



City of Oregon City

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

Meeting Minutes - Final

City Commission

Wednesday, January 15, 2020

7:00 PM

Commission Chambers

REVISED

1. Convene Regular Meeting and Roll Call

Mayor Holladay called the meeting to order at 7:07 PM.

Present: 5 - Mayor Dan Holladay, Commissioner Frank O'Donnell, Commissioner Rachel Lyles Smith, Commissioner Rocky Smith Jr. and Commissioner Denyse McGriff

Staffers: 12 - City Manager Tony Konkol, City Attorney William Kabeiseman, City Recorder Kattie Riggs, Community Development Director Laura Terway, Public Works Director John Lewis, Human Resources Director Patrick Foiles, Finance Director Wyatt Parno, Public Works Development Projects Manager Josh Wheeler, Interim Community Services Director Don Robertson, Library Director Maureen Cole, Sr. Planner Christina Robertson-Gardiner and Assistant to the City Manager Lisa Oreskovich

2. Flag Salute

3. Ceremonies, Proclamations

7a. Election of Commission President for 2020

A motion was made by Commissioner O'Donnell, seconded by Commissioner Smith, to nominate Commissioner Lyles Smith for Commission President for 2020. The motion carried by the following vote:

Aye: 5 - Mayor Dan Holladay, Commissioner Frank O'Donnell, Commissioner Rachel Lyles Smith, Commissioner Rocky Smith Jr. and Commissioner Denyse McGriff

3a. Oath of Office for 2020 Commission President - The Honorable Laraine McNiece Officiating

Judge McNiece administered the Oath of Office to Commissioner Lyles Smith.

3b. Mayoral Appointments to City Boards and Commissions

Mayor Holladay made the following reappointments and appointments:

1. Reappointment of William Gifford (fill a vacancy) to the Budget Committee for the remainder of the term ending December 31, 2020.

2. *Appointment of Jeffrey Olivas to the Budget Committee for a 4-year term of January 1, 2020 to December 31, 2023.*

3. *Reappointment of Chris Cook to the Urban Renewal Budget Committee for a 4-year term of January 1, 2020 to December 31, 2023.*

4. *Reappointment of Scott Edwards (City resident position) and appointment of David Goldberg (Non-resident position) to the Library Board for a 4-year term of January 1, 2020 to December 31, 2023.*

5. *Appointment of Chris Staggs to the Planning Commission for a 4-year term of January 1, 2020 to December 31, 2023.*

6. *Reappointment of Bob La Salle (Neighborhood association position) and Cedimir Jesic (Non-City resident position) to the Transportation Advisory Committee for a 3-year term of January 1, 2020 to December 31, 2022.*

7. *Reappointment of Grant Blythe to the Historic Review Board for a 3-year term of January 1, 2020 to December 31, 2022.*

8. *Appointment of Shawn Cross to the Urban Renewal Commission for a 4-year term of January 1, 2020 to December 31, 2023.*

9. *Appointment of Shawn Dachtler, Andy Crump, and Brent Haverkamp to the Parks & Recreation Advisory Committee for a 3-year term of January 1, 2020 to December 31, 2022.*

10. *Appointment of Chris Weaver and Devon Pilney to the Natural Resources Committee for a 3-year term of January 1, 2020 to December 31, 2022.*

3c. Planning Commission and Historic Review Board Members Oath of Office - Mayor Holladay Officiating

Commission President Lyles Smith administered the Oath of Office to the newly appointed Planning Commission member.

3d. Commission Appointments for 2020

This agenda item was postponed.

4. Citizen Comments

There were no citizen comments on non-agenda items.

5. Adoption of the Agenda

The agenda was adopted as presented.

6. Public Hearings

6a. Forest Edge Apartments Stabilization: Geologic Hazard Review, Natural Resource Overlay District, and Site Plan & Design Review

Laura Terway, Community Development Director, introduced the agenda item.

Bill Kabeiseman, City Attorney, read the public hearing statement. He asked if the Commission had any bias, ex parte contacts, or conflicts of interest to declare. Most of the Commission had been on the site.

Christina Robertson Gardiner, Senior Planner, presented the staff report. This was an application to remove water from the hillside and abate the hazard through the use of dewatering wells, new stormwater system, and new emergency access road. She gave a background on the site, required reviews, dewatering well locations, mitigation plan, Natural Resources Overlay District requirements, and stormwater outfall relocation.

Josh Wheeler, Asst. City Engineer, and Tim Pheiffer, Foundation Engineering, explained staff's analysis of how the application met the Geologic Hazards Overlay District requirements.

Mr. Kabeiseman said a letter was submitted by the applicant raising a procedural issue about the City's process as this was a Type II decision which was typically a staff decision and the Commission had decided to call it up. The applicant did not think the Commission had the authority, however, Mr. Kabeiseman thought the Commission did have the inherent authority as the residual body for all City powers and it would otherwise have the authority to hear the appeal if the decision was appealed. The City Code did not specifically provide for that, and there were LUBA cases that talked about inherent authority but none of them gave a definitive answer. He thought the Commission's inherent authority allowed them to call-up the decision.

Mayor Holladay opened the public hearing.

Jamison Luther, applicant and property owner, gave a site overview and how the longstanding issue of landslides on the site had been solved through the installation of dewatering wells. The system had dropped the groundwater levels to below those measured during pre-dewatering summer months. The degree of the dewatering observed at the site provided some freeboard in groundwater levels for the site to respond to heavy precipitation events. There would be two recorded documents that would run with the land and bind them and all future owners. He explained the benefits of approval.

Brian Lee, Pace Engineers, and Erick Staley, Geodesign, answered questions about the dewatering system.

Dirk Schlagenhauer, resident of Oregon City, was concerned that they were removing groundwater and disposing of it as stormwater. Groundwater was a natural resource and he questioned what negative effects there would be to its removal.

Frank Rose, maintenance manager at Forest Edge Apartments, explained how the apartments and the site were well maintained and the applicant was always available when there was a problem.

Betty Schallberger, resident of Oregon City, lived in Forest Edge Apartments and discussed how the management of the apartments had been improved since Mr. Luther took ownership and had worked to solve these problems.

Sparkle Maxwell, resident of Oregon City, discussed how the apartments had improved with the new ownership.

Louise Edwards, General Manager of Forest Edge Apartments, explained how the previous owners had done nothing, and the new owner had made many improvements.

Kyliee Murphy, resident of Oregon City, lived in the apartments and had seen both sides of the maintenance and it had improved greatly.

Doug Neeley, resident of Oregon City, was concerned that there would only be an annual report and thought it should be more often. He was also concerned about the affordability of the apartments with the large investment that was being made. The Greater Oregon City Watershed Council was going to make an investment into lower Newell Creek Canyon improvements in the next few years.

Jesse Buss, resident of Oregon City, discussed the impact to the aquifers and groundwater recharge. If they were drawing down the water tables to below the historic minimum summer levels, that meant less water was going to Newell Creek and it might impact the wildlife and stream temperatures.

The applicant offered rebuttal. Mr. Staley discussed the elevation of the creek in the vicinity of the lower campus and how it would not stop water discharge to the creek and because it was very restricted to the localized area it would not affect the aquifers. There was concern about dewatering the hillside and the vegetation might die, but the lower campus was treeless because it was unstable. If they were to stabilize it, they might gain a tree canopy and increase the quality of the vegetation.

Mr. Luther said regarding the frequency of reporting during the wet season, the City could add to the conditions that they provide a bi-monthly operations and maintenance plan status update.

Mayor Holladay asked how they were treating the water before it was discharged.

Mr. Lee explained the process for how the water would flow from the catch basins to the stormwater filter to the stormwater vault. The water would be released at the pre-development rate. There should be no effect to the water temperature on the stream.

Commissioner O'Donnell read excerpts from the geodesign report that he was concerned about.

Mr. Staley explained some of the statements were made due to legal requirements and he also explained how the system would need time to find its equilibrium.

Mr. Lee discussed how there were flexible connections on the underground facilities so any natural settlement would not disturb the utilities.

Mr. Staley did not think there would be any effect on the site from the work that was done on the retaining wall for the Berry Hill Apartments.

Commissioner O'Donnell was concerned that there was not one identifiable factor that would make the site not slide in the future.

Commissioner Lyles Smith was concerned about the entire site that was sitting on a landslide and how an earthquake could trigger that landslide. She thought the applicant should make sure residents were aware of the possible hazards.

Mayor Holladay closed the public hearing.

Mayor Holladay thought this plan was solid and should be approved. Commissioner Lyles Smith agreed.

There was discussion regarding indemnity for the City and possible lawsuits if this application was approved. Staff discussed what would happen if the application was not approved and how the dewatering system would need to be removed which could affect the upper campus.

Commissioner Smith was concerned about the public comments that were made and that he did not know the answers to the questions raised. He discussed the criteria regarding the off-street parking and emergency access.

Commissioner Lyles Smith read email comments made by a friend of hers that was an engineering geologist regarding mitigation of a deep seated landslide. She explained how the applicant had met the items she had been looking for.

Commissioner McGriff had concerns about the uncertain future and what it might bring and how she was not in favor of the application.

A motion was made by Commissioner Lyles Smith, seconded by Commissioner McGriff, to approve the Forest Edge Apartments Stabilization: Geologic Hazard Review, Natural Resource Overlay District, and Site Plan & Design Review with the conditions as stated in the staff report. The motion failed by the following vote:

Aye: 2 - Mayor Dan Holladay and Commissioner Rachel Lyles Smith

Nay: 2 - Commissioner Frank O'Donnell and Commissioner Denyse McGriff

Abstain: 1 - Commissioner Rocky Smith Jr.

There was discussion regarding information that the applicant could bring back to the Commission for further consideration.

A motion was made by Commissioner McGriff, seconded by Commissioner Lyles Smith, to continue the hearing for the Forest Edge Apartments Stabilization: Geologic Hazard Review, Natural Resource Overlay District, and Site Plan & Design Review to February 5, 2020 and leaving the record open. The motion carried by the following vote:

Aye: 5 - Mayor Dan Holladay, Commissioner Frank O'Donnell, Commissioner Rachel Lyles Smith, Commissioner Rocky Smith Jr. and Commissioner Denyse McGriff

7. General Business

7b. First & Second Readings of Ordinance No. 20-1001, Amendments to Oregon City Municipal Code Chapter 15.04: Building Code; Declaring an Emergency

Ms. Terway explained these were changes to the Building Code to regulate certain types of construction. The emergency clause would cause the Ordinance to go into effect tonight.

A motion was made by Commissioner McGriff, seconded by Commissioner Smith, to approve the first and second readings and final adoption of Ordinance No. 20-1001, amendments to Oregon City Municipal Code Chapter 15.04: Building Code; Declaring an Emergency. The motion passed by the following vote:

Aye: 5 - Mayor Dan Holladay, Commissioner Frank O'Donnell, Commissioner Rachel Lyles Smith, Commissioner Rocky Smith Jr. and Commissioner Denyse McGriff

7c.

Second Reading of Ordinance No. 19-1014, Adopting the Stormwater Master Plan as an Ancillary Document to the Comprehensive Plan (GLUA 19-00002: LEG 19-00001)

Commissioner McGriff asked to reopen the record on this agenda item as additional information had been received.

Ms. Terway explained the process if the Commission voted to reopen the record.

A motion was made by Commissioner McGriff, seconded by Commissioner O'Donnell, to reopen the record for Ordinance No. 19-1014 limited to the information in the letter from Northwest Environmental Defense Center that had been received. The motion passed by the following vote:

Aye: 4 - Commissioner Frank O'Donnell, Commissioner Rachel Lyles Smith, Commissioner Rocky Smith Jr. and Commissioner Denyse McGriff

Nay: 1 - Mayor Dan Holladay

Ms. Terway entered the letter from Northwest Environmental Defence Center and the City's response email from John Lewis into the record.

John Lewis, Public Works Director, discussed the points made in the letter regarding the City's stormwater permit in comparison to other jurisdictions. The City was not doing anything less than any other city and the City met the standards.

Mr. Kabeiseman explained the general statements other cities were using in their comprehensive plans and how Oregon City had that language already. Specifically putting in the water quality standards that applied to pipe discharges rather than relying on the MS4 program which was specifically designed to deal with stormwater would cause anomalies that would be problematic for the City to appropriately manage the stormwater.

Jesse Buss, resident of Oregon City, said some new points were raised after the record was closed last time and the public had no opportunity to respond. One point that was made was the statewide water quality standards were not applicable to Oregon City and he thought they were. He clarified they were talking about Oregon's separate, independently applicable water quality standards. The standards were not in the policy language of the Comprehensive Plan, only in the introductory paragraph. He asked that the standards be adopted as a policy in the Comprehensive Plan.

Mr. Kabeiseman did not think that language would add anything beneficial and it would require the City to implement a water quality program that it did not have the expertise to do.

Commissioner McGriff would like more information about how the Stormwater Master

Plan and Comprehensive Plan would link together.

There was discussion regarding the Comprehensive Plan update and how this chapter could be revised in that process.

A motion was made by Commissioner Lyles Smith to approve the second reading of Ordinance No. 19-1014, adopting the Stormwater Master Plan as an Ancillary Document to the Comprehensive Plan (GLUA 19-00002: LEG 19-00001). Motion died for lack of a second.

A motion was made by Commissioner McGriff, seconded by Commissioner Smith, to continue the second reading of Ordinance No. 19-1014, adopting the Stormwater Master Plan as an ancillary document to the Comprehensive Plan (GLUA 19-00002: LEG 19-00001) to February 5, 2020. The motion carried by the following vote:

Aye: 5 - Mayor Dan Holladay, Commissioner Frank O'Donnell, Commissioner Rachel Lyles Smith, Commissioner Rocky Smith Jr. and Commissioner Denyse McGriff

- 7d.** Second Reading of Ordinance No. 19-1015, Adopting Public Works Stormwater and Grading Design Standards (GLUA 19-00002: LEG 19-00005)

This item was postponed to the next meeting.

8. Consent Agenda

This item was postponed to the next meeting.

- 8a.** Resolution No. 20-01, Revocable Long-Term Permanent Obstruction in the Right-of-Way at 710 3rd Avenue
- 8b.** Minutes of the October 8, 2019 Work Session
- 8c.** Minutes of the October 16, 2019 Work Session

9. Communications

There were no communications. The Commission discussed continuing the meeting past the 10:00 PM deadline.

- a. City Manager**
- b. Commission**
- c. Mayor**

10. Adjournment

Mayor Holladay adjourned the meeting at 10:04 PM.

Respectfully submitted,

Kattie Riggs, City Recorder