

**CITY OF EL MIRAGE  
PLANNING AND ZONING COMMISSION  
REGULAR MEETING MINUTES  
MARCH 14, 2013**

**I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chairman Doug Doede called the meeting to order at 6:00 p.m. & led the Pledge.

**II. ROLL CALL**

Members present were Doug Doede, Brandon Forrey, Frank Carnal, and Justin McCarty. Robert Jones was on vacation. Staff present were Dep. City Manager Sue McDermott, Senior Planner Mark Smith, and GIS Technician Jose Macias.

**III. APPROVAL OF THE MINUTES OF JANUARY 15, 2013**

There being no changes, Carnal made a motion to approve the minutes of January 15, 2013, seconded by McCarty, and the motion passed on a vote of 4 to 0.

**IV. PUBLIC HEARING ITEM**

**Proposed Pool Barriers Amendment**

Smith presented a PowerPoint with the background of many cities adopting their own ordinances and statistics on drowning in Maricopa County and El Mirage including drowning of three children in swimming pools in the last two years. Smith showed the options of applying the ordinance to new and old pools, the requirements for primary barriers, and the alternatives for secondary barriers between the house and pool. He touched on enforcement issues and challenges. Staff is recommending that the new regulations apply not only to new pools but existing pools that are sold, rented, or leased and to properties where pools or homes have alterations or additions. He noted that this was a public hearing.

Mayor Lana Mook said she did not see a problem with regulating fences or secondary devices, but to require everyone to put up a fence unless they are selling or renting. Doede said if it was sold, rented, or leased they have to put it in. The Mayor said if they sell now they have to put it in. If you look at child drownings it is not because they did not have a fence but because they got over it. Many people in El Mirage do not have children, and she did not see requiring them to fence. Doede said they would be grandfathered in, but if they are altered or sold, rented, or leased, they should be installed. The Mayor asked if the buyer or seller should install it. Doede thought the buyer should do it. McCarty said it would make sense for liability on a rental but not for sale to someone without children. Carnal said aunts and uncles and grandparents that have children over. He thought that it should be required. Doede thought the age of children needs to be struck. There are people who are handicapped or getting older that are unstable and he believed that any pool should have that barrier. Forrey said eventually all pools should have barriers. If you strike the age it should apply to all sales or rentals. Smith clarified that the proposed ordinance did not specify age but required secondary barriers.

Councilmember Jim McPhetres said he agreed with the mayor; secondary barriers should only be required for those with young children. Barriers do not always stop drownings if parents are not responsible. Creating an ordinance that affect the majority of those with pools that do not have children is wrong. Secondary fences are for those with children under 6. He agreed with requiring them on rentals since you do not know who will rent. We are talking about lives and there is no price to life, but there are certain things that government may overstep its bounds on. The slide show did not show a serious concern in El Mirage. He thought they had an opportunity at the new recreation center to teach pool safety. The state statute already requires latches on windows and doors for children under 6 . We do not need to recreate the wheel.

Forrey asked whether the Mayor favored the existing code or the proposed one. The Mayor said she did not know what was proposed but she did not see requiring an owner to put in a fence if the buyer could see it had no fence. Let them put it in or buy another house that already has one. Doede said they could word it so the buyer had to do it or the owner for a rental. The Mayor said the owner could decide not to rent to a family with children. She thought most of the problem was grandparents or sitters not paying attention and leaving gates open and letting access to occur. Forrey said the majority of the cities in the Valley require new pools to fence which has far more impact than selling or renting, but if you look at the intent, the goal is to find a reasonable way to get all pools to have a fence unless you only want it to apply to those with children. It depends on what you are trying to achieve. Doede thought it difficult to find those residences.

McDermott thought there was confusion with what is shown on the slide and what is written in the ordinance. The ordinance does not specify age 6 and under. It requires secondary barriers for all new pools plus pools or residences that are altered and those that are rented or sold. The buyer should be responsible. Doede thought something should be done on this tonight. He thought it should apply to all new pools regardless of the age of the residents. McCarty disagreed that all new pools should have it if the owner does not have a pool. He knows people who have taken them out because they like it like that. It is still the ultimate responsibility of the resident or owner to protect children that are there. If they are not responsible a fence will not take care of it. Should we make them fence because someone else has children? Carnal said he understood but he has seen too many stories on television where children have drowned at grandparents' homes because they do not have fences or took them out. He thought that regardless of age, a fence should be there. Forrey said you could make the same argument for smoke detectors. There is a cost but not a big one. Some cities require sprinklers. There is a trigger for when they are required at far more cost than a fence. He thought that if all new pools require fences he did not see how they could not require the rest of this. We are saying all should have them within reason. You have to have triggers. If you are selling you are probably making some money and there are other things you have to do to bring it up to code. McCarty said it should not matter if they are making money. Doede noted that they are not

always making money. Forrey said if it was a safety factor then the cost should not be a factor anyway. McCarty said there are a lot of safety issues that you could make them do but it is still their responsibility. Forrey agreed but this is standard in this region and not something new.

The Mayor said the Commission could vote how they wanted, but this would probably not go through as it is now. They are fighting the state telling them what to do, how much money they could have and how to spend it. The state does not like the feds telling them what to do and we do not want the state to tell us what to do. They were all for safety of our residents, but they do have to allow choice in their homes. If they do not want a pool fence she did not think they should have to have them. She could see requiring them for people with small children, but to arbitrarily require a fence no matter who is buying she could not see that. Doede asked whether the state required secondary fencing for new pools. Smith said they are only required for those with children under 6.

Forrey asked what the impetus of this proposal was. McDermott said that after the latest incident the staff was asked to look into it by the City Manager's office. Forrey said their role was only to provide feedback regardless of the Council's decision. McPhetres commented that there are comprehensive state laws that already protect children under 6 as staff addressed. He did not see pursuing this when the City is doing what they can and they have the opportunity to provide safety classes when the recreational pool opens.

Doede asked if staff had any idea how many pools we had in the City. Smith said there are approximately 10,000 residences. If there is one pool for every 5 homes, that would be 2,000. Some have group pools. The Mayor said Council went around with Fire Department a few years ago and they had a map with every house that had a pool but they could not tell if they had a fence. She thought there were at least 500 or about one in ten or fifteen. They were giving away free fences for those with children. They had some takers and some that did not want one. That was years ago. Realistically there are not many putting in pools now.

McCarty said he could not support the proposal and recommended staying with the state law. Forrey said he did agree with what staff proposed and it was in line with what other cities were doing. Carnal agreed with staff also. Forrey moved to recommend approval of the proposed amendment as presented by staff. Carnal seconded, and the motion passed with three in favor and McCarty voting against.

**V. DISCUSSION ITEM**  
**Temporary Sign Regulations**

As requested by the Chair, Smith presented a PowerPoint outlining temporary sign regulations adopted in 2011 and showing photos taken recently of the different types of temporary signs that either do or do not meet the code. He summarized that staff felt that those that met code were attractive and safe and that it was more a code enforcement issue than a need to amend the code.

Doede said the reason he brought this up was clutter. Some businesses are taking advantage. On some you cannot see the business for the sign. That is a code enforcement issue. If we have a code enforcement crew they need to get out more. Safety is huge but so is attractiveness. He is presently working in Victorville, California, an older city with a newer portion. There are a lot of banners in many languages and weatherworn and unattractive. There are new permanent signs. The more he sees of the city, it reminds him of El Mirage in appearance. We do not need that run-down look. We are trying to find a new look. It is not helping our cause. Forrey asked if changes to the code are proposed. Doede said he thought they could put some teeth into it and have staff make recommendations. 60 days for a banner is a bit much. Forrey asked if it was like speed limits, not that they are excessive but that they exceed code. Doede said it was the excessive time frame and no permits so we are not able to keep track. He thought businesses would respond differently if they saw this.

The Mayor said that it was more of code infringement outside the bounds set. If this is an enforcement issue than needing to change code, has anyone approached management on doing that? McDermott said she sat down with this presentation with Code Enforcement this week to talk about it and they are aware of this issue. The Mayor said they just implemented bulk trash pickup with the intent to allow people to clean up their yards and make it good better. If it violates existing code let's crack down on it. Doede said we need to look at the number of signs per business by the right of way and on the structure. McPhetres said he would not to be in Code Enforcement tomorrow. He had a strong feeling that it will be cleaned up. Doede said we need to do it as a team. The code was put together with the assistance of staff and Council. The Mayor asked if there was a distance between swooper signs. Smith said it was 25 feet. You can tell the difference when you look at them. Doede said they could have 250 feet of frontage. Smith said there is a limit of 10. They can have different types, but only one of each. Their wall signs are not limited in number but by maximum square feet. The number is not usually the issue but the fact that they are putting them where they shouldn't or not properly done. Forrey said it was a major change. It might benefit the City of there is a plan of action taken with full support because there will be pushback from the commercial properties. Smith said he has had cooperation from Code Enforcement when he has told them about an issue but they need to see those issues without his having to enumerate them. McDermott said she knows they have been out recently because she has had several business owners complaining. Doede said they need to abide by the ordinances. Smith asked if the Commission wanted staff to recommend possible amendments. Doede said yes by May. Smith said staff could present possible code changes next month for review. McCarty said he did not see reason to modify it if it is an enforcement issue. Doede said it did not hurt to review since things have changed, and we may have let something slide that we did not intend to. If we need to open eyes, this is one way to do that. It is not set in concrete; it is just on paper. If we need to make some changes, now is the time to do so.

**VI. STAFF REPORT**

Smith told the Commission that they had a request for a paintball park and staff recommendations on temporary sign regulations for the next meeting on April 9<sup>th</sup>.

**VII. COMMISSIONER COMMENTS**

Carnal thanked staff for their information.

**XIII. ADJOURNMENT**

The Chair adjourned the Commission meeting at 6:59 p.m.

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Mark L. Smith, Senior Planner

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Doug Doede, Chairman