

CITY PLANNING COMMISSION

WAYNE GILLEY AUDITORIUM

August 29, 2024

Minutes of the City Planning Commission meeting held August 29, 2024, in the Wayne Gilley Auditorium, City Hall, 212 SW 9th Street, Lawton, Oklahoma.

The agenda for the meeting was posted on the bulletin board in City Hall in compliance with the Oklahoma Open Meeting Act.

The meeting was called to order at 1:32 p.m. by David Denham.

ROLL CALL

MEMBERS PRESENT

David Denham
Melissa Busse
Ron Jarvis
Joan Jester
Deborah Jones
Allan Smith
Darren Medders
Neil Springborn *

MEMBERS ABSENT:

Michael Logan (excused)

ALSO PRESENT:

Christina Ryans-Huffer, Recording Secretary
Christine James, Planning Director
Kameron Good, Senior Planner
Robert Burns, Planner I
Kim McConnell, Lawton Constitution

*Arrived at 1:43 pm

The meeting has established a quorum and was posted according to the Oklahoma Open Meeting Act, 25 O.S. 301-314.

OLD BUSINESS

None

NEW BUSINESS

1. **Consider holding a public hearing and recommending approval of an ordinance modifying Section 18-4-1-411, allowing home digital asset mining as a home occupation and allowing for floor amendments if necessary.**

Good stated Kameron Good with the Planning Department. This was a phone call actually received by the Planning Department from a person interested in doing digital asset mining inside City limits. They are asking what the zoning requirement is for that. It is not established by our Zoning Code right now. We brought a discussion item to the City Planning Commission on July 25th. Upon further research with Legal we found a House Bill that goes into effect November 1st which was provided to you in the packet. During the discussion for the City Planning Commission meeting, Staff was directed to bring back a Code change with this being a permitted use in an I-3 Industrial zoning and then upon further research of the Bill it talks about the digital asset mining being allowed as a home occupation and this has currently being done in the City without regulation and it has caused a lot of house fires and so that's why we want to establish this in our home occupation regulations and at least get in here getting a license and so that our Fire Marshalls can take a look at it for safety reasons.

Jones asked the session Law clearly states that it shall be legal for the State of Oklahoma to have digital asset mining businesses in any area that is zoned Industrial use. Are you proposing?

James responded this is just the home occupation part, if you go further into the Bill it talks about the home digital asset mining.

Good responded the next item is where we'll discuss the digital asset mining.

Denham asked she does have a good point, is the home mining listed in this Law as well?

James responded if you look at page 3 item 4-A.

Jones asked is it your intent with this ordinance that the home occupation be located in an I-3 zone?

James responded no.

Jones stated then it would be in violation.

James stated you have to read the definitions of asset mining business there is 2 definitions in the next ordinance. So, the home asset is limited to under 1 (one) Gig. So, there is definitions between home digital asset mining and a digital asset mining business. Two different definitions.

Denham asked in our Code or in the State Law?

James responded well in both. We took them straight out of the State Law and put them in our Code but that's in the next Ordinance coming up but this is just for the home occupation part of the Code.

Jones stated I guess the problem we're having is that I don't think you can separate some of these issues. I mean when the Law, it's clear to me.

James responded if you read page 4A on page 3 it does say that the home digital asset mining as long as the person engaging in the home digital asset mining complies with the local noise ordinance. So, I took that section straight out of there and put it in the home occupation and it's also in the definition and keeping it under the definition. The digital asset business is what's required to be in an Industrial area.

Jones asked going back to what Kameron said starting the permitting process, does the City have any expertise to determine whether it's an asset or whether it's a mining operation?

James responded it's basically the same thing, it's just the size limit for the home verses business.

Jones asked do we have anyone that can determine the Giga Bytes on whatever we're sticking in here? I'm having a real problem with this. Some of these things from what the City Attorney said it creates noise, it creates power, it creates fire issues.

James stated and the home occupation does require some inspections and hopefully when the Fire Marshall goes out there they can make sure that they're not running off of extension cords and that there is not rooms full of computers. The home occupation is required to be inspected.

Jones stated Christy there isn't 1 Commissioner up that wasn't here when we implemented the Marijuana Ordinance and we put it in the Central Mall, we put it everywhere. We do not inspect it. The State does not inspect it.

James stated the home occupation is required to be inspected.

Good stated there are also limitations on the home occupation on the percentage of the house that can be used of it. It also limits that it can't be done in an accessory structure.

Jones responded you can put a lot of computers in a small space.

Good stated but that's why the limitation on the home occupation is limited to the 1 Gig.

Denham asked how often are the inspections? Just initially you set it up? You get the license and permit?

Good responded unless there was a complaint or an issue that the home occupant wasn't following those regulations, then we would send out an Inspector, Fire Marshall or Neighborhood Services depending on what the issue was that was complained about. The initial license for them to come and apply would be when the Fire Marshall is going to do their inspection.

Medders stated you know if we take a step back and you know, open for business, is supposedly our moto now, I think we need to look at this without all the negativity. You know, it is up and coming, I believe. So that's why we're needing the direction.

Denham stated I whole heartily agree with that. Unfortunately, we're in a situation we're in a race to be first and I just don't know that we know what the questions even are to ask let alone how to answer them.

Jones responded we also have to be cognitive that people pay a lot for a house now, it's their biggest investment. They don't want to be subject to something unknown and I'm sorry, I don't think we know enough, I don't think we have the personnel. I think it's the wrong time to be considering this ordinance. What I would prefer we consider is this Session Law does not go into effect until 1 November. I think we ought to take, if the Staff can do it, in September or 15 days in October and have the Planning Staff and the Legal Staff get together with their colleagues, Stillwater, Norman, Edmond.

Good stated I will say reached out to all 6 (six) peer Cities.

Jones asked does any of them have this Ordinance?

Good responded no other City has a digital asset mining in it beside there was one that has one right on the outskirts inside the County.

Jones asked so they're all in Industrial areas?

Good stated they are not inside City limits.

Jones asked they're not in the City limits?

Good responded correct. At this time all 6 (six) peer Cities did not have one of these facilities inside.

Denham asked but are they looking into setting their own Code?

Good responded correct.

Denham stated they're in the same boat we're in.

Good stated yes, with this State Bill that was passed that goes into effect in November, this is what the State is stating, what the State rules are that we have to follow as well. That is

where the home occupation in here saying it shall be legal in the State of Oklahoma to participate in home digital asset mining, as long as the person engaging in digital asset mining complies with all local noise ordinances.

Denham responded right it's only talking about noise ordinances, however.

Good stated we already established in our Code with other home occupation regulations that would help limit some of that stuff as well.

Denham stated well my concern is I would almost like to see some wording in here that this shall be subject to follow-up inspections or renewal on a two year, three year time frame where they just don't come in and check a box and say yes okay, you got this one server in there and 6 months later they got 75 % of the house is a server and it's just a business humming along.

Jones responded a fire hazard.

Denham stated we got that issue with faulty wiring; I mean there's all kinds of problems as far as that goes. What ifs can happen. It just seems like we're allowing them the permit at the beginning. Then it's well okay they got their permit, we signed off on it so we're not liable. Well, the house next to me blows up because it's full of computers and the City gave them an inspection that it was okay I guess it would be back on us.

James responded right and Mr. Chairman I would say my recommendation would be a floor amendment to add that subject to annual inspection by the Fire Marshal. That can be very easily language added to that.

Jones asked do the Fire Marshals have that kind of expertise?

James stated not as far as digital asset mining. I don't think any of do but at least look at.

Jones stated let's look at the Law then. I think the Legislature was very concerned about this because listen to the title: limiting certain actions by political subdivisions permitting certain appeals of certain zoning changes directing the Oklahoma Corporation Commission to not create certain discriminatory rates clarifying that certain persons are not required to obtain a money transmitter license etc. The appeal is not to the normal Board of Adjustments, it's to the competent court of jurisdiction on these. Now that is, I've been around zoning a long time, I've never seen that. I don't think we know enough to move right now.

Busse asked I just have one question. So say I put a digital mining in my home and how many amps are in a typical house?

Smith responded 200 amps.

Busse stated so if I go in and say I have 30 of these machines, I don't have enough power. It's not going to support that so I'm going to call PSO and doesn't PSO regulate this on how much power you can have on in your house? I can't get as much as I want. Right?

Smith responded no you can. An electrician comes in and puts a bigger service in your house.

Busse asked but you're just paying for it?

Smith stated yes but I don't know that. You would have to have the City to come inspect that, the electrician would upgrade that. Somebody would know something at that point. But I still think we have to be, there's more people working from home. Just like when they created Facebook, how many of those guys were sitting in a house up in California with computers and servers.

Busse responded in a garage.

Smith stated correct. We have to be open to it and I agree we don't know enough about it. I don't think anyone up here does but that's where somebody has to go get schooled at it and know something. But I think they're talking mining from home the way I look at it maybe but I don't think someone is doing it for a living. They still have a full time job, they're just kind of playing with this.

James stated just the definition of a digital asset mining business is which the next ordinance addresses and it being in an Industrial, " means a group of computers working to consume more than 1 (one) megawatt of energy for the purpose of securing a Blockchain protocol. So, anything more than 1 (one) megawatt would be considered a business which would then be required to be Industrial. Anything less than 1 (one) megawatt of energy would be allowed in your home. I don't know what that is but I'm just saying.

Jones stated neither will the inspectors.

Denham stated 1,000 gigawatts.

James responded that's what defines a business, which throws you into Industrial District.

Denham asked so if we're saying no more than a Gig right, on the home mining?

James stated that's my correction , it's 1 (one) megawatts.

Good stated the typical home service wouldn't even reach that, to get that power you would have to upgrade your electrical, which would require an electrical inspection by the City.

Jones responded an Electrical inspection doesn't tell us what will happen, that that computer and how may gigs or anything. It just says this meets the Unified Electrical Code; it meets that Code. That's what they're inspecting for.

Denham asked any other questions because the item calls for a Public hearing? I will go ahead and declare the Public hearing open, anybody that would like to come speak for or against this ordinance modification, please approach the podium and give us your name, address. Seeing no one approach I'll go ahead and close the Public hearing. Any additional questions, comments? I'll entertain a motion.

Jones stated I move that we delay this item to a date certain, which would be the first meeting in October and that the Staff and Legal and Planning Staff try to gain more information by our peer Cities.

Denham stated DJ if I can interrupt, they have already done that. Everybody's trying to the same thing.

Jones stated I withdraw my motion.

Denham stated motion is withdrawn.

Medders stated I make a motion to modify Section 18-4-1-411 allowing home digital asset mining as a home occupation with fire inspection and annual inspections.

Motion by Medders. Second by Smith to recommend Council to approve to modify Section 18-4-1-411 allowing home digital asset mining as a home occupation with annual fire inspection and annual inspections **Aye:** Jarvis, Jester, Smith, Medders, Springborn, Denham, Busse **Nay:** Jones **Motion Passed 7-1**

2. **Consider holding a public hearing and recommending approval of an ordinance modifying Section 18-1-1-106 and Section 18-6-16-671, by creating a definition for blockchain, digital asset, digital asset mining, home digital asset mining, and node; and allowing digital asset mining businesses to be a permitted use within an I-3 Light Industrial District and allowing for floor amendments if necessary.**

Good stated this is as I previously stated the item that would cover permitting the use within an Industrial area as discussed by the Planning Commission on July 25, 2024 and this is to establish the zoning and some definitions for this actually to be a digital asset business.

Denham asked and there is no Use Permitted On Review in any other category?

Good stated right now with the proposal it would be a Permitted Use in I-3, which also permits it in I-4. But that's what was the discussion last time and that is what Staff brought back.

Denham asked any additional questions of Kameron?

Medders asked why can't we permit it in I-1?

James responded we could. The discussion was I-3 and so that's what was directed for Staff to present. So, with this being open to floor amendments, it's open to floor amendments. We just brought back what was given to us at the last discussion.

Jones stated David, considering that no other City in Oklahoma has adopted this Session Law. I think it's probably prudent to talk about the fact that they don't allow them in the City limits. Maybe we should be talking to the City Attorney. We got this Industrial area out here, it's the golden goose and so if we can't put it in A-1 I wonder if we can go to I-4 and I don't know. But I'll tell you without any input from existing industry that sunk billions out here, I think we better be very careful.

James stated Chairman I will say that we did have a phone call this morning requesting a re-zoning for the property that started all of this, they're already wanting to start an application for Industrial zoning and basically we're going to have to put them on hold because we, like we told them, we don't know where you can go yet. They are already inquiring on a re-zoning application.

Busse stated this is just my professional opinion, I show real estate for a living. I'm in the commercial industrial parks about 5 days a week. We don't know when we're going to get buildings back. The grow are going out and typically we just wait and see if we any cars and then we're reaching out to our landlords have you received rents and they say no. We wait for about 30 days, we send out a certified letter, we get it back and they are gone. Empty, vacant buildings once again. This is what happens this is the truth. Once they know they're vacant no electric, no cars there. They are going to get stripped out. Now I have to work with the landlord and tell them all their copper has been stripped out completely. Now I have a building that's half, not even half the value now because all the electric is gone. So, what I see on a daily occurrence working that area so much that we should be open to be in I-1. They are computer processing machines and these guys are going to come in through our City, we should be open to the business. This is technology, that is where our future is going. I think that's what FISTA is about technology. We should be open and be saying if we are open our doors to businesses. This is the route we should be going to and saying okay come in. They are going to have to work with License and Permits and let me tell you that's hard. These guys just don't give out stickers you have to work for it, you have to do all the recommendations. They are already going through a process. Every business that comes here goes through such a hard process. I wish the process was easier. We should be welcoming. I don't want to see anymore buildings empty. I agree this should be in I-1.

Denham asked where do data centers fall in this because I don't see them specifically listed?

Jones stated you have data centers right now in existence for banking, insurance, that are in C-5, Central Business District because they don't create the side effects of what this Bill does.

Denham stated but there are these massive data centers that the Amazons of the world, the Cloud. That's what those are called.

Jones stated I don't think we have any.

Denham responded so that's the thing, if we really wanting to chase good business I don't see a lot of people lining up to be crypto miners frankly but I do see a huge draw for data centers. So, I don't know if that would require a separate item or not, it's just because we're addressing this because this is what the State Law is but that would be an area if not addressed that needs to be and if it's added to this, it's less intense but it's still will zap a lot of electricity out of the grid. It would be a huge benefit to the community if we could get a few of them. You are going to look for places near to sub-station and we got a lot of farm land out there that's going to strained throwing an Industrial zoning on them. I kind of concur with Melissa, we do want to be open for business but we also got to be subject looking into the what ifs on bad things too. It's a fine line, as long as we're following the law and think why they said the court, they're almost adapting the same Laws they did with the pot situation. You don't want a local zoning entity to prevent or block business coming in. So that's what the Law is here. I think the main question is from this point is what I'm hearing is the I-3 verses the I-4 verses I-1. I guess that would be the direction we need to focus this item on.

Busse asked so in C-5 and I-1 we currently can allow dispensaries; a grow and what tier of processing can go into a C-5?

Good stated in C-5 would allow for Tier One processing as long as it's associated with a dispensary and a grow as well associated with a dispensary in C-5. Our Downtown Overlay all of it is permitted in mixed-use district, our downtown area Tier One through Tier Four processing and indoor grows are allowed and dispensaries are all allowed in our Downtown area. The Industrial areas you can have indoor grows in all of the four Industrial zonings. You can have outdoor grows with some restrictions on how far away they are from other properties.

Busse asked so my question would be before someone comes in for a license I want to know what zoning I need before I get the license, what is the process for them?

Good stated I think from the discussion on this item when the City Attorney was here, what he brought up was just the noise concerns from the facility, being the cooling system and that other sites had some additional noise panels put up to prevent the noise from traveling more. Landscaping to buffer the noise but it all came down to the noise concerns from the neighbors.

Denham stated and fire.

Jones stated and power.

Good stated the applicant that we spoke with today, that PSO had said they have a green light for that property.

Denham asked is there any other questions for Kameron? At this time, I'll go ahead and declare the Public Hearing open anybody that would like to come and speak for or against this item to modify the Code please approach the microphone, give us your name. Seeing no one approach, I'll close the Public hearing. Now, any further questions, comments?

Jones asked has the Industrial Development Corporations, we have numerous, have they been involved in this discussion? Has anybody who is in charge of property in the west industrial area been contacted?

Good responded no ma'am this was not discussed with LEDC or the economic development for the Industrial area. No ma'am.

Jones asked did you discuss anything with other Fire Departments?

Good stated just the General Municipalities. And with the proper Fire Code right now would require fire hydrant and there are alternative fire suppression systems. I talked to our Fire Marshal about some of these facilities have been implemented because technology and water don't mix.

Jones stated well certainly Goodyear. My next question is when you discussed this with other Cities, did you discuss anything related to something like Goodyear, where you have a serious concern about industrial espionage, so the facility is basically closed? You don't step on Goodyear without having permission and someone accompanying you.

Good stated Robert spoke to the peer Cities and what was discussed was strictly the zoning of the properties.

Jones responded thank you.

Denham stated good points but when it goes to Council there will be Public hearings at that time as well I suppose.

Good responded correct.

Denham stated that would be another chance for these other entities that I would think would have a vested in that especially being potential neighbors.

Good stated one of the requests we just recently had and was withdrawn was out in the Industrial area was trying to re-zone something to the I-4 zoning and there was a lot of concern from the surrounding property owners that showed up going against going all the way to an I-4 because of the concerns what can go there.

Jones responded the concerns during that Public hearing was because they didn't know what was going there.

Good stated exactly.

Jones stated thank you.

Denham stated alright now I will go ahead and entertain a motion.

Medders stated I will make a motion modifying Section 18-1-1-106 and Section 18-6-16-671, by creating a definition for blockchain, digital asset, digital asset mining, home digital asset mining, and node; and allowing digital asset mining businesses to be a permitted use within an I-1 Industrial District.

James responded Chairman just for clarification Section 18-6-16-671 is not I-1 zoning. That Section was specific for I-3 zoning so that Section of Code would be changed to match the I-1, so just for clarification.

Denham stated so to modify the Code Section for the I-1 use.

Jones stated (inaudible).

James responded I think that's just a floor amendment but I can verify with the Attorney's Office.

Good stated this would be the recommendation to go to City Council with I-1 being a permitted use. That would permit it to all four Industrial zones.

Denham stated correct but we'll make this contingent upon that being a floor amendment, to be able to change the Code Section.

James responded I'll draft another Ordinance. I'll have a CPC recommended Ordinance and the original Ordinance. You'll have the I-3 and the I-1, two different options when we take it to Council.

Good stated and then Council could also go with floor amendments and permit a different zoning.

Denham stated of course, they're the final word but I just want to make sure it's a legitimate, I mean I would much rather address it here as opposed to coming to Council and they say no that needed to be readvertised for Planning Commission. So, we have a motion to as written except for the Section of Code number potentially modified and making it a permitted use within I-1. I have a motion by Medders, a second by Busse. Any further discussion?

RECOMMENDED ACTION: Hold a public hearing and recommend for approval an ordinance modifying Section 18-1-1-106 and Section 18-6-16-671, by creating a definition for blockchain, digital asset, digital asset mining, home digital asset mining, and node; and allowing digital asset mining businesses to be a permitted use within an I-3 Light Industrial District and allowing for floor amendments if necessary.

Motion by Medders. Second by Busse to recommend to the City Council is to approve the Ordinance including the floor amendment to allow a digital asset mining business within an I-1 zoning district instead of the presented I-3 **Aye:** Jester, Smith, Medders, Springborn, Denham, Busse, Jarvis **Nay:** Jones **Motion Passed 7-1**

Commissioner's Reports or Comments

Denham stated one little clarification in the paper, I know I did say this had never happen before that last meeting. We have I believe sent items to the Council without a recommendation. I recall that happening a couple times. What I was referring to is it was the first time in my experience, that I've never seen a motion, in this case motions, not obtain a second. So, Legal has said just FYI it will not be a practice but in the case like make or break a tie, the Chairman can legally second a motion and so I was under the impression that I over saw the stuff and you guys made the motions and the seconds. I am now on the game. I won't be able to dam everybody if we don't get a second because there I'll be. Any other Commissioner's reports?

Springborn stated I apologize for being late.

Secretary's Report

James stated the only thing we have is 801-809 NW Pershing Drive went to Council earlier this week, since it did not have a recommendation Council sent it back to CPC. We have re-noticed that and so that will be on the second meeting of September for CPC and then the first meeting for Council in October for that. So, we will see that one again and Council is pretty much requiring a recommendation from CPC to move forward on that one.

Audience Participation

None.

Adjournment

Motion by Jones, Second By Medders to adjourn the meeting **Aye:** Jones, Smith, Medders, Springborn, Denham, Busse, Jarvis, Jester **Nay:** None **Motion Passed 8-1**

With no further business meeting was adjourned.



David Denham

Chairman