



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Meeting Minutes - Final

City Commission

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

Wednesday, November 4, 2015

7:00 PM

Commission Chambers

REVISED

1. Convene Regular Meeting and Roll Call

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

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

Staffers: 10 - Community Development Director Tony Konkol, City Attorney William Kabeiseman, Public Works Director John Lewis, 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 and Human Resources Director Jim Loeffler

2. Flag Salute

3. Ceremonies, Proclamations

3a. Proclamation in Observance of Veterans' Day, November 11, 2015

The Mayor read the proclamation declaring observance of Veterans' Day on November 11, 2015.

4. Citizen Comments

Paul Edgar, resident of Oregon City, thought it needed to be a community goal to end the homelessness of veterans. There needed to be a shelter in Oregon City and he wanted the Commission to actively join in the effort. He thought the Mayor should appoint someone to be a representative to be part of the effort. He encouraged the Commission to attend the Oregon City High School football games.

Jackie Hammond-Williams, manager of the Oregon City Farmers Market, gave an update on the Market. They had great success over the summer. This was their tenth year and they held 39 markets in 2015. They also had ten event days, workshops, demos, live animals, and non-profit booths. The winter market would begin on Saturday. She explained two programs they had, Snap Match which helped low income people get food and the POP program, a program for kids. These programs were funded through donations and grants.

William Gifford, resident of Oregon City, gave kudos for the OC Request program. At the Chamber of Commerce's weekly meeting there were many volunteers and he

discussed how valuable volunteers were to the City. He discussed the need for land use decisions to come before the CIC for review as many times the neighborhood association meetings were not well attended, especially the Two Rivers Neighborhood Association.

5. Adoption of the Agenda

The agenda was adopted as presented.

6. Public Hearings

6a. Ordinance for Introduction No. 15-1012, Pavilion Park III Development Application for Zone Change

Tony Konkol, Community Development Director, said at the last Commission meeting staff presented information on this application for a zone change from R-10 to R-6 and 25 lot subdivision on McCord Road. Condition #8 regarding the requirement for an eight inch water line in McCord Avenue as an off-site public improvement was discussed. The Commission asked staff to work with the applicant to split the cost of the improvement and bring it back to the Commission. There was agreement on a revised Condition #8, and he read the revised condition. There was also a proposed resolution to amend the Capital Improvement Project List to include the water line in McCord Road so it was eligible for SDC credits.

Mike Robinson, representing the applicant, said the applicant was satisfied with Condition #8 and encouraged approval of the modified condition.

Mayor Holladay opened the public hearing.

There was no public testimony.

Mayor Holladay closed the public hearing.

A motion was made by Commissioner Shaw, seconded by Commissioner Smith, to approve the first reading of Ordinance No. 15-1012, Pavilion Park III Development Application for Zone Change. 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

7. General Business

7a. Resolution No. 15-33 Modifying the Capital Facilities Improvement Plan by Adding an Additional Water Infrastructure Project

John Lewis, Public Works Director, said this project was already in the City's master plan, but was unfunded and not in the Capital Improvement Plan. The resolution added the project to the CIP with an estimated cost. He thought it was a good solution and recommended approval.

A motion was made by Commissioner Pauli, seconded by Commissioner Mengelberg, to adopt Resolution No. 15-33 modifying the Capital Facilities Improvement Plan by adding an additional water infrastructure project. 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.

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. Lewis said the purpose of this decision was to determine whether or not the City intended to designate the upper and lower Public Works yards as an appendage to Waterboard Park. He gave a history of Chapter 10 of the Charter titled Parks and Natural Beauty and history of Waterboard Park and its boundaries. He thought it was clear that in 1970 the armory site and the upper and lower Public Works yards were not part of Waterboard Park. He gave a summary timeline of Waterboard Park property acquisitions, discussed the public works site survey done in 2004, and described the land acquisitions for the Operations Center which began in 1998. He discussed the historic zoning and land use with a land use timeline summary and zoning and Comprehensive Plan maps. Waterboard Park was zoned as residential and the upper yard as quasi-public. Waterboard Park was designated as a park in the 1980 and 1997 Comprehensive Plan maps, and the armory site and upper and lower yards as quasi-public. He showed the working maps used for the Comprehensive Plan update in 2003 which still showed the upper and lower yards as quasi-public.

Chris Dunlop, GIS Technician, explained that in 2004 there was an effort not to create split land uses on tax lots, and he thought the upper and lower yards changed color to make the whole tax lot the same color. The upper and lower yards were not a separate tax lot at this time.

Mr. Lewis continued discussing the adopted 2004 Comprehensive Plan Map which showed the upper and lower yards as park, but Mr. Lewis thought this map was a work in progress. He found in Commission minutes from that time that they were planning to make map changes. Later in 2004 there was a working map to make amendments to the Comprehensive Plan. He noted the change to the upper and lower yards which were separated from the rest of Waterboard Park and designated quasi-public. Several other lots were changed as well. The adopted December 2004 Comprehensive Plan Map showed the armory and upper and lower yards as quasi-public and not part of Waterboard Park. He then discussed the 1991 Parks Master Plan which he thought was a mistake that it showed the upper and lower yards as park. He then discussed the 1999 Parks Master Plan which did not address Waterboard Park and the boundaries were not a focus. He thought if there was an intention to include the upper and lower yards in Waterboard Park it would have been discussed in the record regarding phasing and funding and there had not been discussion regarding moving Public Works or purchasing property for Public Works somewhere else. He explained how the Charter designated parks. He concluded that Waterboard Park was 21.4 acres of natural area excluding 4.56 acres of Public Works yard area and 2.19 acres of the armory property. Past use of the property and property acquisitions favored the current uses. Parks master planning did not support a consequential change like designating the upper and lower yards as an appendage of Waterboard Park. Resolution 15-29 affirmed that the record of land acquisitions, current land uses, and past land use decisions were consistent with maintaining Waterboard Park as is and the upper and lower yards for ongoing Public Works yards.

Bill Kabeiseman, City Attorney, said the critical question was were the Comprehensive Plan maps and Parks Master Plan the types of documents the City used to designate a Charter Park.

Jesse Buss, representing the McLoughlin Neighborhood Association, said the decision was not did they want to designate this area as a park but was it done before. The designation only had to have happened once. He discussed the 1991 Parks Master Plan map that was adopted by ordinance that showed Waterboard Park which included the upper and lower yards. He pointed out it was the same in the 1999 Parks Master Plan map. He then discussed Chapter 10 of the City Charter and the use of "designate" and how there were other ways besides by ordinance that a park could be designated. They had to look at the legislative history, not things that happened after those were in effect. They had to look at what actually happened and what the record said and not what people recalled after the fact or what they thought happened. The quotes Mr. Lewis read from the 2004 City Commission meeting saying they wanted to make amendments were not in the context of parks and there were no references to Waterboard Park. The first time the yards were in green was not the 2004 Comprehensive Plan map, but it was green on the 1975 Comprehensive Plan map. He had submitted City Commission minutes from 1941-1972 where Waterboard Park, armory, and the large building area discussed. Those minutes reflected that for 30 plus years the City Commission had talked about the lower Waterboard Park as Waterboard Park.

James Nicita, resident of Oregon City, passed out documents regarding the history of the original purchase of the property. It was the Board of Water Commissioners that purchased the property in 1910. It was planned to be a reservoir, rock quarry, and park. The purchase was from Center Street all the way up the hill and intended to be a park from the very beginning. He thought the Commission should look at the resolution or ordinance that the Board of Water Commissioners adopted to purchase the park. If it was by ordinance, they assumed the legal responsibilities when the City took over the property in 1923 and the Commission would still be bound by that. He then discussed the Trails Master Plan which clearly showed detailed attention and planning for Waterboard Park. He thought Waterboard Park in its entirety was considered a park. The 2004 Comprehensive Plan was adopted with the intention of implementing the Trails Master Plan and Parks Master Plan.

Mr. Kabeiseman said the McLoughlin Neighborhood Association asked for more time to respond.

Commissioner Shaw had served on the Parks and Recreation Committee for ten years and thought parks were important. The evidence was not clear and he thought it came down to the best use of the property. The City needed a new Public Works facility and he thought it was in the best interest of the City to keep it as that.

Commissioner Mengelberg thought planning documents were designed to reflect the will of the community at the time and were meant to be flexible to respond to changing needs and desires. She thought there was a compelling argument that the long term use and intention of the property was for Public Works and there was not compelling evidence that it was a park. The line showing where Waterboard Park was and the Public Works facility was had been consistently clear. She was in support of having it be a Public Works facility.

Commissioner Smith asked about the reference to City Commission minutes regarding this property as a park. Mr. Buss clarified it was several meeting notes from the City Commission meetings over many years. He submitted that information electronically this afternoon. Commissioner Smith thought if there were meeting notes talking about this area as park space, he would like to see them before a decision was made.

Tony Konkol, Community Development Director, read a resolution of the City Commission from 1947 authorizing the National Youth Administration to construct a building for their uses and needs and primarily for the purpose of a pre-fabrication plant in Waterboard Park. They used that facility for two years, then it became a vocational educational school with the School District. He thought the name was being used as a reference to the general location of where they were putting something.

Mr. Buss agreed that was a good example of how it was generally represented.

Commissioner Smith thought it was possible that the City did not know it was a park.

Mr. Lewis thought it was a misconception of where the boundaries were and people in the past talked about it as a park.

Commissioner Pauli said if it was designated as a park, she would like to see it in writing not just on a map, and where it was voted on and passed, not just a discussion. Comprehensive Plans changed and were meant to be a guide.

Mr. Lewis said in the 1991 Comprehensive Plan, the written notes for Waterboard Park said it was a park with no facilities. If it meant to include the armory and upper and lower Public Works yards it would have mentioned the 20,000 square feet of buildings.

Mayor Holladay said the buildings on the upper and lower yards had been used for over 80 years as a government facility of some kind. If there was a real intention to move Public Works, there would have been some indication of it in the documentation. There was nothing in the record other than the land described in the Charter as Waterboard Park which did not include the upper and lower yards. He did not think a color on a map clearly designated anything because maps changed over time. There was nothing he saw in the record to indicate changing the use of the property.

Commissioner Smith said if the Commission could make the decision based on all the material they had read, they could do so, but he had not had a chance to look it all over.

There was discussion regarding which parks were Charter Parks and protected under the Charter and how Charter Parks were established. Mayor Holladay wanted to make sure the City parks not listed in the Charter went through the process to become Charter Parks.

Mayor Holladay said there was nothing in the record that designated the upper and lower yards as anything other than the uses over the last 80 years.

Commissioner Pauli said it had been in the Charter since 1970.

A motion was made by Commissioner Mengelberg, seconded by Commissioner Shaw, to find that the upper and lower Public Work yards had not been designated as a park and to direct staff to bring back a resolution to that effect incorporating the discussion that evening. The motion carried by the following vote:

Aye: 4 - Commissioner Brian Shaw, Commissioner Carol Pauli, Mayor Dan Holladay and Commissioner Renate Mengelberg

Nay: 1 - Commissioner Rocky Smith

7c.

Ordinance No. 15-1017: An Ordinance of the City of Oregon City Declaring a Ban on Medical Marijuana Processing Sites and Dispensaries, Recreational Marijuana Producers, Processors, Wholesalers and Retailers; Referring This Ordinance to the Voters of Oregon City and Declaring an Emergency

Mr. Konkol said marijuana businesses had not been approved in Oregon City due to business license requirements that businesses had to be legal at the local, state, and federal level, although the City of Cave Junction was being challenged on that. It was possible that the requirement might not stand. House Bill 3400 provided an opportunity for local jurisdictions to put the question of banning marijuana facilities to the voters in November 2016.

Mayor Holladay asked what would happen to grow operations that were already in the City.

Mr. Kabeiseman stated this would prevent new medical and recreational marijuana facilities, but it would not affect people who were currently operating grow sites. They did not need a business license because they were prohibited from making a profit. The reason for the emergency was to meet the December 24 deadline. This was a ban until the vote in November 2016 and if the voters approved, the ban would continue and if the voters did not approve it, there was still the business license ordinance that might or might not come into effect.

There was discussion regarding adding the 3% marijuana tax allowed by HB 3400 to the ballot. Mr. Kabeiseman would see if it could be included.

A motion was made by Commissioner Pauli, seconded by Commissioner Mengelberg, to approve the first reading of Ordinance No. 15-1017, an Ordinance of the City of Oregon City declaring a ban on medical marijuana processing sites and dispensaries, recreational marijuana producers, processors, wholesalers and retailers; referring this Ordinance to the voters of Oregon City and declaring an emergency. 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

A motion was made by Commissioner Pauli, seconded by Commissioner Mengelberg, to approve the second reading and final adoption of Ordinance No. 15-1017, an Ordinance of the City of Oregon City declaring a ban on medical marijuana processing sites and dispensaries, recreational marijuana producers, processors, wholesalers and retailers; referring this Ordinance to the voters of Oregon City and declaring an emergency. 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

7d.

Establish Standards, Criteria and Policy Directives for Hiring the City Manager

Mayor Holladay said in a recent Work Session the Commission agreed on general criteria and policy directives for hiring a new City Manager. He asked if there were any comments from the public. The advertisement would be going out on Monday.

There was no public testimony and no comments from the City Commission.

A motion was made by Commissioner Shaw, seconded by Commissioner Smith, to establish standards, criteria and policy directives for hiring the City Manager. 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. Consent Agenda

There was discussion regarding the Liquor License for the Hilltop 9 Theater.

Mr. Kabeiseman clarified there was already a license for the theater, this was an application for a greater privilege.

A motion was made by Commissioner Pauli, seconded by Commissioner Smith, 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

- 8a.** OLCC: Liquor License Application- On-Premises Sales, New Location: Applying as a Limited Liability Company, K&LBF LLC DBA Howells Restaurant & Lounge, 508 7th Street, Oregon City, OR 97045
- 8b.** OLCC: Liquor License Application- On-Premises Sales, New Location: Applying as a Corporation Company, Eastgate Theatre, Inc. DBA Hill Top 9, 325 Beavercreek Road, Oregon City, OR 97045

9. Communications

a. City Manager

Mr. Konkol announced the Pioneer Center Annual fall fundraiser holiday wreaths deadline for wreath orders was November 20, 2015. City Hall would be closed for Veterans Day. The health advisory for the Cove had been lifted.

Mr. Lewis said the City would be submitting an application for the next five blocks of Main Street to the Oregon Statewide Transportation Improvement Program (STIP). He then gave an update on the moratorium projects.

Maureen Cole, Library Director, gave an update on the construction of the library addition.

b. Commission

Commissioner Pauli discussed how much work the Planning Department was doing to be more customer friendly. She had gone through the process of getting an A-Frame permit and thought it had been an easy transition.

Commissioner Shaw reported on the Oregon City Business Alliance meeting and the last CIC meeting.

c. Mayor

Mayor Holladay spoke to the Caufield Neighborhood Association last week. He attended the South Fork Water Board meeting. The Willamette Falls Media Center was offering to do video cards for families with service members who were overseas.

10. Adjournment

Mayor Holladay adjourned the meeting at 9:51 PM.

Respectfully submitted,

Kattie Riggs, City Recorder