



PLANNING COMMISSION
WORK SESSION
Minutes of October 19, 2011

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

Members absent: Dean Wood

Staff present: John Sonnen, Planning Director; and Chris Kerr, Senior Planner

CALL TO ORDER

Chair Martin called the meeting to order in the Council Chambers of City Hall at 7:50 p.m.

PUBLIC COMMENTS (None)

APPROVAL OF MINUTES

Commissioner Steel **moved** to approve the Minutes of August 17, 2011. Commissioner Horsey **seconded** the motion and it **passed** 4:0:2. Commissioner Miller and Chair Martin abstained. H Commissioner Horsey **moved** to approve the Minutes of September 7, 2011. Commissioner Miller **seconded** the motion and it **passed** 6:0.

BRIEFINGS

Update: Blue Heron property

Senior Planner Chris Kerr related that WES/Clackamas County Sewer District #1 was going to bid on the Blue Heron property. The District wanted to buy it for the outfall permit on it. That only required five acres. They were suggesting the City might use the other 30+ acres for a park/natural area. Kerr related what the staff knew. The site was on the Goal 5 map and featured a stream and high quality wetland. It was completely in the FEMA flood area. It was in the Willamette River Greenway. WRA regulations would apply to it. Those constraints would make it a challenge to develop. The 15-acre industrial lagoon on it might present cleanup issues to whoever bought it. If WES bought it they would be required to do that remediation. The City would need to clear up a zoning issue: The residential portion should be R-10. WES and City staff had been contacting the neighborhood, other advisory bodies and nearby property owners to let them know what WES' intention was.

During the questioning period, Mr. Kerr pointed out the locations of the outfall, pond, zones, nearby PGE property, and where the R-10 zone should be. He pointed out the part of the property that might be developable – if anything on the site was developable. The

Commissioners wanted to know if anyone else had called the City to find out more about the site. Kerr related he had personally received half dozen calls over a five-month period. He did not know if they were local developers. No one had been interested enough to call him a second time. Commissioner Horsey asked what "remediation" was. Kerr indicated it involved a detailed analysis of what was there. The tests could reveal there was something to remediate.

Dan Henagar, WES technical services manager, clarified that WES had not done any preliminary testing. The DEQ hold told them the agency did not expect any hazardous waste would be found or that any significant environmental issue they did not already know about would be found. WES would do testing during the due diligence period.

Council Listening Tour

Planner Kerr reported the Council had asked staff to put a listening tour together. There would be five professionally facilitated meetings each hosted by a different Councilor. The Council wanted to hear what people thought Council priorities should be before they went into goal setting. The Mayor was to host the first meeting on October 20 at Willamette Primary School. Kerr left the meeting.

Update: Highway 43/Willamette Falls Drive project

Director Sonnen reported that the staff had met with 45 persons from four neighborhood associations at a Robinwood, Willamette and a joint Bolton/Sunset meeting. 130 -150 citizens had attended the public workshop on August 29 where they participated in exercises to identify things they wanted the City to address and aspire to. 155 people had participated in surveys. He presented the flip charts, color-dotted maps, work shop sheets and other materials that highlighted key themes and messages coming out of public outreach. He recalled people had suggested things like an esplanade along the river and making the Arch Bridge one of the gateways to West Linn. The staff was compiling the input to present to the Council. They would recommend the next step be to statistically validate the surveys. He encouraged the Commissioners to read the information and watch the video of the workshop before their November 16 meeting.

During the discussion Director Sonnen explained the process was brainstorming at such a high level that it was not possible to present the survey questions in the context of costs, as Chair Martin suggested. Commissioner Horsey recalled the workshop had been a good model of public engagement. The room was packed with people who were excited, positive and responding openly and concretely. Commissioner Holmes observed people came to that meeting who had never attended a City meeting. She agreed the process was at such a high level the costs could not be known. It would identify what the City wanted to work toward over the long term. Horsey cautioned that if the City did not want Highway 43 to look like Highway 99 it needed to start planning now. Vice Chair Babbitt stressed the City had to go beyond planning and actually implement code that would prevent the kinds of development it did not want. Sonnen assured the Commissioners that the Council wanted to find out what citizens

really wanted and implement it with zoning. He advised if it moved forward with town center planning each center would require a year of staff work. Holmes agreed implementing zoning helped fortify the vision. The community needed to move forward together, even if progress was slow. She noted the Willamette overlay had been put in place 25 years ago. At its next meeting Horsey wanted the Commission to talk about what kinds of overlay, zoning and design standards were most urgently needed to keep out-of-scale things out of the corridor.

Commissioner Steel observed that the concept of three town centers moved the City away from having one city center. Commissioner Holmes commented that it was physically impossible for the City to have a city center. Sonnen advised the Transportation System Plan (TSP) had to be updated by December 2012. When the I-205 Max line was built the Arch Bridge/Bolton area was well-positioned to be served by high capacity transit. It could be a lot like a downtown. Metro envisioned a town center there. Sonnen agreed the City was laid out in a manner that was suited to town centers that fit the "10-Minute Neighborhood" concept. He reported hearing that people really wanted connections. Someone from the Willamette Neighborhood had described the area as "a string of pearls with no string." He recalled the esplanade idea had been well received. A consultant who had biked to the workshop in Willamette Drive traffic initially suggested it. Holmes related the Economic Development committee has been talking about calling the Arch Bridge area "West Bridge."

Director Sonnen clarified for Commissioner Steel that the consultants' contract funding was almost expended. They would return to summarize the concepts that came out of the workshop and possibly also statistically validate the survey results and present them to Council. Then the funding would all be spent. The staff had done a lot of work themselves to round out the project. They were sorting and compiling input. The consultants were drawing themes from that work. Chair Martin asked why the study area extended from the highway all the way to the river. Sonnen advised that allowed the surrounding land uses to be looked at as well. Robinwood had an interest in locally owned business. But a neighborhood center had have sufficient density to support neighborhood oriented businesses. Some people advocated allowing condominiums and higher density housing around the commercial areas to help keep the businesses viable. That would require zoning changes. Commissioner Holmes recalled that town centers automatically slowed traffic down and made it easier to walk or bike to businesses. She related the "8/80 rule." An eight year old and an 80 year old should each feel safe enough to walk across the street or along the pathway. She suggested the wide study area presented an opportunity to look at having an alternative route bike path nearer the river. Commissioner Horsey hoped the project would offer an opportunity to change poorly aligned roads and poor use of land in Bolton. Highway 43 had created that disarray. Chair Martin wanted to know if the consultants had looked at the existing Highway 43 plan. Sonnen confirmed they had and found parts of it needed to be retooled. Chair Martin recalled the plan addressed safety by separating the bike path from the travel lane most of the way. In those places it could not separate them it raised the bike path above the travel lane. Sonnen agreed to ask the consultants to reexamine the plan. Holmes agreed the corridor should be safe. She reported the Economic Development Committee had looked at all the other plans and found they were weak in the area of safety. Chair Martin commended the Council for being proactive,

rather than just reacting to what Metro forced on the City. He was optimistic that the Council would follow through on the vision.

WORK SESSION

Debriefing recent cases

Legacy sign variance hearing

Commissioner Horsey recalled the Commission had granted Legacy's request for a sign variance. After the hearing she started to wonder if the Commissioners had decided to grant the variance because of the type of business it was. They were supposed to be blind to the type of business. She also wondered if the variance approval would carry over to another tenant who took over that space. Director Sonnen advised that any new tenant would have to come in for a new sign permit. But the fact the City had granted it to the previous tenant likely would mean the City had to grant it to the successor tenant. He related that when the staff surveyed developers about what was working or not they were told issues with upper story signs at the Market of Choice slowed the process. The developer had cautioned that the issue was likely to come up fairly often in the future in relation to modern, multi-story buildings. Sonnen advised the current code did not offer any other way to allow those signs except via the variance process. Commissioner Holmes recalled the Commissioners had been very concerned about people being able to find their doctor. But perhaps they were too swayed by the type of business. She wondered if they would have agreed the variance was warranted if it were for some other kind of business. Horsey explained she did not regret her "yes" vote. Whether the application met the criteria for a variance was a slender thread. However, she did not want to communicate that the Commission granted the variance because the Commissioners personally found the type of business attractive. Commissioner Steel did not regret granting the variance and said it was a good decision. The applicant had explained they would have to put the sign on the windows otherwise. She thought that would look even worse. She recalled that the decisions the Commission made did not create precedents. She believed the Commission added a human element to decisions that were a little bit gray or when the applicant needed a variance for a good reason. Sonnen confirmed the Commission had to look at each variance request, compare it to the criteria, and make findings that explained why the decision was appropriate. Chair Martin had not been at the hearing. He advised the Commission had to make its quasi-judicial rulings based on the code, even if that conflicted with what the Commissioners thought was best for the City. But sometimes when there was ambiguity they had to use judgment in administering the code.

Trails Master Plan hearing

Commissioner Horsey and Miller raised questions related to protocol. Horsey asked if the Planning Commission should have allowed applause at the hearing. She asked if the parks board should have worked through the issues before they sent the plan to the Commission. She wanted to know if the Commission got the plan "early" so it was ready in time for the TSP

update process. That might make sense. Chair Martin said to his knowledge the parks board had never formally voted on the plan before they sent it to the Planning Commission.

Director Sonnen advised that the overlap between the trails master plan and the TSP was how they addressed walkways and bike paths in the public right-of-way. The trails plan process had identified such paths in right-of-way but it was up to the TSP to address them. He had been told the parks board did not want to have a formal vote on the plan prior to the public hearing. They wanted to hear what the Commission wanted first. Sonnen confirmed for Chair Martin that the parks board and the Planning Commission each made a recommendation to the Council. The Commission had the sole responsibility to recommend amendments to the Comprehensive Plan, so it had higher stature. Chair Martin commented that it had been very responsible for the parks board to wait to hear what the Commission thought. Commissioner Horsey agreed waiting until after the hearing to make its recommendation to the Council was a good idea. But she observed the trails committee and the parks board had not weighed in at all. She wanted to see that changed. Chair Martin suggested they should have at least testified at the hearing. They might have explained their process and reasoning. Commissioner Miller would have appreciated hearing from them. She said she felt blindsided. They could have alerted the Commission there were some key issues they needed to work through. Horsey agreed they should have briefed the Commissioners. She held they should have some "skin in the game" too. She asked if the Commission could propose a process to be used in the future. Sonnen had to find out what had transpired. He recalled Planning staff typically asked an advisory board to validate that they were ready to go with a proposal that would come through the Planning Department. Then Planning staff made it a practice to brief the Commissioners. Chair Martin agreed that was a better way to do it. The advisory board should do the work - not leave it to the Commission to do their research. Sonnen confirmed the Commission could ensure there was a check point in the process where the Commission was briefed before the hearing notice was sent out. Holmes recalled the HRAB had met with the Commission before it moved forward with recommending historic code changes. It would have helped if the parks board had come to a Commission work session. The Commissioners had been at kind of a loss when issues were raised in testimony and people testified they had not been heard. The Commission needed to know if the committee had taken that in and what its thinking was. Chair Martin recalled Director Worcester had updated the Commissioners on the trails plan on three occasions. Holmes clarified she would have wanted to hear the committee's thinking, not just staff's perspective. Chair Martin acknowledged he was not sure how much the committee or the parks board had been involved in the process. He would want the board to be involved.

The Commissioners discussed allowing applause at the hearing. Commissioner Horsey observed that was classic tyranny of the majority. Chair Martin related the Mayor had advised him not to allow applause. He had allowed it because he believed allowing it would create a more casual environment that would soften the anger and make people feel they were welcome to say what they had to say and it was worth it to come to testify. He did not want to stifle them. He did not believe the applause had intimidated anyone because it had not occurred until people were testifying in opposition. Some may have sensed they were greatly outnumbered and been intimidated by that. But there was no way to avoid that kind of

intimidation. However, he announced that he would not allow applause in future meetings. Horsey recalled it had been a collective decision at the pre-meeting. When Chair Martin indicated he was for allowing applause none of the other Commissioners disagreed. Commissioner Miller explained it was not the applause that felt intimidating – it was the people standing up and shouting out of turn, demanding to know where people came from. That was intimidating. That the Commission acknowledged them and had the staff answer them made her uncomfortable. Chair Martin agreed he should not have allowed that and he apologized for it.

Commissioner Holmes concerns (as raised in her emails)

Commissioner Holmes related that the Legacy sign looked larger than she had anticipated. Director Sonnen had not seen the sign, but understood it was technically ok. Holmes suggested it might look larger than the bank sign because it was a brighter, bolder color than the bank sign. She also wanted to know why the one-way arrow on the back of the building at 1980 Willamette Falls Drive had been blacked out. Had the property owner decided to do that? Sonnen would look into it. Chair Martin asked the Commissioners to send a list of things they wanted to talk about during debriefing to the staff ahead of time. If there was a potential code violation the staff could look into it. Otherwise it could be put on the agenda and the other Commissioners could prepare to discuss it.

ITEMS OF INTEREST FROM THE COMMISSION FOR CITIZEN INVOLVEMENT

At the last CCI meeting Commissioner Steel had volunteered to draft a report to the Council explaining what the CCI had learned from the trails plan process and offering recommendations. The Commissioners had decided to talk to the City Manager about it first because it would impact other City departments. Steel distributed copies of the draft. The Commission took a five minute break until 9:00 p.m. so the Commissioners could each read the draft.

The Commissioners then discussed what kind of acknowledgement the City should send back to people who submitted comments. Planning staff tried to send back a one- or two-line response to confirm that a communication had been received and explain how the process would handle it. Babbitt suggested setting up the system to send an automatic reply. Chair Martin observed that kind of system would only tell the sender the email system worked, not that someone at the City had read it. Holmes and Babbitt each recalled instances where the system had not actually delivered emailed applications. Steel would let the City determine the specifics of how to acknowledge submissions.

The Commissioners talked about how to ensure there was broad public support for a project. In the previous meeting they had indicated they wanted to avoid staff-driven projects with no public support. Director Sonnen suggested the docketing process was one possible solution. Commissioner Holmes was concerned the docketing cycle would mean it would take a long time to get around to considering a project. Chair Martin observed that kind of process would

identify what the Council would spend resources on that had public support. Vice Chair Babbitt indicated he believed the docketing process made sense and the recommendation should specify using docketing. Commissioner Horsey suggested adding "docketing" and replacing "justify" with "prioritize." Justify was too strong. Chair Martin agreed and said it was about "justifying public support." Horsey did not want the document to imply the only criterion was "objective public support." She asked if that was implied in the document. Chair Martin recalled one of the alternatives in the Highway 43 project was "doing nothing" if people did not want to do anything. He liked the word "prioritize" and said it should have to be done through the docketing process. Sonnen suggested saying the Council would consider public support when prioritizing projects during the docketing process. He advised that public support was not necessarily a factor to be considered if it were a state mandated project or if the Council wanted to work on a project that originated as a councilor's suggestion with no indication of public support. Chair Martin agreed that should be in there.

Commissioner Miller recalled the trails plan. She advised that sometimes the City had to think long term for the good of the City. Just because one could not find ten people on the street that supported it did not mean there were no supporters out there. Commissioner Holmes observed that "trails" also meant "sidewalks." People who wanted sidewalks in areas that did not have sidewalks might actually support the trails plan. But people got upset when they saw trails going across private land. Sonnen reported 88% of responders had responded to the survey question regarding pedestrian support. Chair Martin explained he wanted to avoid having a project pushed forward because of the passion of one person and imposed on everyone else. He also wanted to avoid allowing the process to be stopped by one person or a small group of people. It was a matter of hearing the opinions of all parties. The trails process did not identify even ten people who supported the trails plan. It was just assumed this was the right thing to move forward. A process should have to demonstrate in some way that it reflects the will of the people and they have been informed of it. The docketing process would do that. He noted the trails plan had been authorized by the Council. It would have passed the first criterion in the draft. Sonnen advised that if the process was initiated by a visionary leader instead of a grass roots effort a public outreach effort was still necessary to shape the product.

Vice Chair Babbitt agreed the trails master plan process would have passed the first criterion. He noted it would have passed the second as well because there had been much discussion about how to do public outreach. One could argue that stakeholders were contacted. He noted the recommendation did not address broken neighborhood associations. He saw a need for consistency in the method of outreach. The City should spell out how it was going to communicate and consistently follow it. It should require every project to include a few important outreach steps at the start. Chair Martin observed the just saying the process had to identify stakeholders and allow them to participate were important steps that were not in place right now. He noted each outreach plan would be reviewed by the CCI. Commissioner Horsey did not support a "one size fits all" template but she did support the recommendation to tell people when they could influence what. Babbitt clarified he was suggesting requiring every process to have to at least include a minimum number of outreach-related things to do. It could go beyond that. Commissioner Steel favored the concept of having consistent outreach

methods if they could be adjusted based on experience. She pointed out the Communications Director had provided the list of 17 modalities the City used for communications. Sonnen related he had a manual that listed techniques for public participation and explained when they worked best.

Commissioner Holmes wanted to find a way to mitigate conflict that would mean that people would feel they were heard and listened to. She did not want them to feel it was a waste of their time to even come and talk to the government body and just give up. She advised that a lot of residents did not even know their neighborhood association existed. Having the outreach plan reviewed by the CCI might give a project more publicity than a neighborhood association could give it. It would make people aware they had an opportunity to comment on it. Director Sonnen advised that some departments relied on consultants who had skill sets the department staff did not have. It was the consultants who proposed how to communicate with the public. But the CCI recommendation could influence them. He recalled people involved in the parks plan just did what the consultant told them to do. Planning had a small Highway 43 consulting budget. It paid for a consultant at one workshop. The staff had gone to the neighborhood meetings.

The Commissioners discussed the recommendation to have an unbiased facilitator conduct meetings. Vice Chair Babbitt recalled testimony that the facilitator failed to listen to people and neighborhood associations were broken. The recommendation should report that. Chair Martin recalled the trails planning process had done a lot of what the Commission expected to engage citizens, but it had not listened to them. It had a good website; it accepted comments; it held three meetings at schools; and it had a technical working group that included stakeholders. But it cherry-picked who it listened to.

Chair Martin reported he, Commissioner Steel and Director Sonnen had met with City Manager Jordan and the two communications directors that day. The City Manager believed a committee report should reflect the prevailing opinion only. He did not want a committee to be high jacked because one of the stakeholders was unreasonable and did not want to compromise on anything. Chair Martin did not want a committee to be taken over by a chair who had decided ahead of time what was going to happen and did not listen to anyone. He suggested the staff report should report it if there was a dissenting opinion on the committee and the Planning Commission should invite the dissenters to come forward to explain what they disagreed on. Commissioner Holmes commented having both a majority and minority report would offer the Commissioners a "heads up" and offer the rationale for the minority position. Chair Martin agreed the Commissioners should be exploring issues raised on both sides during a hearing. Steel recalled Mr. Jordan had explained he would have less of a problem with the recommendation if the word, "consensus" was changed to, "unanimity." She thought that was a good compromise. Sonnen related that the City Manager had told people at a subsequent department heads meeting that what he wanted was greater clarity about what "consensus" meant. He was in general agreement with the thrust of the recommendations, but he was concerned about what was involved in a minority report and the cost of facilitators. He could agree to have outreach plans vetted by the CCI. He might even simply incorporate the

recommendations into administrative procedure. Sonnen had suggested that when a committee reached impasse and the two sides understood each other's points of view and the underlying rationale, the committee process could just stop there. The staff would document the points of view and forward them to the decision makers. That might be better than a watered-down compromise that no one really liked.

The Commissioners discussed when a committee should agree to "disagree and commit." They generally agreed it was important to not commit too early. The range of views should be moved forward all the way to the time of decision. They could not be allowed to be swept under the rug. If committee members knew that all dissent and disagreements would be documented and forwarded to the decision making bodies they might feel more inclined to engage in dialogue. Chair Martin noted dissenting views had not been presented with the trails plan. The Commissioners heard them in testimony. Sonnen suggested clear ground rules could be set up regarding how a process was to address differences of opinion and how dissenting views would be presented. The views should be documented so the process was transparent. The Commissioners might have decided not to hold the hearing until conflict and contentious issues had been worked through.

The City Manager had been concerned about the expense of using facilitators on every project. Director Sonnen related he had suggested that outside facilitators were not necessary for every project. He considered himself an unbiased facilitator. He and Planner Sara Javoronok had run the neighborhood meetings and received positive feedback. He recalled Portland used a pool of tested facilitators and rotated them. He noted it was possible that a department might hire a facilitator who was biased. He recalled testimony that the hired facilitator for the trails plan wrote on the flip chart was more spin than a translation of what was actually raised as an issue. Commissioner Steel then suggested revising the recommendation to say meetings were to be conducted in an unbiased way. Chair Martin agreed and suggested there be a mechanism for people to complain if the meetings were not conducted that way.

Director Sonnen recalled the City Manager had been concerned a minority report could be spun. Alternatively, the staff report could describe where there was general agreement; what the contentious issues were; and the dissenters' rationale. Staff would check back with the committee to validate they captured that accurately. The Commissioners agreed "Minority report" might not be the right term to use. Steel offered to refine the language to convey the intent that areas of concern or departure would be summarized.

Vice Chair Babbitt recalled hearing the City Manger tell the Council that having a hundred upset people testify against the proposed plan did not mean there was a problem. He suggested what the City Manager said should be taken with a grain of salt. Director Sonnen had talked with him later about it. Mr. Jordan had clarified that in a city of 25,000 population 100 opponents did not necessarily reflect what the broader population thought. But Mr. Jordan had agreed with Sonnen that the City needed to listen to the merits of what even one person had to say and document that as the process moved forward. Commissioner Holmes agreed the process should not require a commitment to a plan to come out of committee.

Dissenting opinions should be documented. The Commission could look at them before it made a decision.

Chair Martin asked Commissioner Steel to revise the draft to reflect what the Commissioners had discussed and then send it to Sonnen to distribute to the other Commissioners. When they were all satisfied with it they would send it back to the City Manager for his comments. The CCI would consider them before they forwarded the document to the Council.

Neighborhood Associations

The Commissioners then discussed the fact that the document did not address broken neighborhood associations. Commissioner Holmes reported it was a struggle for neighborhood associations to reach out and achieve good participation. Director Sonnen observed each neighborhood association was different. The Willamette Neighborhood Association meeting he had attended recently had some new participants and had been a constructive meeting. Commissioner Steel related that she had attended a neighborhood meeting once and never gone back because it felt like a club she did not belong to. Holmes recalled testimony people had shouted dissenters down at a neighborhood meeting. Chair Martin suggested the CCI plan to work on this issue separately at a future CCI meeting.

Website issue: Agendas and Minutes

Commissioner Horsey had encountered some problems with web links to Planning Commission meetings. The staff would check that out.

Letter from Lynn Fox

Commissioner Horsey asked if the CCI should address Lynn Fox's written request for paper copies of all planning documents. Perhaps they should ask the Sustainability Committee to look at it. She wondered if the City had to do that to comply with Goal 1. She wondered if the City had to do it if the Library provided internet access. She suggested the City make sure it was in compliance with Goal 1.

Homework

Chair Martin asked the Commissioners to read Goal 1 before the next meeting and compare it to the draft recommendation to ensure nothing was missed.

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Director Sonnen agreed to find out why Commissioners had not gotten their business cards. Chair Martin suggested the staff utilize University of Portland students to help with the Highway 43 project.

ITEMS OF INTEREST FROM STAFF

Director Sonnen had looked into why a work session had been televised when it was not supposed to be. All staff was aware work sessions were not supposed to be televised, but they forgot the new system would automatically televise meetings in the Council Chambers. He had checked it to ensure the video of the current work session was turned off.

ADJOURNMENT

There being no other business, Chair Martin adjourned the Planning Commission meeting at 10:10 p.m.

APPROVED:



Robert Martin, Chair

Michael Babbitt, Vice chair

11-16-11

Date