



PLANNING COMMISSION

Meeting Notes of February 5, 2020 Work Session

Members present: Gary Walvatne, Charles Mathews, Joel Metlen, Carrie Pellett, Jim Farrell, Lamont King, and Margot Kelly

Staff present: Jennifer Arnold, Planner; Amy Pepper Senior Project Engineer, Bill Monahan, City Attorney, and John Boyd, Planning Manager.

The [meeting video](#) is available on the City's website. The meeting notes have a video time index. Each time index is provided in red text above the upcoming agenda item (i.e. (00:00:00)).

(00:00:11)

1. WORK SESSION - CALL TO ORDER

Chair Walvatne called the work session to order at 6:00 pm in the Council Chambers in City Hall.

(00:02:30)

2. ELECTION OF OFFICERS

Commissioner Farrell nominated Gary Walvatne as Chair. Commissioner Kelly seconded.

Ayes: Metlen, Pellett, Farrell, Mathews, King, and Kelly. Nays: None. Abstentions: Walvatne.

Commissioner Farrell nominated Charles Mathews as Vice Chair. Commissioner King seconded.

Ayes: Metlen, Pellett, Farrell, King, Kelly, and Walvatne. Nays: None. Abstentions: Mathews

(00:01:05)

3. PUBLIC COMMENT RELATED TO LAND USE ITEMS NOT ON THE AGENDA

None

4. MAJOR AND MINOR UTILITY DISCUSSION

Associate Planner Arnold presented a strategy to address Commissioners' concerns about major and minor utilities. Water quality facilities are not explicitly defined in the CDC definitions. The Planning Commission requested a Chapter 80 hearing to determine if a water quality facility is a compatible, permitted use in residential zones.

Planner Arnold explained that after reviewing Chapter 80, City staff and the City Attorney conclude that Chapter 80 is intended to be used by applicants within a land use application process. The City Attorney did not believe that Chapter 80 was intended for the Planning Commission to initiate a determination outside a land use application.

City Attorney Monahan went on to explained that Chapter 80 is a typical provision of land use codes to determine if a use that is not contemplated in the Code is compatible with a particular zone. He said the common use of Chapter 80 is to decide if an undefined land use should be allowed in a specific zone. It is not intended to determine if a utility is allowed in a development. He stated that a water quality facility is a subcategory of an already listed use (i.e., a public facility). A Chapter 80 review determines if an unlisted use is allowed within a zone. Public facilities are already an allowed use in any zone where they are needed.

Monahan stated that Chapter 80 is not an appropriate mechanism for the Planning Commission to categorize a water quality facility as a major or minor facility. Instead, he stated that a more appropriate

way for the Planning Commission to categorize water quality facilities would be to amend the definition in the CDC. The legislative process establishes procedures to make changes to the CDC and meets State requirements for notice.

Further, Monahan noted that, once the Planning Commission makes an unlisted use determination under Chapter 80, the Planning Director maintains a list. The list is eventually adopted into the CDC when the CDC is updated. Monahan suggested that, instead of making a change to the CDC through a Chapter 80 hearing and eventual CDC amendment, the Planning Commission could proceed immediately to put the issue on the docket.

Senior Project Engineer Pepper noted that a water quality facility is required under the City's Phase One Storm Water Control Permit. One of the conditions of the 2012 permit renewal was that the City had to review all codes and ordinances and remove any barriers that would limit green infrastructure. She stated that she believed that requiring a conditional use permit for a water quality facility would place a barrier on development and violate the City's permit conditions. As a policy, the City takes over owning the facilities in residential zones because it is better prepared to maintain them. She noted that the City's Phase One permit is currently under administrative review by the DEQ. The DEQ is considering strengthening the permit conditions to require more storm water storage on site. She asked for clarification on the issue that the Planning Commission is trying to resolve by potentially requiring a conditional use permit.

Vice Chair Mathews stated that the PC needs to evaluate water quality facilities to consider if additional fencing or changes that make it more attractive are needed, or mitigate offsite impacts.

Commissioner Farrell wanted the water quality facilities to be defined in Code. Vice Chair Mathews read from Chapter 80 that stated a use determination will have the same effect as an amendment to the CDC. Monahan stated that Chapter 80 determination does not provide the necessary notice to the DLSD, citizens, developers, and others to provide comments or appeal the determination. He stated that it is likely that the development community would challenge a use determination that made a water quality facility a conditional use.

Commissioner Pellet stated that the PC has the discretion to hold a Chapter 80 hearing. She said that once the PC makes a use determination, it should be incorporated into the CDC when it is updated.

Commissioner Metlen stated that the Chapter 80 process appears to be a process for applicants. He asked why the PC would draw a distinction between a major and minor utility for a secondary use.

Vice Chair Mathews disagreed with City Attorney Monahan stating that Chapter 80 is specifically intended for the PC to make an unlisted land use determination like categorizing water quality facilities as major or minor utilities. He stated that the Chapter does not preclude the PC from initiating the determination.

The Planning Commission reiterated its direction to hold a Chapter 80 hearing to make an unlisted use determination on water quality facilities.

5. ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Chair Walvatne asked Senior Project Engineer Amy Pepper about the construction of streetscape improvements and parking along Willamette Falls Drive in the historic Willamette area. He asked why the project was not brought to the Planning Commission for consideration because the project was not identified in the 2016 Transportation Plan.

Pepper stated that the Planning Commission does not typically review construction projects. She stated that there are capital projects that are constructed even though they are not identified in the Plan. She did not know how the construction project ended up on the bond list, but the City Council reviewed and approved the project. She noted that the project went through a public review process through the Transportation Advisory Committee.

Commissioner Metlen noted that the Planning Commission only reviews transportation projects if the project requires a change to the Transportation Plan. He thought the reason the project was not brought before the Planning Commission was because it did not require a change to the Transportation Plan.

Jennifer Arnold noted that the Historic Review Board limited their review to the fixtures that would be used.

Commissioner Farrell asked the City Attorney if Commissioners need to keep their notes from Planning Commission meetings. City Attorney Monahan stated that the City Recorder should advise Commissioners on how archive individual notes from a meeting. Vice Chair Mathews asked Arnold for a policy statement from the City Recorder on how to manage notes.

5. ITEMS OF INTEREST FROM STAFF

Planner Arnold noted that the Commissioners need to take the Citizen Training course provided by the City and return an acknowledgment letter to the City Recorder.

(04:12:58)

6. ADJOURNMENT

Chair Walvatne adjourned the meeting at approximately 8:00 pm.