which is an establishment, be in a state of nudity or semi-nudity; *(staff said the definition of nudity or semi-nudity is different in Title 8, which allows you to be topless in public in Colorado.)*
- Commissioner Kim Rodell asked if everyone must be covered in these adult businesses; *(staff said no, that establishments that feature persons who appear nude or in a state of nudity or semi-nudity includes being shirtless for both men and women).*

PUBLIC COMMENT OPENED

None.

PUBLIC HEARING CLOSED: 7:17 P.M. – A BILL FOR AN ORDINANCE TO AMEND TITLE 13 OF THE PARKER MUNICIPAL CODE ADDRESSING CERTAIN DEFINITIONS.

PLANNING COMMISSION DISCUSSION

- Commissioner Eliana Burke sees this as being compliant with everybody else in Colorado and is in favor of the ordinance.
- Commissioner Richard Foerster agrees with amending the ordinance.
- Commissioner Nick Metz said he is in favor so that Parker is compliant with the State of Colorado.
- Commissioner Kim Rodell said that coming into this hearing, she was not sure about amending the ordinance, but her questions have been answered and she now understands the ordinance.
- Commissioner Roxy Colette said he appreciates staff's feedback and responses, originally thought this ordinance was for something completely different, is uncomfortable with the extra restriction because he has seen concerts where performers, usually male, take their shirts off and now that would probably be a violation of the

ordinance, but is on board removing the gender specific references in the definition of nudity and semi-nudity; *(staff responded to Commissioner Roxy Colette saying that he raised a good question about concerts and similar events, and that staff will take a second look at the definition to make sure concerts are not considered in the same way as an adult cabaret).*

- Commissioner Gary Poole appreciates the time the legal department spent putting this together and making us compliant with case law.
- Commissioner Kim Rodell said that since the legal department may go back and look at concerts, can we approve this amendment tonight as it is currently written; *(staff said to go ahead and make a recommendation to Council tonight based on the current language, and if this becomes an issue, staff will discuss with Council that it was discussed at Planning Commission, and that staff made a change. If it's a drastic change, staff will come back to the Planning Commission, but if the change to the language is minor, then staff probably would not bring it back to the Planning Commission).*
- Commissioner Kim Rodell asked if the motion should be changed to include language to ensure that what is being approved tonight is not going to cause additional, unanticipated issues based upon the legal department's additional review of the definitions; *(staff said they would prefer to get a motion approving the bill as drafted, and staff will note that we need to go back and take a look at the issue raised by Commissioner Collette).*
- Commissioner Gary Poole added that the amendment does say addressing certain definitions are not all definitions within the municipal code and to leave this for Town Council; *(staff said that they will report back to the Planning Commission after the legal department has had a chance to review).*

Commissioner Kim Rodell moved the Planning Commission recommend Town Council approve A Bill for An Ordinance to Amend Title 13 of the Parker Municipal Code Addressing Certain Definitions as outlined in staff's report. Commissioner Rich Foerster seconded; a vote was taken and was passed unanimously.

PLANNING COMMISSION ITEMS

None.

STAFF ITEMS

None.

ADJOURNMENT

Commissioner Eliana Burke moved that the meeting be adjourned. Commissioner Roxy Colette seconded the motion, and the motion was passed unanimously. The meeting was adjourned.



Jeff Miller
Recording Secretary



Gary Poole
Chair