



CITY OF
West Linn

PLANNING COMMISSION

WORK SESSION

Minutes of Wednesday, May 7, 2014

Members present: Chair Christine Steel, Vice Chair Russell Axelrod, Nancy King, Jesse Knight and Ryerson Schwark
Members absent: Lorie Griffith and Robert Martin
Staff present: Chris Kerr, Community Development Director; John Boyd, Planning Manager; Sara Javoronok, Associate Planner; and Megan Thornton, Assistant City Attorney

CALL TO ORDER

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

PUBLIC COMMENT

Karie Oakes, 1125 Marylhurst Dr., submitted and read aloud written comments regarding Planning Commission rules. Her recommendations were related to retaining ORS citations; designating time for public comment at every type of Commission meeting; retaining provisions that allowed Commissioners to add additional minutes for testimony; and retaining current language in regard to Planning Director and City Attorney presence at meetings.

Alice Richmond, 3939 Parker Rd., invited West Linn residents to attend the Fourth of July event.

APPROVAL OF MINUTES

Commissioner Schwark **moved to approve the Minutes of March 5, 2014** as amended by Vice Chair Axelrod and Chair Steel. Vice Chair Axelrod **seconded** the motion and it **passed 5:0**. Commissioner Knight **moved to approve the Minutes of March 19, 2014** as corrected by Chair Steel. Vice Chair Axelrod **seconded** the motion and it **passed 5:0**.

WORK SESSION

Links to the staff reports and documents considered during these sessions: <http://westlinnoregon.gov/planning/planning-commission-work-session-29>. The Commission voted unanimously to discuss Planning Commission Rules first (see below).

PUD draft code amendments (CDC-10-02)

Staff advised the goal of this work session was to identify items which were important enough to be in the public hearing notice. Commissioners and staff discussed two comparison tables (Table 1 – PUD Comparison and Table 2 – Dimensional requirements, density transfer and density bonus) and the draft code amendments document.

Staff clarified the new PUD chapter would replace existing PUD Chapter 24. Vice Chair Axelrod was concerned that Purpose Statement B&D changed the emphasis from preserving the land to

optimizing the land, Ms. Javoronok explained that site design and preservation were combined because the developer was to do both and should not view them as mutually exclusive.

In regard to adding a Willamette Neighborhood Mixed-Use zone district the Commissioners discussed that there could be a PUD in the existing district or a new historic district but it would also have to meet the historic district code. It would be reviewed by the HRB and then by the Planning Commission. Staff agreed to vet this with the neighborhood prior to the hearing.

In regard to submittal requirements staff agreed to check to see if the term severe when referring to landslides was used in other parts of the code as questioned by Vice Chair Axelrod. There was a suggestion to require signage to indicate if an outdoor recreational facility in a PUD was for the benefit of the development or the general public. Staff planned to address that at the next meeting.

Comments in regard to PUD standards included that transitions and buffers should apply to a broader number of uses and if something was not interior to the development and might cause issues for the neighbors it needed to be appropriately screened; and, that suitable landscaping design should mention utilizing native vegetation. Staff clarified that the proposed language would allow the review process to determine and impose the appropriate amount of buffering of facilities on the perimeter of a site, which was better than codifying a specific amount. In addition, the applicant had to demonstrate why they could not locate it in the interior of the development.

The group discussed that a PUD would have to be at least three acres in size. Most undeveloped property in the city was not much larger than three acres; however, larger properties might be annexed. Staff verified that the 5% per half-acre density bonus on a 3-acre site was 30%.

Staff advised the Commission hearing was on July 2 and the Council hearing would be in August. They would distribute Measure 56 notice; hold an open house; and provide a June 18 Planning Commission briefing.

Discussion of Planning Commission Rules (continued)

The Commission considered draft 'Planning Commission Policies and Procedures' (April 2, 2014 version). They added an introduction that referred to applicable legislative and quasi-judicial procedures in Chapters 98 and 99 pursuant to the following motion:

Motion: Commissioner Schwark **moved to strike out all references to specific code governing the process and procedures in the components of the document and put them all in one, general, introduction to the rules.** Commissioner Knight **seconded** the motion. During the discussion Commissioner Schwark agreed with Commissioner King's suggestion to list the code citations by types of things people would look for, for example, 'Bias and Disqualification.' The vote was conducted and the motion **passed** 5:0. Comments during the discussion leading up to

this motion included that Commissioners learned what the provisions meant during their annual training; keeping the procedures in the rules meant that staff had to be sure to also change them whenever the CDC provisions were modified; the commission referenced Ms. Oakes letter which indicated it was useful information for the general public, but people might be more likely to read the information if it was posted on the website than read it in Planning Commission rules; the Secretary of State provided a meeting law guide in layman's language which West Linn could use; the rules could just contain a sentence or two acknowledging the Commission had to follow the CDC and referring to Chapter 98 or 99; and, it would be better to have it all in the CDC rather than pieced out in multiple places in the rules.

Staff and the Commissioners also focused on the following aspects:

The timing of the 'Annual Review of Commission' was no longer to be specified as at the beginning of the year. Comments during this discussion included that they typically prepared for goal-setting near the end of a year; it was difficult to predict at the beginning of a year what quasi-judicial cases they would hear; and the City Council set the goals and agendas.

In regard to 'Code Subcommittee' the Commission generally agreed to just refer to the code. Ms. Thornton advised that an advisory body was not allowed to form a subcommittee without City Council approval. Discussion comments were that if they needed a subcommittee they would have to talk to the City Council about it; and that the Commissioners had already previously concluded that they did not have the ability to form one so it had no place in their rules.

In regard to proposed changes under 'Communication with Staff', discussion comments included that it was hard to predict how much time a particular request of staff would take and they would trust that staff would tell them; that this could refer to when the request was likely to take more than one hour of staff time; and that the idea behind this policy was to make the Commissioners aware of what the expectation was. Ms. Thornton pointed out the rule for addressing each other would be that communications should use formal business address in most instances; however, by mutual consent individual Commissioners and staff members could choose to address each other more informally.

Ms. Thornton advised 'Emergency Meetings' language complied with the statutory definition. However, because it was the City Council, not the Planning Commission, who would declare an emergency meeting, she advised the Commission to remove this section from their rules.

Ms. Thornton advised the rules did not need the 'Exhibits' provisions as those rules were detailed in state administrative rules and Public Records Law. The Commission generally agreed, noting that it was staff responsibility to follow the state rules, but they wanted to have a statement here reminding Commissioners that if they received something they needed to ensure staff got it so it would be placed in the public record.

Ms. Thornton advised the Commission to strike 'Filling Vacancies' because the Municipal Code detailed the procedure. She offered to come back with modified language for 'Flags, Signs and Posters' that would not create a potential First Amendment-related problem. There was consensus to follow Mr. Boyd's recommendation to modify the 'Government Standards and Practices Commission Requirements and Reporting' section to remove pieces of other regulations and just refer to State Ethics Law. Ms. Thornton related that this was a complicated area of law and the state Ethics Commission published a good guide for public officials.

Under 'Meeting Staffing' Ms. Thornton advised that the City Attorney would be there most of the time and particularly when there was a legal issue. The complexity of the hearing would be a factor. If she was not present she anticipated the Planning Manager would help guide them in regard to parliamentary procedure. City management, not the Planning Commission, designated meeting attendance and excused staff. They noted for Council, the meeting video was the official meeting minutes. The consensus was to accept the proposed changes but remove the term 'when necessary'. Ms. Thornton was asked and clarified that it would be more appropriate to refer to 'Community Development Director' than 'Planning Director.' The Commissioners corrected 'Meeting Times' to indicate that their regular meetings/work sessions would start at 6:00 p.m. Ms. Thornton advised that since state law specified what was to be in minutes there was no need for the list of contents for minutes. Under 'Order of Business' Mr. Boyd suggested replacing the term 'Community Comments' with the defined term, 'Public Comments.' The Commission recalled they had already agreed the presiding officer was to vote last.

There was a long discussion about whether the Commission should keep the provisions that allowed individual Commissioners to allocate additional minutes to persons who testified. At the end the majority decided to remove it. Vice Chair Axelrod did not concur. During this discussion Ms. Thornton recommended not retaining it for free speech and land use reasons. She and Mr. Boyd discussed the concept that a public forum was equal and fair to everyone who spoke and the same rules applied to all. The risk was that Commissioners were exercising a type of discretion in awarding additional minutes to individual persons that could be considered bias. The procedural codes allowed them to ask questions of staff or anyone who had spoken. If the Commissioners felt they needed more information they could increase the time for testimony for everyone or hold the hearing over and invite additional testimony on a specific point from all parties. Commissioners' comments included that the provision allowed people who were nervous/emotional to finish their testimony/get their point across; it had not been abused; it had been used infrequently and judiciously; it could be invoked when the person testifying was offering valuable information; five minutes was sufficient; parties were allowed to submit unlimited amounts of written testimony; if this came up so rarely why should they have an exemption from the five-minute time limit in the rules; offering this kind of 'flexibility' could potentially cause more issues than it solved and it could be unfair; to ensure someone felt heard and if five minutes was not enough time they could hold the hearing over; it protected the people during controversial cases such as the water treatment plant because the applicant always had the opportunity to rebut public testimony; when it had been used it

had been helpful; allowing people another minute or two to finish their testimony was not bias; most people finished in five minutes but for the very few times it was needed it would not be a problem; if someone needed to speak longer the Commission could give everyone seven minutes each in a blanket extension, so it was not needed in the rules; and, this particular Commission was not biased, but that might not be the case for a future Commission and removing the provision took away the appearance of bias.

There was consensus to allow opportunity for public comment at the beginning of regular meeting and work session agendas. The Commissioners had the flexibility to decide to put it on special meeting agendas. In regard to the steps listed for 'Conducting Legislative Hearings' staff advised polling was considered part of the discussion during deliberations. They would call it out there. They would also consider addressing concerns by asking questions of the speaker. The Commissioners and staff discussed that the proposed change to require each Commissioner to vote either 'yes' or 'no' and did not allow abstention. Two Commissioners made a distinction between abstaining during a vote on a procedural issue, such as approving minutes for a meeting they had not attended, or election of officers when they were new and did not know the nominees, and during a legislative or quasi-judicial vote. Ms. Thornton advised in regard to a legislative or quasi-judicial decision it was each Commissioner's duty to vote and there were state attorney general opinions about that. Requiring a 'yes' or 'no' vote prevented people from abstaining because the issue was difficult or because they disagreed with the rest of the Commission. If they needed more information in order to ensure the criteria were met prior to voting they should set over the hearing for additional testimony on that point.

The Commissioners ensured that Ms. Oakes submittal was entered into the record. They discussed that the absent Commissioners had not emailed any comments.

ITEMS OF INTEREST FROM THE PLANNING COMMISSION

The Commissioners discussed challenges related to using and updating their tablets and their preferences regarding using Window, iPads, or their own personal android tablet.

ITEMS OF INTEREST FROM STAFF

Staff recommended canceling the next scheduled meeting for lack of agenda items.


ADJOURNMENT

There being no other business, Chair Steel adjourned the meeting at approximately 9:35 p.m.

APPROVED:



Christine Steel, Chair



Date