



City of Oregon City

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Meeting Minutes - Draft

City Commission

Dan Holladay, Mayor
Brian Shaw, Commission President
Nancy Ide, Frank O'Donnell, Renate Mengelberg

Wednesday, November 15, 2017

7:00 PM

Commission Chambers

1. Convene Regular Meeting and Roll Call

Mayor Holladay called the meeting to order at 7:05 PM.

Present: 4 - Commissioner Brian Shaw, Mayor Dan Holladay, Commissioner Renate Mengelberg and Commissioner Frank O'Donnell

Absent: 1 - Commissioner Nancy Ide

Staffers: 12 - City Manager Tony Konkol, Assistant City Attorney Carrie Richter, City Recorder Kattie Riggs, James Band, Community Services Director Phil Lewis, Community Development Director Laura Terway, Christina Robertson-Gardiner, Economic Development Manager Eric Underwood, Economic Development Coordinator Leigh Anne Hogue, Library Director Maureen Cole, Finance Director Wyatt Parno and Human Resources Director Jim Loeffler

2. Flag Salute

3. Ceremonies, Proclamations

3a. Proclamation Declaring November 20 - 25, 2017 as Oregon City Buy Local Week and Saturday, November 25, 2017 as Oregon City Buy Local, Small Business Saturday

Danielle Walsh, owner of White Rabbit Gifts and Black Ink Coffee, discussed what buying local meant to her. Buying local was a reinvestment into the community. Non-profits benefited from small businesses and local businesses helped with tourism. Shopping local reduced environmental impacts and helped keep jobs in the area. She was hosting a Meeting of the Makers to help local makers get started in business.

Jonathan Stone, Executive Director of the Downtown Oregon City Association, shared that the Association was a finalist for the Great American Main Street Award due to the City's high rate of independent businesses. The Snowflake Raffle would begin on November 25, 2017 and the winners would be chosen at the Tree Lighting Ceremony. There would be an Entrepreneurial Ecosystems Workshop on November 29, 2017.

Mayor Holladay read the proclamation declaring November 20 - 25, 2017 as Oregon City Buy Local Week and Saturday, November 25, 2017 as Oregon City Buy Local, Small Business Saturday.

3b. Tourism Strategic Plan Project Mid-point Update Presentation by Coraggio Group

Eric Underwood, Economic Development Manager, said they were at the midpoint in creating the Tourism Strategic Plan. Leigh Anne Hogue, Economic Development Coordinator, stated there had been a lot of stakeholder engagement in the past five months.

Matthew Landkamer, Beau Bennett, and Colin Stoetzel of Coraggio Group gave an update on the project. Mr. Landkamer stated there were two tracks to this project, one was the Tourism Strategic Plan and the other was marketing and branding. Mr. Bennett discussed the project timeline, strategic planning framework, and strategic imperatives, objectives, and initiatives. Mr. Stoetzel described the next steps for the project over the next three months and how the draft Plan would be completed in January 2018. He then explained the progress on the marketing and branding effort and the idea of creating a key experience. Mr. Landkamer continued with the next steps for the marketing and branding. Their job was to help the City select a marketing agency to implement the key experience campaign. The plan was to hire an agency in January and begin work in February. The key experience would be launched in May or June for the summer season. The Coraggio Group would help oversee the development of the key experience. The experience would focus on assets that were ready to go.

Mayor Holladay suggested the Commission be a part of the selection of the marketing agency.

There was discussion regarding the details of the key experience and need for coordinating all of the tourism agencies to be a unified tourism industry.

4. Citizen Comments

There were no citizen comments.

5. Adoption of the Agenda

The agenda was adopted as presented.

6. Public Hearings

6a. AP 17-04: Appeal of the Historic Review Board's August 22, 2017 Decision to Approve the Designs of Six (6) Cottage Style Homes in the Canemah Historic District

Mayor Holladay opened the public hearing.

Carrie Richter, City Attorney, read the hearing statement. No new evidence was allowed, testimony would be limited to the issues raised in the notice of appeal, and only those who testified at the Historic Review Board meeting could testify. She asked if anyone on the Commission had ex parte contacts, conflicts of interest, bias, or any other statements to declare. There were none. Commissioners Shaw and Mengelberg and Mayor Holladay had visited the site.

Christina Robertson-Gardiner, Planner, stated there were two exhibits that had recently been received, one was from Karen Blaha and the other from Christine Kosinski. Ms.

Kosinski's letter needed to be stricken from the record as she did not have standing in this appeal. The options for the Commission that night were: if the Commission agreed with the Historic Review Board's decision, the Commission should deny the appeal and approve the application and if the Commission determined the HRB erred in its deliberations and findings, the Commission could either deny the appeal but provide additional conditions or findings that would make the application compatible and that would be included in the revised decision on December 6, 2017 or grant the appeal, deny the application, and provide additional findings that would be included in the revised decision on December 6. Staff recommended the Commission make a tentative decision that night. She explained the timeline of the application for a 5-unit cottage housing project which was approved in August. This was for a historic district compatibility review. The application still had to go through site plan and design review, geologic hazards review, right-of-way permits, and building permits. The property was located in the Canemah national register historic district. She described the subject site and proposed layout. Originally seven cottage homes were proposed for the site, but the HRB made a condition that only six would be built. The homes were small, 600 square feet to 1,100 square feet. In the discussions regarding whether these homes were compatible, the Municipal Code was reviewed and the HRB found that if the applicant was willing to comply with the conditions of approval, the design may be deemed compatible even though the design did not meet the strict design standards for new construction. She then gave a background on the design guidelines for new construction and alternative designs. The conditions of approval included house number two to be removed, enhanced landscaping, and house number one had to meet the setback standards of the zone. All windows and doors would be made of wood, all double doors would be French style doors, second story windows would be rectangular and would not exceed the door height plus a one-foot transom, and no roof cutouts would be permitted. There were also specific conditions for each house.

Ms. Richter explained the building layout issues included in the appeal. The allegation was approval of this application allowed excess density and lot coverage, more than one house per lot, and more than 80% lot coverage. The HRB found that the guidelines acknowledged variation in lot sizes and the modest house size coupled with landscaping mitigated for the one extra house. They also found that there was a greater density of buildings within the Casady House property adjacent to the site that supported allowing additional density. Another issue had to do with the significant amount of land grading and installation of retaining walls, alteration of wagon roads, and internal parking lots. The HRB found the grading was necessary to make the site accessible and to allow house number one to be lower in elevation to the adjacent homes. The historic district did not protect wagon roads, but the proposal would not include curbs and sidewalks that altered the historic roadways. Retaining walls were common in Canemah and the internal parking lots would not be visible from the street. The appeal was also based on wetland impacts, setbacks, and preservation incentives. The appeal stated the application failed to preserve vegetative corridors and adversely affected wetlands. Wetland preservation was not within the HRB's purview and would be dealt with during the Geologic Hazard Overlay review. The application requested a number of reductions in the setbacks. In order to allow these setbacks, the HRB granted a preservation incentive. The HRB found that the preservation incentive was appropriate due to the natural topography of the site and allowed for better spacing of the three homes proposed along Miller Street. Additional plantings were required to mitigate for the impacts. Another issue was structure design. One of the allegations was there was too much duplication and the houses were clones. The HRB found nothing in the guidelines that prohibited duplication in the design. None of the proposed home designs were identical and the more simplified design helped the houses fade into the background. Another allegation was the use of modern design

details that were inconsistent with Canemah. The HRB imposed conditions limiting the size of the second story windows, prohibited roof cuts, and restricted skylight locations to locations not visible from the right-of-way. The appellants believed that taken together, the proposed layout and build design deviated from what was appropriate for preserving Canemah including property values, civic pride, and tourism. The HRB found that the houses were designed in the vernacular style and were contextually appropriate. There was insufficient evidence regarding the adverse effects on property values in building these homes. One of the objectives was to encourage the use of historic districts for housing, and this met that objective.

Paul Edgar was representing himself and the Friends of Canemah who were the appellants. The applicant had the burden of proof to show substantial evidence in the record that the application met the applicable approval criteria. The Commission's job was to interpret the code and context of the code. This application did not follow the cottage homes ordinance as it was not on one lot, but four lots, and the lot had to be at least 10,000 square feet and none of them were that large. The proposed development altered the manner and changed the appearance of the historic district. There was no way to alter this proposal in a manner that would allow it to fit with the building guidelines. This proposal did not advance the public interest or protection of the special character of the historic district. There was no design like this in Canemah and there should not be detracting clones. He offered the full historic inventory for the Casady House in his documentation. This was a Queen Anne style home, and the cottage homes were modern style. The proposed development would destabilize property values. It did not engender civic pride and would lessen tourism in Canemah. It weakened the City's First City historic story and importance. The development would also affect the wetlands. He thought the setbacks were a standard, not a guideline. It was not compatible with the historic character of the Canemah district. No homes were only 10 feet apart. The Commission had an obligation to historic preservation. He wanted to see development on this property, but it had to be the right development.

Chris Staggs, applicant, said the City was growing and evolving. He bought this property for its potential. He was not a big developer, but a family owned business that was focused on creating special places where people would enjoy living. He thought the development would build up and improve the area. They had gone through a rigorous process with the HRB, engaged with the Canemah Neighborhood Association, and talked to neighbors. The Canemah Neighborhood Association supported this application. An exhaustive study of Canemah was done for the application to better understand the historic district. At the end of that process, they had a complete knowledge of the character and what was important to the district. Canemah was a densely developed area in a collection of hillside conditions. The homes were situated on the lots to work with the topography and other homes. In many situations, the homes were close to each other and on the property lines. He read an excerpt from the new construction design guidelines regarding setbacks. He thought this proposal fit with the character of Canemah in terms of density, setbacks, overlapping property lines, and right-of-way. He emphasized how the project fit with the neighborhood. He discussed the site plan for the development. The project preserved open space and wetlands as the homes were situated around that area. The wetland had been delineated and registered with the state. Because of that, they had asked for a preservation incentive for houses five and six to be on the property lines. There was a significant distance from the street edge to these homes and there would be a landscaping buffer as well. A lot of attention had been paid to the proportions for the windows, siding, and scale of the homes. They also deferred to the historic Casady House next door. The proposed cottage house would be lower in respect and deference to the Casady House. It was also oriented towards the street which was similar to the

Casady House. All of the cottage homes were similar in volume and form which was similar to what was in the neighborhood. The roof cutouts would be taken out and the glass would be smaller in the windows, which followed the conditions of approval. The Canemah neighborhood would benefit from the addition of these modestly scaled residences. He asked the Commission to uphold the decision of the HRB to approve this application.

Howard Post, resident of Oregon City, said generally the lots in Canemah were 50 x 100 with one home. This would be a commercial development where the properties would be for rent, not for sale. There was not supposed to be any commercial development above 3rd Avenue. It was not common in Canemah to allow preservation incentives. People in Canemah were not against development, but they did want it to be compatible. He was concerned about losing historic district status as this had never been done before. He thought it would set a precedent and would change the district. Some people in Canemah were in support, and some were not. The question was whether they were going to change Canemah from a historic district to a cluster of houses with no guidelines.

Karen Blaha, resident of Oregon City, supported staff's recommendations. It was time for the project to move on to the next steps. Those steps were daunting. She lived adjacent to this property. She was the treasurer of the Canemah Neighborhood Association. The applicant had come to Association meetings to talk about the project, but the Association had not taken a formal position on the project.

Kristen Minor gave the rebuttal for the applicant. She sat on the Portland Landmarks Commission and worked in an architecture office where they did historic preservation. She had looked at the case record so far and assessed the development with the nature of the historic district. The proposed design was a modern vernacular style which took its cues from the historic contributing structures in Canemah. It did not replicate the existing houses, but the majority of the designs were taken from the existing houses such as the scale, footprint, and materiality.

Mr. Staggs closed by saying this had been an exhaustive process. He could build four single-family homes with four accessory dwelling units on these four lots of record or he could build eight cottage homes. He originally applied to build seven cottage homes, and through the HRB process, it was now five cottages. He thought it was an appropriate scale and density for Canemah and was compatible. He requested that the Commission uphold the HRB's decision for approval.

Commissioner Mengelberg asked about the lots and number of homes. Mr. Staggs clarified there were four tax lots and five cottages proposed. Ms. Richter explained the appellant's argument was these five houses could not go on more than one lot under the cottage home standards. The applicant said that when they got to that point all of the lots would be consolidated into one lot that was over 10,000 square feet. For this proceeding, the cottage home standards were not relevant. This was just to evaluate the historic appropriateness of the project.

Mayor Holladay closed the public hearing.

Ms. Richter said one of the testifiers discussed how this property would be leased, which was not germane to this review. Regarding the guidelines, if an application complied with all the guidelines, it complied with the criteria. In this case there was deviation from the guidelines, but the HRB found that the criteria were satisfied. The HRB agreed that not all the guidelines were followed, but the variety and creativity in

design was allowed. The appellants distributed new information that night from Chapter 2 of the Municipal Code and she recommended the Commission reject the additional testimony. She also recommended that the Commission make a tentative decision that night and staff would return with findings on December 6, 2017. The applicant had agreed to extend the 120-day deadline to December 7, 2017. She reviewed the options for Commission action.

Commissioner Shaw said he was one of the founding members of the HRB and was sensitive to what happened in Canemah. This was an exciting project and he was a proponent of increasing density where appropriate. He thought the proposal was compatible and complimentary to Canemah as there was a variety of architecture in the district. He thought the application complied as proposed with conditions. He asked if a historic district could ever lose its status.

Ms. Richter said yes, it could, but to discuss it further would add new evidence.

Commissioner O'Donnell said this was a limited finding and agreed with Commissioner Shaw's remarks.

Mayor Holladay said history was not a snapshot in time, but was a continuum. He thought the project looked similar to what was in Canemah. He did not think it would adversely affect the historic district. He thought the HRB made the right decision. This development would also add affordable housing in the City.

A motion was made by Commissioner Shaw, seconded by Commissioner Mengelberg, to tentatively deny AP 17-04 and to approve the Historic Review Board's August 22, 2017 decision to approve the designs of the cottage style homes in the Canemah Historic District. The motion carried by the following vote:

Aye: 4 - Commissioner Brian Shaw, Mayor Dan Holladay, Commissioner Renate Mengelberg and Commissioner Frank O'Donnell

6b.

Parker Knoll Subdivision: TP 17-02 Eleven Lot Subdivision at Leland Road and Reddaway Avenue Including Utilization of an Existing Easement in Wesley Lynn Park

Mayor Holladay opened the public hearing.

Ms. Richter said the Commission made a tentative decision to approve this application. Staff had provided findings to that end. She asked if any Commissioner had any ex parte contacts, conflicts of interest, bias, or any other statements to declare since the last hearing. There were none.

There was no public testimony. Mayor Holladay closed the public hearing.

Laura Terway, Community Development Director, said the Commission tentatively approved the proposed subdivision finding that all of the criteria had been met with the proposed conditions of approval and finding that the application did not have to go to a vote of the people.

A motion was made by Commissioner Mengelberg, seconded by Commissioner Shaw, to adopt the findings and approve the Parker Knoll Subdivision: TP 17-02 eleven lot subdivision at Leland Road and Reddaway Avenue Including utilization of an existing easement in Wesley Lynn Park. The motion passed by the following vote:

Aye: 3 - Commissioner Brian Shaw, Mayor Dan Holladay and Commissioner Renate Mengelberg

Nay: 1 - Commissioner Frank O'Donnell

6c.

Land Use Board of Appeals (LUBA) Remand of the Historic Nomination for the Community Cannery and Workshop Annex in the Upper Yard of the City's Public Works Operations Center

Mayor Holladay opened the public hearing.

Ms. Richter stated that no new evidence would be allowed and the testimony would be limited to the issues identified in the remand. She asked if any Commissioner had any ex parte contacts, conflicts of interest, bias, or any other statements to declare. There were none. All Commissioners had visited the site.

Ms. Richter presented the staff report. This case related to the Camp Adair buildings on the Public Works operations site. The two buildings were identified as the Community Cannery and the Workshop Annex. The McLoughlin Neighborhood Association filed an application requesting the HRB designate these two buildings as historic. Before the HRB held a hearing on the application, the City Manager issued a letter to the HRB and McLoughlin Neighborhood Association revoking consent to the designation. At that point no further action took place. The matter was appealed to LUBA and LUBA remanded the decision regarding the HRB's failure to take action on the application. The decisions before the Commission were: to confirm that the Commission was the proper decision-maker on the remand, adoption of Municipal Code Chapter 17.40.50 did not waive application of ORS 197.772 with regard to publicly owned property, the City Manager had the authority to revoke consent, and ORS 197.772 did not distinguish between private and public property owners in their ability to revoke consent. She thought the Commission was the appropriate decision-maker as any recommendation made by the HRB was forwarded to the City Commission. The adoption of Municipal Code 17.40.50 did not waive the City's right to object to historic designation. It was a voluntary decision by the City and there was no indication of intent to waive ORS 197.772 and limit consent. If the code implicitly waived the ORS right of public property owners to withdraw consent, it would effectively waive those rights for private property owners as well. The City Manager had authority to revoke consent per the Charter which stated the City Manager had supervision over all City property. The ORS did not distinguish between private and public property owners.

Jesse Buss, resident of Oregon City, was representing the McLoughlin Neighborhood Association. What was included in the packet was the first version of the LUBA record and there were two amendments which should be included in the record as well. Regarding the Lake Oswego Preservation case, the Oregon Supreme Court stated the statute should be narrowly construed. He thought it only addressed private property concerns for revoking consent. He also thought the term property owner and local government were mutually exclusive, especially when local governments were subject to statewide land use planning goal 5, historic preservation. A local government could not waive a private property owner's right to revoke consent. It was an entirely different story when it came to public property. The Association also objected to new evidence not being allowed. The Association's application never made it to a hearing before the HRB. It went to LUBA who said the HRB needed to consider the issue. The record had never been opened, and he thought it should be opened now. LUBA said the HRB needed to address the issue and coming directly to the City Commission was

bypassing the City's ordinances to have the HRB review it first. The criteria for landmark designation was in the Municipal Code and it did not allow the HRB, City Manager, or the City Commission to discretionarily refuse consent. The notice he received did not identify that the City Commission was the proper decision-maker for this remanded matter nor did it say the City Commission was able to decide whether to revoke consent tonight. He thought it needed to be re-noticed so people could testify on why the City should not revoke consent.

Mayor Holladay thought since the City owned this property, it was the property owner and that the City Commission and City Manager had the right to say how the property would be used. Mr. Buss said when the City had adopted a comprehensive historic review code that governed those decisions, they did not have that right.

Mayor Holladay closed the public hearing.

Ms. Richter said the point about adding the amended versions of the LUBA record was a concern she would have to look into. She recommended the Commission make a tentative decision and she could return with the corrected record. With regard to new evidence, an open record, and continuance, this was a remand proceeding and not a quasi-judicial procedure. LUBA had asked the City to answer three questions and they had nothing to do with the Municipal Code 17.40.50 designation criteria assigned to the HRB for initial evaluation. These were jurisdictional questions related to ORS 197.772 and whether or not the City waived a state right. She did not recommend the Commission open the record or grant a continuance. The notice identified the three questions, and the fourth question was implicit in the third question. The question of whether the City Commission was the proper decision-maker was something for the City Commission's interpretation and did not require additional testimony.

Commissioner O'Donnell thought in the documentation that LUBA would have liked interaction with the HRB. He did not think that waived the Commission's right to be the final decision-maker.

Mayor Holladay had no question in his mind that the City Manager had the authority to make these kinds of decisions. The Commission's role was as policy makers. He thought there was no difference between a private property owner and a government or corporate property owner. The title to this property showed it was owned by the City of Oregon City. There was no differentiation between private and public ownership.

Commissioner O'Donnell concurred that there was no legal differentiation between private and public ownership. They both had the right to exercise control over their assets.

A motion was made by Commissioner Mengelberg, seconded by Commissioner Shaw, to tentatively confirm the four points of the LUBA remand as recommended by the City Commission. The motion carried by the following vote:

Aye: 4 - Commissioner Brian Shaw, Mayor Dan Holladay, Commissioner Renate Mengelberg and Commissioner Frank O'Donnell

7. General Business

- 7a.** Resolution No.17-27, Calling for a Public Hearing for the Continuation of an Economic Improvement District

Mr. Underwood explained in order to continue the assessment of the EID longer than what was specified initially in the ordinance, the Commission needed to enact a new ordinance to continue the assessment for four more years and granting properties owners the right for remonstrance. The resolution gave notice that a public hearing would be held to renew the EID.

Mr. Stone stated the EID began in 2011. A letter was submitted from Carol Pauli, president of the Downtown Oregon City Association, and he highlighted the themes from her letter. The last time the EID was renewed it did not pass the first time and had to be renegotiated. This time the Association had gotten general support of the EID from the property owners in the District. The changes proposed included an expansion of the District and dividing the District into three zones. The Association had used the funds, which totaled around \$2.43 million, in services. He thought the EID would pass the first time and that they had the general support of those in the District.

A motion was made by Commissioner Mengelberg, seconded by Commissioner Shaw, to approve Resolution No.17-27, calling for a public hearing for the continuation of an Economic Improvement District. The motion carried by the following vote:

Aye: 4 - Commissioner Brian Shaw, Mayor Dan Holladay, Commissioner Renate Mengelberg and Commissioner Frank O'Donnell

7b. Purchase and Sale Agreement for 1220 Main Street (Municipal Parking Lot) Due Diligence Extension Request

Mr. Underwood said the purchase and sale agreement for 1220 Main Street was approved in August 2017. Since that time the developer had requested a 20 day due diligence extension to further investigate the feasibility of the parking structure for 90 public parking spaces that was part of the contract. The extension would set the expiration date to December 7, 2017.

A motion was made by Commissioner Shaw, seconded by Commissioner Mengelberg, to approve the purchase and sale agreement for 1220 Main Street (Municipal Parking Lot) due diligence extension request. The motion carried by the following vote:

Aye: 4 - Commissioner Brian Shaw, Mayor Dan Holladay, Commissioner Renate Mengelberg and Commissioner Frank O'Donnell

8. Consent Agenda

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

Aye: 4 - Commissioner Brian Shaw, Mayor Dan Holladay, Commissioner Renate Mengelberg and Commissioner Frank O'Donnell

8a. Resolution No. 17-25, Updating the Transportation Projects Eligible for Transportation System Development Charges Funding

8b. Resolution No. 17-28, Authorizing the Sale of Bonds for the Police and Municipal Court Facility

9. Communications**a. City Manager**

Mr. Konkol said the next Work Session would be a joint meeting with the Planning Commission followed by a regular Work Session of the City Commission. The County would be making a presentation on warming shelters.

Maureen Cole, Library Director, announced the Library received an award from Restore Oregon for the integration of the Carnegie building into the addition of the library.

b. Commission

Commissioner Shaw reported on the Chamber of Commerce meeting that morning.

c. Mayor

There were no Mayor communications.

10. Adjournment

Mayor Holladay adjourned the meeting at 9:45 PM.

Respectfully submitted,

Kattie Riggs, City Recorder