



CITY OF
West Linn

PLANNING COMMISSION
WORK SESSION
Minutes of May 18, 2011

Members present: Vice Chair Michael Babbitt, Gail Holmes, Holly Miller,
Laura Horsey and Christine Steel

Members absent: Chair Robert Martin and Dean Wood

Staff present: John Sonnen, Planning Director; Chris Kerr, Senior Planner; and
Damian Hall, City Attorney

Vice Chair Babbitt called the work session to order in the Council Chambers of City Hall at 6:45 p.m.

MINUTES

The draft was corrected and then Steel **moved** to approve the Minutes of April 2011. Horsey **seconded** the motion and it **passed** 3:0:2. Babbitt and Miller abstained.

PUBLIC COMMENTS (None)

WORK SESSION

Briefing on Community Development Code amendments as part of a regulatory improvement package

Senior Planner Kerr offered an overview of the minor change and housekeeping amendments the Commission was to hear in July (see Kerr's May 12, 2011 Memorandum). He highlighted some of the proposed changes. Many of the proposed changes corrected clerical errors and clarified existing code. Kerr proposed to put all definitions in a Definitions chapter of the code. The staff had expanded the definition, "Lodge, fraternal, community center and civic assembly" to include "indoor community recreations uses." A future community swim center would fit this definition. This definition excluded "transient lodging" and "senior centers." The staff clarified what they meant by "transient lodging" was lodging such as in hotels and motels, not temporary lodging for homeless people. Kerr observed "Senior centers" had its own separate definition. He planned to research if that was because it was treated differently in the zoning code, or if it would be appropriate to include it in Lodging, fraternal, community center and civic assembly.

Kerr highlighted changes that were potential policy changes. One was to allow noise-producing accessory structures and uses to be placed further into the side street setback. That would

allow owners flexibility to place them where they would not impact an adjacent residence. Sonnen suggested allowing that for smaller sized structures that could easily be screened and requiring them to be screened. Kerr clarified for Babbitt that a dog house or tree house was also considered an accessory structure. Holmes was concerned that placing an unscreened heat pump in the side street setback of a small corner lot would affect the aesthetics of the neighborhood. Kerr clarified the code did not allow any structure to be in an easement. All lots, even older Willamette District lots, had a ten to fifteen-foot wide utility easement across the front. Steel suggested it might confuse readers to call equipment like heat pumps and swimming pool motors "structures." Holmes and Miller suggested requiring them to be screened, and specifying what the vegetative screening material should be. Kerr planned to work on language to allowing noise producing structures and equipment of a certain size to encroach a specified amount into the side street setback if they were screened by vegetation.

The staff proposed to change one of the standards for a home occupation permit. They would apply a limit of two deliveries per day by a three-quarter ton or larger vehicle and ten total vehicle trips per day. The current limit was five business-related trips per day. Kerr had heard from a music teacher that he needed more trips to conduct his business. He had heard from residents along that street that the music teacher business generated too much traffic. Each lesson typically required two trips when the parent dropped off and then picked up the student. Kerr had looked at the standards applied by six other jurisdictions. Like West Linn, they generally wanted to encourage quiet home office uses that did not impact neighbors with traffic, on street parking and signage. Beaverton required a conditional use permit. West Linn was unique in applying a trip count, but that made it easy for enforcement to track. Kerr wanted to know if the Commissioners were inclined to allow some kind of exception to the trip limit for instructional classes. When asked, he explained that most flatbed trucks were three-quarter ton trucks, but a pickup truck was typically not that heavy. The staff wanted to limit deliveries by big, UPS-sized, trucks. Steel recalled parking had been a problem in her neighborhood in the past when someone was selling used cars from home. He parked them in the street and sold them in his driveway. Even one customer per day impacted the feel of the neighborhood. Kerr advised that other home occupations standards required parking by patrons to be on site and if there were more than three spaces the area had to be screened by vegetation. Sonnen advised there were over 500 home occupation permits out. Enforcement was complaint-driven. When the City received a complaint and went to the site to monitor it, the trip limit made enforcement easier. He acknowledged that a home occupation could be a good neighbor and not cause a problem even though it went over the limit. In that case no one would complain about it. Kerr planned to ask the Chamber of Commerce for feedback.

The staff proposed to change the sign design standards to get closer to what light pollution was. They would use the term, "glare." Horsey suggested also using the term "light pollution" because another reason to require light to be directed downward was its effect on birds. Holmes suggested using dark sky terminology.

The noise type definitions and noise standards in the CDC would be struck because they had already been moved to the Municipal Code. Development Standards for design review called

for noise studies and mitigation if the business or activity could be reasonably expected to generate noise in excess of Municipal Code noise standards. Hall agreed with Steel the reference in Chapter 55, Class II Design Review Standards could be more specific and say, "consistent with Section 5 of the Municipal Code." Sonnen agreed with Hall that where Chapter 57 Approval Criteria, (N) Noise was struck the CDC should say, "See Municipal Code" so an applicant would know they had to abide by the noise standards in the Municipal Code.

Kerr clarified the staff proposed to modify Chapter 85 Approval Criteria. Existing language required all lots in a subdivision to have frontage on a public street. But to be consistent with other subdivision standards regarding legal access this provision should say subdivision lots could be accessed via a 25-foot wide access.

Chapter 99 language regarding Fees was modified because it did not reflect the way the City actually collected deposits and fees. Horsey observed that the City gave neighborhood associations a break on fees to appeal. She suggested the Commission look at neighborhood association standards at some future date. The CDC gave deference to any neighborhood association, but they were not all alike. The Commission could look at how they were run and determine what they had to do to qualify for that kind of recognition. Sonnen observed a neighborhood association could appeal a decision at no cost. He recalled cases where a neighborhood association appealed; the process cost thousands of dollars of staffing resources; and the decision had been upheld. Horsey observed sometimes an association board member was the applicant and that was a standards and bias issue.

Hall advised the amendments would become effective 30 days after the Council adopted them. Land use applications that had been submitted before that date would be decided under the old code.

Update on the Highway 43/Willamette Falls Drive corridor project

Planning Director Sonnen reported the selection committee had selected one of the four consulting firms that had responded to the RFP. He circulated a copy of their proposal. Its shortcoming was that the public involvement part of it was only a single work shop. The City had allocated \$25,000 for the project. He asked for the Commissioners' suggestions about how to build more public involvement into the process. He was going to meet with the consulting firm the following week to finalize the project. He anticipated a work group would be appointed to oversee the process and serve as a sounding board for the consultant. Holmes had volunteered to serve on the group. She stressed the importance of involving all the neighborhood associations within the corridor. She reported the Economic Development Committee was already talking about it. Sonnen reported the process would move quickly and be accomplished between June and August. It would look at an area that stretched to the Willamette side of I-205 and extended to the top of the hill along Highway 43. The Council wanted to find out if there were concepts for the future of the corridor that had public support. If there was no public support they could pull the plug. Sonnen clarified that Metro supported corridors, but it wanted to see specific attributes that would reduce traffic and encourage

transit before it made an investment. Metro offered a useful modeling program that predicted what rents a project would generate if certain public improvements were connected with it. The City could then make some strategic moves and public improvements that would spur the private sector to invest there. He confirmed for Holmes that the Council was aware that the Blue Heron bankruptcy could have land use implications in West Linn. One result of the Highway 43/Willamette Falls Drive corridor process could be to show what the public wanted to happen to the industrial area along the Willamette.

Steel was concerned the consultant only proposed one public work shop. Sonnen advised the RFP specified at least one work shop. He suggested the City could do additional public outreach that complemented the consultant's work. Each of the other proposals had its own shortcomings and the City would have to supplement them as well. He anticipated the work shop venue would need to be the size of a high school gym. Holmes suggested it be televised. Babbitt suggested the Commission talk about this in more detail at a future meeting.

Discussion regarding Quasi-Judicial procedures

The staff distributed a handout, "Summary of Discussion Regarding Quasi-Judicial Procedures on April 20, 2011." Sonnen said he had categorized work sessions by type so the Commissioners could decide if they wanted to invite public comment at a particular type of work session, but added that several items were related and needed to be considered together. Holmes recalled the Commissioners had talked about being able to invite someone to comment at a work session if he/she could add to the discussion and was invited by the chair. Babbitt supported that. Steel agreed with inviting public comments early on the agenda, but she did not want a briefing to be "derailed" by public comments. Horsey observed where the public sat during a roundtable discussion was important. Sonnen agreed. Horsey wanted to make it clear prior to a meeting whether the public could or could not comment. It should be evenhanded. Babbitt wanted to invite public comments early in a meeting, but if the public was invited to comment later on in the meeting the comments should be focused on the topic at hand and the Commissioners should be able to specifically invite a neighborhood association representative to comment on a specific topic or question. Steel recalled the Commissioners had invited those who worked in the industry to the work session on extending land use approvals. That was an example of how inviting the public to a work session dedicated to a particularly topic could work well. Sonnen advised that sometimes the Commissioners might need time to digest a deluge of submittals about a particularly popular legislative issue. In that case, staff would categorize and summarize the points made by the public and the Commissioners could work through the issues methodically at the work session. The final proposal would be presented and acted upon at an open public meeting. He advised against taking public comment in such legislative work sessions because it gave those in attendance an opportunity to influence the outcome that others did not have. It also made it difficult to compile and analyze the public comments received at a hearing if new input was constantly coming in. Steel asked that prehearing meetings be reserved for Commissioners to prepare for the hearing. The Commissioners agreed that public comments would not be taken at briefings and prehearing meetings.

Steel did not want to schedule work sessions after hearings. She was concerned the hearing and work session would take longer than anticipated and end too late in the evening. The Commissioners agreed to only schedule a post-hearing work session on the same night as the hearing if the staff and the Chair polled the Commissioners and heard a consensus to have it that night.

Horsey favored always having time for public comments. Holmes advocated inviting public comments at the beginning of each meeting so the public felt it had open government and access to the Commission. Babbitt observed a consensus to always invite public comments at the beginning of each meeting. The comments could be on any topic, on or not on the agenda. Each person had up to five minutes to speak. Later on in the meeting or work session the Commissioners had the ability to call on a neighborhood association chair or someone who could answer a question or shed some light on the topic.

The commissioners confirmed that minutes would be approved at any meeting after they were available. Babbitt wanted to notify the public of the procedural changes at the next public hearing.

The Commissioners discussed whether to televise work sessions. Sonnen reported the cost of televising them was mainly the cameraperson. But live streaming on the web could be done at no additional cost by positioning a single camera. If the Commissioners wanted to televise the meetings the budget could probably be manipulated to accommodate that. He confirmed for Horsey that after the new administrative assistant was trained she could insert the point breaks in videos of long hearings that Horsey asked for. Holmes, Miller and Babbitt did not care if work sessions were televised or not. Steel did not favor televising them. Babbitt observed a consensus to put work session audio on the web and not televise them. Sonnen suggested they might want to reconsider that decision when they dealt with a controversial project.

The Commissioners then finalized the Post Quasi-Judicial Hearing Process they had begun to put together at the previous work session. They generally agreed to conduct the initial straw poll; hold a free-ranging discussion; then take time to each digest the material, reflect, and review their notes. After the motion each Commissioners would reveal his/her rationale for voting the way he/she did. Babbitt encouraged them to be as specific as possible. The staff would later incorporate the rationale into the findings. One of the sticking points was what to do during the reflection period. Babbitt was concerned it would be awkward and the audience would not keep quiet. Hall advised against leaving the room because the public would perceive that something was going on outside of the hearing setting. Horsey saw it as an important quiet time in which to consider the material and think about the other Commissioners' perspectives. Babbitt suggested the chair could summarize the application, the criteria and the issues that had been raised during that time for the audience. Horsey thought that would be impossible to do without divulging his point of view at a time when one person's point of view should not be expressed. Steel suggested the chair ask the other Commissioners if they wanted and needed five minutes to gather their thoughts. They might not need ten minutes.

Hall suggested the staff could prepare a script for the chair to use to let the public know the Commissioners might need quiet time before they voted. Horsey and Holmes stressed the need to ensure the findings accurately reflected deliberations. Hall advised them to be as specific as they could be when they explained their rationale for voting. That would help the staff, especially if the decision was significantly different than the staff findings a recommendation.

Horsey recalled the Commissioners had different perspectives about the style of the free-ranging discussion. They had been advised there was no legal constraint on the style. Hall advised that the comments by Commissioners during the hearing were evidence. Each Commissioner should consider it along with the other evidence when making a decision. He recalled Chair Martin felt there was a line there he did not want to cross. He wanted to maintain a certain level of decorum. Steel said she studied the materials before the hearing, but wanted to hear all viewpoints during the hearing. She recalled Chair Martin had noticed the driveway on a site plan was steeper than the code allowed at one hearing. She would not have noticed that. Holmes said everyone had a different set of skills to bring to the table. Sharing perspectives was beneficial to all. Miller greed it was helpful to hear different perspectives, but she made her own decisions. If things got to the point it felt like lobbying she would be uncomfortable.

Items from the Planning Commissioners

Horsey asked for guidance in making the decision about the master trails plan. Sonnen and Hall advised the staff report would discuss how it complied with the applicable legal criteria: statewide planning goals and the Comprehensive Plan. It was a legislative matter. There were no specific CDC criteria to compare it to. The Commissioners should consider whether it was consistent with the goals and if the proposed future trail alignment through the corridor was appropriate. Did they agree with the trail locations, and any implementation and phasing that was laid out in the application? They could add a trail segment if they thought that was appropriate. They could suggest ways it could be improved.

ADJOURNMENT

There being no other business, Vice Chair Babbitt adjourned the work session at 10:05 p.m.

APPROVED:



Michael Babbitt, Vice Chair

7-6-11

Date