



City of Oregon City

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Oregon City, OR 97045
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Meeting Minutes - Final City Commission

Dan Holladay, Mayor
Carol Pauli, Commission President
Brian Shaw, Rocky Smith, Jr., Renate Mengelberg

Wednesday, October 21, 2015

7:00 PM

Commission Chambers

REVISED

1. Convene Regular Meeting

Mayor Holladay called the meeting to order at 7:00 PM.

2. Roll Call

Present: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Commissioner Carol Pauli, Mayor Dan Holladay and Commissioner Renate Mengelberg

Staffers: 11 - Community Development Director Tony Konkol, City Attorney William Kabeiseman, City Engineer Aleta Froman-Goodrich, Police Chief and Public Safety Director James Band, Community Services Director Scott Archer, City Recorder Kattie Riggs, Library Director Maureen Cole, Economic Development Manager Eric Underwood, Operations Manager Martin Montalvo, Finance Director Wyatt Parno and Human Resources Director Jim Loeffler

3. Flag Salute

4. Ceremonies, Proclamations and Presentations

4a. Libke Memorial Sign Presentation

Jim Band, Police Chief, announced Highway 26 was being named by the State the Robert Libke Fallen Officer Memorial Highway.

Mary Nunnenkamp, Chair of the Oregon Law Enforcement Memorial Trust, said the support given to the Oregon City Police Department and Mrs. Libke and her family was critical to their recovery. She discussed the new highway sign for Mr. Libke, which was their way of saying to Mrs. Libke and her family that they would never forget. This would be the 15th sign installed in the State. No tax payer dollars went into the sign program, but it was by donation.

Chief Band said the sign would be located on the way to the coast by the lower Nehalem Road, near the location where Officer Libke use to hunt. It was important not to forget.

Mayor Holladay pointed out Officer Libke was a volunteer reserve officer and confirmed he would be remembered.

4b. Proclamation Declaring November 1, 2015 as Extra Mile Day

Mayor Holladay proclaimed November 1, 2015 as Extra Mile Day.

5. Citizen Comments

Kevin Hunt, resident of Oregon City, discussed the recent termination of the City Manager. There was citizen concern at the time the City Manager contract was approved in 2013 regarding the large severance clause and how it would bind future Commissions and span several election cycles. The current Commission decided not to pay the severance on the grounds they did not re-ratify the contract. He thought it was a contractual obligation. He also thought the decision had been made in Executive Session not to pay the severance.

Betty Mumm, resident of Oregon City, apologized as a former City Commissioner for not being as intuitive to what was going on and available to staff and encouraged the current Commission to create a policy so staff could come to the Commission without fear of retaliation.

Kathy Roth, resident of Oregon City, was opposed to the new Public Works facility being located on the Waterboard Park property. She thought it would be irresponsible and summarized four FEMA documents regarding the consequences, especially no federal reimbursement for an unstable site due to a landslide or earthquake. It was a critical facility and needed to be located so the facility was capable of rapid recovery and service in the case of a disaster. The current facility was on a deep-seated slip plain. Placing the Public Works site at Waterboard Park was grossly negligent. On another topic, she stated at no time during discussion concerning Mr. Frasher's contract when she sat as a City Commissioner was the Commission advised by any attorney that they were entering into a contract that would not be enforceable. The Mayor stated that there was a large body of law that said a current Commission could not bind a future Commission. The prior Commission was not advised of this by the City Attorney and had been advised that the contract be ratified as a unified body. She was not able to follow that recommendation.

James Nicita, resident of Oregon City, said in January 2014, he made a presentation to the CIC regarding transparency in Oregon City and how he thought one of the obstacles was institutional and how the City Manager, not the Commission, hired and fired the City Attorney. He thought the Charter should be changed to have the Commission be the body that hired and fired the City Attorney. He was not on the Commission at the time, but had spoken against the City Manager contract in 2013. He thought there were problems with the City Attorney being the City Manager's employee, especially when there could be a conflict between the City Manager and Commission.

6. Adoption of the Agenda

The agenda was adopted as presented.

7. Public Hearings

7a. Ordinance for Introduction No. 15-1012, Pavilion Park III Development Application for Zone Change file ZC 15-02 & Subdivision file TP 15-03

Laura Terway, Planner, said this was an application for a zone change and subdivision located on McCord Road. She explained the subject site, Municipal Code

criteria, proposed zone change from R-10 to R-6, proposed subdivision lot layout and street tree plan, tree removal plan, and utility plan. The issues raised during the Planning Commission review were the water main extension on Leland and McCord and traffic and street conditions. The applicant would have to put in 490 feet of water main to extend it to the property and 308 feet of water main adjacent to the property. The amount of water main proposed was proportionate to the development proposed and there was a separate SDC credit process that the applicant could apply for as well. Two letters were received regarding traffic concerns. The applicant did a traffic study and the City's traffic engineer also did one. After receiving the letters, the City's traffic engineer did a supplemental study to confirm that the conclusions initially made were correct and they were. Staff thought the development as proposed with the conditions of approval met the criteria. She reviewed the proposed amendments to the conditions of approval #26 to #30. One public comment regarding traffic issues was received after the public record was closed. The information was already in the record except for one new piece of information that the Commission could not use to make a decision.

Mayor Holladay opened the public hearing. Bill Kabeiseman, City Attorney, read the public hearing format. He asked if the Commission had any ex parte contacts or conflicts of interest to declare. There were none.

Michael Robinson, representing the applicant, agreed with the amended conditions of approval as well as the findings and conditions for the zone change and subdivision application with the exception of Condition #8. The public comment received after the record was closed contained facts that were already in the record and he thought the issues were well addressed in the findings prepared by staff and adopted by the Planning Commission and supported by substantial analysis. Regarding Condition #8, installing an off-site 308 water line, the applicant did not think it was appropriate under the Code or appropriate under relevant constitutional law based on impacts of the application. The properties along the off-site line extension were already developed and the looped water system was not a benefit to or needed by this application. They did not think there was justification for the water line for water pressure or fire flow. The need for looping might exist, but it was not an impact related to this application. They were comfortable with Condition #10 for SDC credits but the eight inch water line was not upsizing and he was not sure the credit would be granted. He suggested rewriting the condition to authorize the payment of SDC credits at one half of the cost of the water line. As a compromise, the applicant was willing to pay half if the City would credit him for the other half. He requested approval of the ordinance.

Aleta Froman-Goodrich, City Engineer, said there were documents in the record that summarized the benefits to the subdivision that was being proposed, such as a nexus for requiring the water lines and proportionality analysis. The main benefit would be looping of the system. If there was no looping, there would be two new dead ends that would need to be part of a maintenance program to ensure the water quality was there for customers along that system. There would also be increased residual water pressures at peak demands, enhanced fire flows, redundancy, and increasing water quality for that portion of the system.

Ms. Terway said staff thought there was no doubt that there was a requirement to extend the water lines.

Mr. Kabeiseman discussed the constitutional issues. The question was if this requirement was caused by or related to this development. Staff had looked at the impacts of the development and looping was important for the water quality of the system. Development without looping would have impacts on the City's water

system.

There was discussion regarding the need for the water line, creating a reimbursement district, looping that would occur in the interior mains, and current dead ends.

Mr. Robinson said there were dead ends in the area now, and they were looping inside the water line. Staff was implementing the master plan which was a benefit to the community, but had nothing to do with the impacts of a small subdivision. He did not think it was appropriate to ask them to fix a problem that they neither created or exacerbated. The problem with a reimbursement district was there was no certainty and it would be difficult to recover their costs in a substantial way. He thought the information they presented refuted the arguments of staff.

Bruce Goldson said the water pressure would not change whether they connected or not because it was based on where the water was stored. He did not think looping would accomplish anything. Most subdivisions did dead end until future development hooked on, which they were doing and improving two dead ends within the new subdivision. They would end up with two dead ends on McCord and Leland. They had lots there that would take service at the end of those lines, so it would not be true dead ends with stagnant water and there would be blow offs to accommodate better water quality.

Mayor Holladay closed the public hearing.

Commissioner Shaw confirmed the project did not need the 308 foot line as there were other water lines coming into the subdivision.

Mayor Holladay thought it made sense to extend the water line for the future, but it was improving the system for the entire area not just this site. He thought the applicant's compromise was acceptable.

Commissioner Pauli thought development should pay its way, but they were being asked to extend it way beyond their site. There would still be two dead ends like there was now.

Tony Konkol, Community Development Director, clarified there would be four dead ends without the extension.

Commissioner Mengelberg said the applicant was asking for a concession to be able to get more density on the site through rezoning which meant more financial gain and she was in support of staff's recommendation.

Ms. Terway said the proportionality analysis showed the cost was proportional and explained how the analysis was done.

Commissioner Pauli thought it was a unique situation because it abutted County property. The line would go far outside the subject site.

Ms. Froman-Goodrich said there were CRW lines in Leland and McCord, but they were in very poor condition. They planned to slowly transfer that service district to the City.

Mayor Holladay thought the applicant's compromise was reasonable.

Commissioner Shaw said it was a balance between the applicant and City and the

compromise was acceptable.

Mr. Kabeiseman said staff was not sure it would be eligible for SDC credits. He suggested to say in the condition "To the extent allowed by law the City would provide SDC credits."

Ms. Froman-Goodrich said projects could be added to the CIP list if it was authorized by Council. This system was not on the CIP list, but it could be added so that SDC credits could be given.

Mayor Holladay asked the applicant if he was agreeable to continue the hearing to fix the CIP issue. Mr. Robinson was in agreement.

A motion was made by Commissioner Smith, seconded by Commissioner Pauli, to continue Ordinance No. 15-1012, Pavilion Park III Development Application for Zone Change file ZC 15-02 & Subdivision file TP 15-03 to November 4, 2015. The motion carried by the following vote:

Aye: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Commissioner Carol Pauli, Mayor Dan Holladay and Commissioner Renate Mengelberg

7b.

Second Reading of Ordinance No. 15-1011, Boulder Run Development Application for Zone Change file ZC 15-01, Subdivision file TP 15-02 & Natural Resource Overlay District Verification file NR 15-04

Mayor Holladay opened the public hearing.

Ms. Terway said this was an application for a 19 lot subdivision as well as a zone change from R-10 to R-8 and a natural resource verification. The City Commission had approved the first reading of the ordinance and staff recommended the Commission approve the second reading.

Mayor Holladay closed the public hearing.

A motion was made by Commissioner Mengelberg, seconded by Commissioner Smith, to approve the second reading and final adoption of Ordinance No. 15-1011, Boulder Run Development Application for zone change file ZC 15-01, Subdivision file TP 15-02 & Natural Resource Overlay District Verification file NR 15-04. The motion carried by the following vote:

Aye: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Commissioner Carol Pauli, Mayor Dan Holladay and Commissioner Renate Mengelberg

8. General Business

8a.

Continuance of Resolution No. 15-29, a Resolution Interpreting the Term "Designated as a Park" as Set Forth in Chapter X, Section 43 of the City of Oregon City Charter

Mr. Konkol said Mr. Lewis was at a conference, and could not be in attendance. He requested continuance of the resolution to the next Commission meeting.

James Nicita, resident of Oregon City, thought this might be a land use decision as it was a question about a Comprehensive Plan designation.

Bob Mahoney, resident of Oregon City, thought this was not the place for a Public

Works site. A Public Works site needed to be central to the City. He did not think they wanted to take this on politically due to the negative reaction. They could do better for the good of the public.

A motion was made by Commissioner Shaw, seconded by Commissioner Pauli, to continue Resolution No. 15-29, a resolution interpreting the term "designated as a park" as set forth in Chapter X, Section 43 of the City of Oregon City Charter to November 4, 2015. The motion carried by the following vote:

Aye: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Commissioner Carol Pauli, Mayor Dan Holladay and Commissioner Renate Mengelberg

8b.

Resolution No. 15-32: A Resolution Declaring the City Commission's Intention of Appointing Another City Manager within Four Months

Mr. Konkol said this resolution was brought forward as per the City Charter requirement stating the Commission's intention to appoint another City Manager within four months of a vacancy.

Jim Loeffler, Human Resources Director, said the Commission needed to approve the job description for the City Manager. He would be sending a draft to the Commission for comments and it would be presented at a Commission meeting for approval. He then discussed the recruitment process and how he recommended going with a firm rather than having staff do the recruitment.

Mr. Kabeiseman said there was no consequence in the Charter for taking longer than four months.

Mayor Holladay contacted a firm to discuss timelines and costs. He was told it was harder to get good candidates this time of year due to the holiday season.

This item would be discussed further at a future Work Session.

A motion was made by Commissioner Pauli, seconded by Commissioner Smith, to approve Resolution No. 15-32, a resolution declaring the City Commission's intention of appointing another City Manager within four months. The motion carried by the following vote:

Aye: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Commissioner Carol Pauli, Mayor Dan Holladay and Commissioner Renate Mengelberg

9. Consent Agenda

A motion was made by Commissioner Smith, seconded by Commissioner Mengelberg, to approve the consent agenda. The motion carried by the following vote:

Aye: 5 - Commissioner Brian Shaw, Commissioner Rocky Smith, Commissioner Carol Pauli, Mayor Dan Holladay and Commissioner Renate Mengelberg

9a.

Fleet Purchase Authorization - VacCon Combination High Pressure Cleaner and Vacuum Truck

9b.

Minutes of the October 7, 2015 Regular Meeting

10. Communications

a. City Manager

Maureen Cole, Library Director, gave an update on the Library addition construction. They were on time and on budget.

Chief Band said the Police Department bought a drone in the last budget and were developing a policy for its operation. Information on the drone would be posted on the City's website.

Mayor Holladay wanted the draft policy forwarded to the Commission before it was formalized.

Martin Montalvo, Operations Manager, said it would also be used for structural assessment for emergency and non-emergency uses.

Mr. Konkol said there would be a new schedule for the Amtrak Cascades passenger rail beginning October 24. There would be a road closure on 7th Street between Main and Railroad Avenue on October 24 and 26. This year's United Way campaign was underway and ended on November 6. He announced the Trick or Treat event on Main Street on October 30, pumpkin decorating contest at the Caufield House on October 31, and Brews and Broomstricks pub crawl on October 31. The City received the Oregon Chapter of the American Planning Association Special Recognition Award for the Willamette Falls Legacy Project.

b. Commission

Commissioner Shaw congratulated staff on the award. He attended the Regional Wastewater meeting, Oregon City Business Alliance meeting, Clackamas County Business Alliance meeting, Tri-City sewer plant tour, and Oregon City Together program at the High School.

Commissioner Mengelberg attended the Metro Policy Advisory Committee meeting.

c. Mayor

Mayor Holladay reported on the Regional Wastewater Capacity Advisory Committee meeting. He had been working with Representative Barton to get the State involved in a mediation process with Tri-City. He had gone to Sedro-Woolley, Washington, to tour their Wastewater Treatment Plant and new omni processor.

11. Adjournment

Mayor Holladay adjourned the meeting at 9:15 PM.

Respectfully submitted,

Kattie Riggs, City Recorder