

Arvada City Council Meeting Workshop, May 11, 2015

Notes taken by Susan Shirley

All members of City Council were present: Mayor Marc Williams, Mayor Pro Tem Mark McGoff, and Councilmembers Don Allard, Bob Dyer, Bob Fifer, Jerry Marks, and John Marriott.

Public attendance at 6 p.m. was approximately 15.

The topics of this workshop are changes to the Land Development Code--zoning--and progress on the Arvada Center governance as that changes to a non-profit organization.

Todd Messenger of the law firm Fairfield and Woods presented a summary of recommendations for the City to follow. These recommendations came from work his firm did alongside the Use Table Advisory Committee, UTAC. There are two major areas of change as well as several minor measures. Messenger's objective was to get feedback on these items from Council.

Messenger's first recommendation deals with the large number of zoning districts which, over time, have sprung up like weeds, leaving a messy and hard-to-follow zoning code here in Arvada. Some are simply hard to define, such as the difference between "Primary Manufacturing" and "Secondary Manufacturing, Processing, and Fabrication", while others are obsolete or "micro-management."

The new code would use three basic categories for industrial uses, Light Industrial, Heavy Logistics Center, and Heavy Industrial. The differences would be determined by several factors which include the amount of heavy truck traffic, the production of dust/noise, etc., the risk of chemical pollution or explosion, and the amount of unsightly outdoor storage required. The focus would be on the effect the business would have on its surroundings, more than on what is actually being produced within its walls.

Councilmember John Marriott asked about how well the revisions would allow for flexibility and not stifle local businesses' creativity. He gave the examples of a retail business in a local shopping center which does 3D printing in the back of their shop, or his own outdoor sporting equipment shop which includes repair services. Messenger agreed that flexibility is very important. He stressed that there are two phases to this code overhaul: a short-term fix, consisting of pulling all the old districts into the three broad categories, and a longer term rewrite, in which the bugs should be largely worked out as time goes on.

Councilmember Bob Dyer wondered about the line between light and heavy industrial. Messenger said it would have a lot to do with the levels of outdoor storage, dust production, and truck traffic. Dyer asked what would happen to the existing businesses which found themselves in a district they no longer fit into. Messenger said those would be grandfathered in, and there would continue to be a fairly permissive allowance for non-conforming uses. Over time, those inconsistencies could be addressed, but there is no intention, he said, to make any current businesses non-conforming.

There is also a free-speech/religious rights case pending in the U.S. Supreme Court, Reed v. Gilbert, which has the potential for upheaval in the way signs are classified. Messenger noted that Arvada's sign code, along with maybe all sign codes in the country, may need to be amended. The case is working its way through the Court and a decision could come by midsummer.

In addition to the overhaul of the code into three industrial categories, there is a second change on the horizon, having to do with churches and other places of assembly. In 2000, Congress unanimously passed what is called the Religious Land Use and Institutionalized Persons Act (RLUIPA). RLUIPA basically says that it is unlawful to discriminate against places of worship in a zoning code; in other words, a city cannot allow an auditorium, day care, senior citizen center, or fraternal organization (among other similar functions) in an area while disallowing religious assemblies. Arvada's current code works the opposite way, allowing churches to locate anywhere but disallowing other gatherings in some places.

Messenger sought input from Council as to whether they would prefer to allow all uses in such areas, or allow no uses, or a third option, which is to look at the scale of the use in terms of how many people would be expected to attend, the amount of traffic, etc., which would better address any neighborhood concerns. Council seemed generally in favor of the more permissive stance of allowing more uses rather than fewer.

Finally, there are some smaller amendments which are intended to bring the code more up to date, such as adding free-standing emergency rooms and pre-kindergartens to the code, adding live/work units, addressing various levels of senior care, and removing some obsolete uses.

Next steps include: a meeting on May 12, 2015, of the Use Table Advisory Committee and Community Development; an interim ordinance to be looked at by the Planning Commission; public hearings, the selection of a consultant for the code rewrite, open houses, and the participation by boards and commissions.

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The workshop's second item is the change in the governance of the Arvada Center, begun in July of 2014. A number of functions currently the City's responsibility, will be placed in the hands of a newly-formed non-profit entity, the Arvada Center for the Arts and Humanities. The idea behind this is largely to enhance the fundraising capabilities of the Arvada Center, which is currently far lower than would be expected in an organization of that size and scope.

The City and the non-profit are currently working on a cooperative agreement, which does seem at this point to be truly cooperative in intention. For example, there was language allowing either party to scrap the agreement ("Termination for Convenience") at any time within its 20-year term; the non-profit requested that be set aside for the first five years in order to have time to make the operation successful. The City agreed, with the provision that the non-profit consult the City on any major operating decisions during that initial five years.

Under discussion in the pending agreement are such factors as number of board members and who identifies and appoints them. This is important because board members will be expected to be able to offer or attract donations on an ongoing basis, or else, to have demonstrated a passionate commitment to the arts and humanities.

Another item is the separation of governance away from the City, to the non-profit, and the logistics of laying off City employees and the non-profit rehiring them. City Manager Mark Deven said he and Philip Snead, the Executive Director of the Arvada Center, would have that responsibility, and that the transition would happen over a period of about a year.

Care of the building, grounds, and facilities will remain under the City. This is to protect the City's substantial public investment, while allowing the non-profit to concentrate on programming. The non-profit can make some improvements, but in the case of any substantial physical changes, both parties would have to agree.

A big change is coming with respect to the museum collection housed at the Arvada Center. The Arvada Historical Society owns that collection, but in about 2003 tried to convey it to the City because, in order to be accredited, the ownership and collection of such items have to reside in the same place. Councilmember Mark McGoff said that the Historical Society would very much like to convey the collection to the non-profit so it can become accredited and be properly curated.

Banquet facilities at the Arvada Center: for the time being, until other facilities are built, the City will retain control over its own banquet events, which draw upwards of 50,000 people each year. Transitioning to the non-profit will be concessions for Arvada Center events, and receptions for major donors and contributors.

Councilmember Allard had some input regarding specifics in the agreement. He pointed out the wording "fiscal year" but noted that the fiscal year of the City and that of the non-profit are different and that it should be clarified in the agreement. He also found some other gaps or inconsistencies he would like to see clarified.

Ken Fellman, President of the non-profit board, said that not every issue would be addressed right away, but he stressed the "cooperative" nature of the agreement. He said meetings will be ongoing, and that where there are agreements they will be worked out. He said, "You have our commitment the Board will bust our guts to make this successful." He said if an agreement can be finalized this summer, it gives the non-profit a full year for the transition before the start of 40th-Anniversary festivities in July of 2016--a "whole year of fun stuff."

John Kiljan said he is optimistic, but asked, "How do we get back to where we were, if something goes wrong?" He also asked what happens to the land use for that campus. Mayor Williams said that Arvada retains ownership of the property.

Mark Deven said the next steps are to proceed with preparing the agreement, hoping to have it ready for an ordinance to come before Council in its June 15 meeting, followed by a public hearing July 6. Mayor Williams asked if the information could be placed on the web page and "every place else," and if Deven would be able to have informal meetings with interested parties. Deven said he would meet with anyone who wanted to have input.

The workshop concluded at 7:35 p.m.