

CITY OF WEST LINN
PLANNING COMMISSION / COMMISSION FOR CITIZEN INVOLVEMENT
Work Session
Minutes of July 1, 2009

Members present: Chair Michael Babbitt, Vice Chair Robert Martin and Commissioners Laura Horsey, Michael Jones, Charles Lytle, Christine Steel and Dean Wood. Absent: None

Staff present: Chris Kerr, Acting Planning Director

CALL TO ORDER

Chair Babbitt called the Planning Commission meeting to order in the Council Chambers of City Hall at 6:30 p.m.

STUDY TOPICS

1. Planning Commission Policy and Procedures

Horsey was concerned that the change that defined "quorum" as a "majority" of members instead of a fixed number might create situations where a majority of two members decided an issue. If those two members were both in a real estate-related profession, it conflicted with the intent of the Municipal Code, particularly chapter 2, 2.085 (A) 10 and 11 relating to qualification and quorum requirements, which called for a balance of representation of professions and limited the number of members in a real estate-related profession to two.

The Planning Commission had made decisions in the past when three members decided the vote, but Babbitt could not recall ever making a decision when two members decided a vote. A member who recused him/herself counted in the quorum, but did not vote. If the quorum was changed back to four members, then two votes would make a tie, not a decision. The Commissioners discussed the pros and cons. The odds were small that there would be a situation in which two votes decided an issue. A fixed number would force the Planning Commission to have more members present in order to function. Keeping quorum a majority ensured they would always be a quorum and an independent Planning Commission, even when there were vacancies or members were on vacation. Otherwise the City Council was authorized to fulfill the duties of the Planning Commission. Some City Council decisions had been decided by three votes. The City Council had once considered taking over the duties of the Planning Commission or using a hearings officer instead of the Planning Commission. Martin opined that the decisions the Planning Commission had made with a slim majority were their worst decisions. He said it was safer to define "quorum" as four members. The change from "four" to "majority" might have been made to make the Planning Commission policies and procedures consistent with the Municipal Code, so the Commissioners directed Kerr to research that.

2. Review of Previously Proposed Revisions to Update the Comprehensive Plan

The Planning Commission had previously spent time going through the first six chapters of the Comprehensive Plan to update out-of-date references and data. That effort was not intended to make or change policy, just to make technical improvements and incorporate sustainability aspects. Kerr distributed the edited copies of those chapters for the Commissioners to review. The Commissioners asked the staff to work on improving the grammar and clarity of the final

language. They left it to the City Council to change the name of the mayor and other “players” when they adopted the revisions.

Jones said the revised draft seemed to be consistent with the Planning Commission recommendations. The staff agreed to add the definition of “sustainability” used in the adopted Sustainability Plan. Neighborhood plans were each adopted separately and put in an appendix to the Comprehensive Plan, but the Plan itself was to refer to them. After the Planning Commission updated the Comprehensive Plan they intended to work on updating the CDC so it reflected what was in the Comprehensive Plan.

3. Review / Discussion of implementing City documents as applicable to Chapter 7 of the Comprehensive Plan.

The City Council had adopted neighborhood plans, Imagine West Linn, the Sustainability Plan, the Transportation System Plan, and new Goal 5 maps. The Commissioners considered how to update Comprehensive Plan Goal 7, Areas Subject to Natural Disasters and Hazards. They asked the staff to update information related to earthquake hazard and physical limitations. Kerr said staff would use the information in the Metro Hazard Mitigation Plan. Wood wanted to know if Goal 7 had influenced any decisions had been made the past year. Were new homes near Willamette Park in a flood prone area? Kerr reported that the City had used federal information as well as data related to the 1996 flood to update the Flood Management Area and fashion the Hazard Mitigation Plan. Houses could be built in a flood plain, but were subject to code that reflected special national flood insurance guidelines for building in a flood plain. Police and fire stations could not be in a flood plain. The Master Water Plan anticipated emergencies. Greenway code protected the rivers and other code also protected other riparian areas. The code encouraged developers to move density away from slopes. The City had a better steep slope map now. Martin could not recall any neighborhood plan addressed Goal 7. Kerr confirmed that he and other City administrators each got some level of federal emergency management training. Ken Worchester served as the City Emergency Services Director. The Commissioners asked the staff to clean up and clarify the paragraph titled, “Terrorist threat or attack;” include references to procedures the City had implemented since September 11, 2001; and refer to the City’s plan to address wildfires. The staff explained floodplain cut and fill provisions ensured that when someone brought fill into a floodplain there was somewhere else the water could go. They clarified that the Greenway was entirely in the Flood Management Area and also protected by code that protected rivers and riparian areas. The staff was to make the revisions to Goal 7 and email the Commissioners copies.

The Commissioners planned to make Comprehensive Plan update discussions a regular agenda item so they could work their way through the rest of the Comprehensive Plan whenever they had time.

4. Community Development Code Regulatory Improvement Package (CDC-08-04)

Kerr explained this was half of the entire package of CDC changes that fixed and clarified the code but did not make any substantive changes. He anticipated the staff would provide the Planning Commission with the other half in four months. He advised this kind of work should be done twice a year, but it had not been done for ten months. The Planning Commission was scheduled to hear the matter at their second meeting in August.

The Commissioners discussed Babbitt's suggestion to make the code less redundant and cumbersome by not repeating the same Chapter 99 language in multiple chapters, but simply

referring to Chapter 99 in the other chapters. During the ensuring discussion it was suggested the online code could feature links to Chapter 99; the code was so chopped up and hard to understand that the citizens needed to be able to depend on the staff to help them understand the code; there would always be people who would not be able to understand the code unless it was spelled out for them in the chapter they were reading; and that it was the City's responsibility to ensure the code was consistent. The Commissioners agreed the other chapters should refer to Chapter 99 where appropriate because that would make the language in the other chapters cleaner.

Kerr explained that new state requirements called for making transportation facilities permitted uses instead of conditional uses in each zoning district so there was no uncertainty whether they could be located there. The CDC package inserted that language in districts that had been missed when the recently updated the Transportation System Plan (TSP) was incorporated into the code.

Martin said he understood some language in Chapter 28 that called for the City to try to get a twenty-foot wide easement along the river did not reflect what had actually been approved by the City Council. Kerr offered to look into it. Martin recalled a contention by someone who had testified at a Planning Commission hearing that hardship provisions related to developing into a water resource area should have stopped at allowing up to 5,000 sq. ft. of development there. The person had advised that the additional provision that allowed the developer to seek a variance for developing over 5,000 sq. ft. in the resource area had been retained in that chapter in error. Babbitt suggested waiting to discuss that when they got to that chapter. Martin observed that the code said if a trail was more than ten feet from a stream it could be paved, but it also asked people to stay back 200 feet. He suggested replacing "10 feet" with "50 feet" in the spirit of Chapter 32 stream protection. He agreed with Babbitt to wait to discuss that with Ken Worchester when he came to talk to the Commissioners.

Kerr reported that the City Council was to hear the Planning Commission recommendation regarding extending the development permit period at their August 1st meeting.

5. Other Items of Interest from Commissioners

Kerr agreed to ask Ken Worchester to update the Commissioners on the status of the Trails Master Plan. Martin had found that not all ordinances he wanted to look up on the website were available there. Kerr said the online catalogue might not include older ordinances, but ordinances back to the 1970s were available in a binder in the Planning Department. Babbitt asked the staff to place the supporting materials for Planning Commission work sessions on the website - not just the materials for hearings.

Steel asked what the protocol was for handling last-minute submissions of written testimony and for distributing communications between the staff and individual Planning Commissioners. Jones cautioned that the Commissioners should not talk among themselves about an application outside the hearing, but individual Commissioners could ask the staff questions. Wood observed Planning Commission policies said all written information given by staff to one Commissioner were to be distributed to all the Commissioners. Babbitt recalled that the Planning Commission had once fashioned guidelines that called for submitting written testimony ahead of the hearing, but that could not be enforced because people had to be allowed to submit up to and during the hearing. Kerr offered to use the same procedure that worked for the City Council. All material that had come in by the time the staff report was distributed was sent out with that report. Two days before the meeting the staff sent a second package with

additional material that had been received. He said he would email last minute material in pdf format Monday noon before a meeting. That would at least whittle down the amount of material they had to read for the first time at the hearing. He added the email would also be distributed to the list of interested parties.

6. Planning Director's Report

Kerr reported that the Planning Commission decision on the Coston application to develop property at Hood/Burns had been appealed to the City Council, then to LUBA, and remanded to the City twice. He gave the Commissioners a copy of the remand and a summary from the City Attorney. He said it was possible the applicant would resubmit the application. He advised the Commissioners to read the LUBA remand so they would understand how LUBA analyzed the record. It was very important to know and understand the code and to be specific about what code provisions a decision was based on. Mayor Patti Galle agreed that was important for both the Planning Commission and the City Council because so many land use decisions had been appealed. The City Councilors relied heavily on the knowledge and the record established by the Planning Commissioners. She asked the Commissioners to be very clear what code they were talking about. Jones recalled the overall record of appeals showed West Linn did not have as many cases appealed as other municipalities did. Kerr related that the City Manager had asked him to research that and he would report the results to the Planning Commission.

When asked, Kerr confirmed that the staff used the opportunities they had at the planning counter and at the preapplication conference to inform an applicant if they saw potential issues that had caused problems for previous applicants. But after the application was submitted they could not continue that – they could only check the application to ensure it was complete. Babbitt recalled the same group of citizens and the same organizations came to hearing after hearing to testify they had not received the materials and to ask for a continuance. But he knew they were on the same materials distribution list that he was on.

Mayor Galle said there was a fundamental element to address that was not about code: Developers and citizens had to mend their relationship and let go of bad feelings. She was trying to bring them together. There was no gain for the City to have contention and delays in creating appropriate, beautiful developments in the few spaces the City had left. Galle, Councilor Cummings, the City Manager, Tom Coffee, and three developers had met that day to exchange ideas and talk about development. She had met with five developers last week. She hoped those efforts and everyone paying more attention to supporting decisions with the code would result in fewer appeals and better development. Galle related that there were still citizens who were not informed about the proposal for a solar highway, even though the City had used many methods of distributing that information.

ADJOURNMENT

There being no other business, Chair Babbitt adjourned the work session at approximately 8:45 p.m.

APPROVED:



Michael Babbitt, Chair

8-19-09

Date