



CITY OF  
**West Linn**

PLANNING COMMISSION

**WORK SESSION**

Minutes of September 19, 2012

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

Members absent: Thomas Frank

Council Liaison:

Staff present: John Sonnen, Planning Director; Megan Thornton, City Attorney; and Zach Pelz, Associate Planner

**CALL TO ORDER**

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

**PUBLIC COMMENTS**

Alice Richmond, 3939 Parker Rd., encouraged everyone to attend the October Fair.

Shannon Vroman, 4101 Mapleton Dr.; Lamont King, 4257 Kenthorpe Way, and Chuck Landskroner, 4059 Mapleton Dr.; commented on the upcoming pipeline hearing. The issue had caused people to distrust City government. The Commission should allow plenty of time for public testimony. The Commissioners should have discussions with the people who questioned the information that had been submitted.

Bruce and Mary Swanson, 2071 Fields Dr., related that the neighbors with the sport court had sold that house. They would do whatever they could to help solve the problem for other people. They submitted written suggestions. Ms. Richmond commented that she had been appalled to read that it was appropriate for the neighbors to generate those noises.

**APPROVAL OF MINUTES**

Commissioner Martin **moved to approve the Minutes of July 18, 2012**. Commissioner Steel **seconded** the motion and it **passed 4:0:2**. Commissioner Miller and Vice Chair Holmes abstained. Vice Chair Holmes **moved to approve the Minutes of August 1, 2012**. Commissioner Martin **seconded** the motion and it **passed 5:0:1**. Commissioner Miller abstained.

26:06

**WORK SESSIONS**

**Discuss procedures for the upcoming Lake Oswego water plant and pipeline hearings.**

Mr. Pelz presented his September 14, 2012 Memorandum in which he described the procedure and timeline the staff recommended. It would be a consolidated hearing process but there were two separate applications requiring two separate decisions because the applicant had never withdrawn the original treatment plant application. The timeline anticipated a continuance and an appeal.

During the discussion staff clarified that each application had to meet the criteria that applied to it and there would be two sets of findings. Each decision could be based on any of the testimony offered on either application or consideration of the project as a whole. Commissioner Martin suggested changing the order of questions of staff so the public would have a chance to hear it before public testimony. The Commissioners discussed what the time

limit for individual testimony should be. Staff advised against breaking it up into two sessions per person. The Commissioners settled on seven minutes. Neighborhood associations were allotted 15 minutes and the applicant was allotted 20 minutes for rebuttal.

Chair Babbitt accepted questions from the audience. A woman asked how the Commissioners would determine which application to attach each condition of approval to. Opponents believed the total impact on the community was greater than the impacts of two separate applications. The Commissioners explained each application would be compared with the criteria that were applicable to it and they could put the same condition on both applications if there was overlap. A man questioned giving facilitator Greg McKenzie ten minutes and wanted it scheduled so opponents would have an opportunity to rebut what he was saying. Staff explained he could not attend the first day, but his written report and findings would be distributed prior to the hearing. Mr. Sonnen clarified that the City of West Linn had hired the facilitator in an attempt to find common ground and resolve issues. It was a supplementary effort to the applicant's additional public outreach regarding mitigation. Chair Babbitt observed consensus to ask Mr. McKenzie to submit his material as early as possible before the hearing and to limit his oral testimony to seven minutes.

1:05

**Discuss preliminary draft code amendments pertaining to sports courts, outdoor lighting in residential district, residential uses in commercial districts, and design review submittal requirements.**

Mr. Sonnen distributed draft code [see Discussion Draft – Part II (September 14, 2012)]. He asked the Commission to first determine what the scope should be: a minimalist approach or a broader, more detailed, approach. A minimalist, targeted, approach would be adopting Municipal code regarding aspects such as lighting type; hours; orientation; and buffering of trajectories of balls during play. The Council had not yet offered any feedback about the process Commissioner Martin had suggested, which was that someone would complain that something was a nuisance and there would be an administrative decision that was appealable to the City Council.

Commissioner Martin explained the benefits of his approach, which included that it was better than current code (which did not define nuisances) or trying to list all potential nuisances in the code. A processing fee of at least \$500 would weed out trivial complaints and compensate for staff time. It would make someone think about the impact on neighbors beforehand. He advocated using this broader process in lieu of having sport court regulations. He advocated making the process flexible enough to allow the City to back off enforcement if the neighborhood agreed. Other Commissioners indicated they favored the simpler approach; they were concerned about the fairness of imposing a fee on the complaining party; or they were concerned the decision would be too subjective when decisions should be made by applying objective code criteria. Staff advised it could be a smaller fee or a fee the complainers got back if they prevailed.

The Commissioners inquired how the City dealt with enforcement and repeat offenses that put a burden on police, staff, the Court and citizens. Ms. Thornton advised the City had multiple ways to address that through the nuisance abatement process or citing the violator and letting the Municipal Court determine the fine and remedy. Mr. Pelz confirmed that more and more jurisdictions seemed to be regulating this type of problem through nuisance ordinances rather than through zoning ordinances. The Commissioners discussed a hybrid approach of writing CDC code to prevent the problem in the future while also considering a Municipal Code nuisance ordinance that would help the people who currently had problems with their neighbors. Chair Babbitt observed the consensus was to move forward with the code at this time and consider addressing the nuisance issue separately and in the future. The staff was

going to prepare the public comment version of the draft code. The Commissioners asked them to include some sort of 'mitigation' or 'hardship' provision those who were currently faced with the problem could use. Commissioner Martin asked them to address a situation where all of the neighbors agreed something the code said was a 'nuisance' was not a nuisance. The Commission recessed for a few minutes and reconvened to examine the draft.

1:56

## RESIDENTIAL DISTRICT'S USE STANDARDS – CHAPTER 17 (new)

### Purposes

The Commissioners and staff discussed the difference between the purposes statement and standards. Purpose statements offered the sense of what the City was trying to accomplish and standards were more precise language that implemented code. The Commissioners suggested expanding the language in C., 'safety risks for motorists and bicyclists' to, 'safety risks to others'; and replacing 'balls' in B. with 'projectiles'. When they asked why staff proposed to create a new chapter Mr. Sonnen suggested they determine what they wanted to do with the code first and then determine the best place for it.

### Standards

#### A. Outdoor recreational facilities (later changed to Private, outdoor recreational facilities)

The proposed language referred to 'outdoor recreational facilities' because Sport Court was a brand name. The provisions would control all manner of facilities and essentially prohibited archery targets and skate board ramps.

Commissioners commented that the language was not clear enough regarding whether archery was allowed or not and that this was not about parks – it regulated residential lots. Staff suggested using the term, 'Private, outdoor recreational facilities'. The Commissioners discussed whether some of the activities could be allowed on large enough lots. Staff suggested the approach could be to ensure the lot was large enough by imposing facility setbacks. There would have to be space for that whatever the zoning was.

The Commissioners modified the provision that would allow some portable facilities 'on existing driveways that were not enlarged to accommodate the recreational use' by striking everything after 'driveways'. They generally agreed to keep it simple after staff reported they had not received complaints about basketball hoops in driveways in recent years. Staff clarified the proposed regulations would control what happened on someone's private property, not within the public right-of-way. It would not prohibit portable nets in the streets.

When asked, Mr. Sonnen advised that the proposed code would apply the locational criteria and apply standards related to setbacks; orientation; and features to catch projectiles; but it would not prevent someone from paving over their entire back yard and making it a sports court. The Commission could work on stormwater management in a separate process.

The Commissioners suggested staff reorganize the draft and tighten up the language. They agreed that staff should add provisions related to planting vegetation to catch projectiles and not harming significant trees. Staff agreed to make the fencing/netting provisions clearer. The Commissioners did not opt to use the optional language calling for vinyl-coated fencing material. They generally agreed not to prohibit court lighting but to put restrictions on it. Commissioner Steel would have prohibited it entirely. The Commissioners talked about requiring the type of lighting that would not spill over onto the neighbors' property. They planned to consider whether to regulate internally-lit swimming pools and hot tubs later. They discussed nonconforming use. Staff advised the proposed regulations could control existing, nonconforming, portable, outdoor facilities. If they were not affixed to the ground the code did not consider them structures. If they were 'structures' they could still be subject to a limit on

hours of operation and they could become subject to regulations when courts were replaced or existing bulbs were changed.

**B. Outdoor lighting**

The Commissioners noted that some of the exempted types of lighting in the Exemptions section seemed to apply more to nonresidential situations. That was because parks, places of worship and other community facilities were allowed in residential districts. The Commissioners suggested limiting the scope of the regulations to residential lots and common areas. They discussed which type of lights were problems to regulate and what the intensity threshold should be. Commissioner Miller recalled the issue of excessive holiday lighting that was a nuisance for neighbors. Commissioner Martin suggested not allowing any unshielded lights, no matter what the intensity, if light would spill over and impact the neighbors. Other Commissioners would exempt people's existing entry, garage and porch lights. A lighting expert staff had talked with had advised it was hard to get retrofitted, shielded, fixtures for those places. The Commissioners planned to continue to think about how to regulate lighting and continue this discussion at their October 3 meeting.

3:00

**Discuss draft update of Planning Commission rules.**

Mr. Sonnen highlighted the proposed changes and clarified some existing rules. The rules would be formally adopted at the next regular meeting.

**ITEMS OF INTEREST FROM THE PLANNING COMMISSION**

The Commissioners inquired as to the status of the Robinwood business district overlay and WRA code. Staff related that Chris Kerr was working on longer range implementation of the Highway 43 plan portion of the district; and Damian Hall would complete his WRA review in about two weeks.

**ITEMS OF INTEREST FROM THE COMMISSION ON CITIZEN INVOLVEMENT**

None.

**ITEMS OF INTEREST FROM STAFF**

Mr. Sonnen offered an update on the process of determining how to use the Blue Heron site.

**ADJOURNMENT**

There being no other business, Chair Babbitt adjourned the meeting at 9:50 p.m.

APPROVED:

  
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Michael Babbitt, Chair

12-7-12  
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Date