



City of Tualatin

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Approved By Tualatin City Council

Date 6-22-09
Recording Secretary ML Smith

TUALATIN CITY COUNCIL WORK SESSION MINUTES OF MAY 26, 2009

PRESENT: Mayor Lou Ogden, Councilors Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Kent Barker, Chief of Police; Dan Boss, Operations Director; Nancy McDonald, Human Resources Director; Eric Underwood, Development Coordinator; Paul Hennon, Community Services Director; Will Harper, Associate Planner; Colin Cortes, Assistant Planner; Carina Christensen, Assistant to the City Manager; Ginny Kirby, Recording Secretary

ABSENT: Chris Barhyte* [* denotes excused]

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Councilor Truax called the meeting to order at 5:06 p.m.
Mayor Ogden and Councilor Maddux arrived at 5:09 p.m.

***Work Session recessed at 5:07 p.m. to call to order the TDC Work Session.
Work Session reconvened at 6:05 p.m.***

B. CONSENT AGENDA

The Consent Agenda for tonight's Council meeting was reviewed by Council. City Manager Lombos noted that a proclamation has been added to the Council agenda for tonight under C. Presentations, Announcements, Special Reports.

C. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

Review of Tree Regulations – Phase III

Doug Rux, Community Development Director, Colin Cortes, Assistant Planner. Due to time constraints and the issues on the agenda tonight, this item will be rescheduled for another work session.

Request from the Homebuilders Association Regarding the Transportation Development Tax (TDT)

Mike McKillip, City Engineer. Mr. McKillip stated that the homebuilders are feeling they are getting squeezed by the whole current lending process. They are having to compete with an increasing number of homes that are on the foreclosure market; they are looking for some help or relief. The Homebuilders Association (HBA) made a request to Washington County that addressed three major issues: A) consider deferring TDT effective date and/or adjustment to the phasing plan, B) consider adjustments to the "grandfathering" provisions to include approved plats which are currently not being built because of the economy; and C) consider reducing fees for transit oriented development based on the number of trips they are projected to eliminated.

Mr. McKillip distributed a new memorandum. He said the WCCC decided the best avenue to deal with transit oriented development at this time was to discuss the matter with area Planning Directors and then come back with a decision. Regarding the issue of "grandfathering" the WCCC recommended leaving as is. The County is going back to check with their legal counsel to see if there is a mechanism that would trigger a refund. Industrial and commercial is being "grandfathered"; residential is not. There is a concern that they do not want to ever get the TDT below what the TIF is; this would be a phase-in process. This keeps it flat, and then ramps it up over the next few years. Ms. Lombos noted there has been some trouble collecting TIF due to lack of development.

Discussion followed. Council generally agreed with the WCCC TAC recommendation. It was reiterated that the TDT will go into effect on July 1, 2009. Ms. Lombos noted this does not address land use approvals – extension of approvals. Currently they have one year plus the potential of a 6-month extension. It was noted that this could actually stimulate projects now vs. later as it would be a cost-savings.

This subject will come back for a future work session discussion.

Council Communications & Roundtable

None.

D. CITIZEN COMMENTS

None.

E. PUBLIC HEARINGS - *Legislative or Other*

Not applicable.

F. PUBLIC HEARINGS - *Quasi-Judicial*

Not applicable.

G. GENERAL BUSINESS

None.

H. ITEMS REMOVED FROM CONSENT AGENDA

None.

I. COMMUNICATIONS FROM COUNCILORS

Councilor Harris said he will recuse himself from Item F.2. Stafford Hills Racquet Club (CUP-09-01) as his firm has done work on the project.

Councilor Truax noted that the State just released its water quality report; Tualatin River was rated as poor and getting worse. It is the worst rated river in the State.

Councilor Maddux stated that this Saturday, May 30, 2009, the Washington County Commission is hosting a day-long "bring your family out" service event. There will be family volunteer activities all day, a lunch will be served. Councilor Maddux said she will be sending a flyer to everyone.

(I. **COMMUNICATIONS FROM COUNCILORS** cont.)

City Manager Lombos reminded everyone that Saturday, May 30, 2009, is the City's Spring Fling, 10:00 am to 2:00 pm, at the Commons.

J. EXECUTIVE SESSION

Pursuant to ORS 192.660(2)(d), an executive session to discuss labor relations began at 6:36 p.m.

K. ADJOURNMENT

The meeting adjourned at 6:36 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink that reads "Ginny Kirby". The signature is written in a cursive style and is positioned to the right of the printed text "Recording Secretary".



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Date 6-22-09

Recording Secretary [Signature]

TUALATIN CITY COUNCIL MEETING MINUTES OF MAY 26, 2009

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte (via phone for a portion of the meeting), Monique Beikman, Joelle Davis, Jay Harris, Donna Maddux, and Ed Truax; Sherilyn Lombos, City Manager; Brenda Braden, City Attorney; Mike McKillip, City Engineer; Doug Rux, Community Development Director; Kent Barker, Chief of Police; Dan Boss, Operations Director; Paul Hennon; Community Services Director; Don Hudson, Finance Director; Nancy McDonald, Human Resources Director; Will Harper, Associate Planner; Carina Christensen, Assistant to the City Manager; Ginny Kirby, Recording Secretary

ABSENT: [* denotes excused]

[Unless otherwise noted, MOTION CARRIED indicates all in favor.]

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 7:03 p.m.
Councilor Truax led the pledge of allegiance.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

- 1. Proclamation Proclaiming Al Turner as "Mr. Patriot" in the City of Tualatin**
Mayor Ogden noted that Mr. Al Turner is a U.S. Army veteran. Mr. Turner has been a tireless advocate for the VFW and great supporter of Tualatin events, especially those for veterans. Mayor Ogden thanked Mr. Turner for all he does and then read the proclamation.
- 2. New Employee Introduction: Brian Miller, Police Officer**
Kent Barker, Chief of Police, introduced Brian Miller, Tualatin's newest police officer. Brian comes to Tualatin from Grants Pass Department of Public Safety.
- 3. Science and Technology Scholarship Recipients**
Councilor Beikman explained that OKI originally started the Science and Technology Scholarship. This year there are three winners of \$600.00: Anna Hildebrand; Evan Eichelberger; and Dylan Bartholomew. One of the requirements of the scholarship is that the student must attend an Oregon college and major in a technology field. Mayor Ogden congratulated the scholarship recipients.

C. CITIZEN COMMENTS

Joe Lipscomb, SW Tualatin Road, and Stephen Ricker, SW Ochoco Court.
Mr. Ricker stated they are before Council tonight to give a brief summary of what happens at the Juanita Pohl Center. Mr. Ricker is the Steering Committee Chair and Mr. Lipscomb is the Steering Committee Treasurer. Mr. Ricker said they would be submitting

a report to Council at the second meeting of each month, beginning with the April report (which Mr. Ricker distributed to Council – see attached). On average there are five hours of classes at the Center/22 days per month, with an average of 60 people attending classes daily. Loaves & Fishes served 1,322 meals in April; 23 meals per day to people at home through the Meals-on-Wheels program. Mayor Ogden thanked both Mr. Ricker and Mr. Lipscomb for all the work that is being done and activities offered through the Juanita Pohl Center.

D. CONSENT AGENDA

MOTION by Councilor Maddux, SECONDED by Councilor Beikman to adopt the Consent Agenda as read:

1. Approval of Minutes for the Work Session and Meeting of May 11, 2009
2. Resolution No. 4884-09 Amending the City of Tualatin Fee Schedule and Rescinding Resolution No. 4877-09
3. Resolution No. 4885-09 Awarding the Bid for the Indian Woods and Indian Meadows Subdivisions Watermain Replacement Project
5. Resolution No. 4886-09 Authorizing Renewal of a Lease for a Portion of the Brown's Ferry Community Center to the Wetlands Conservancy

MOTION CARRIED.

E. PUBLIC HEARINGS - Legislative or Other
None.

F. PUBLIC HEARINGS - Quasi-Judicial

1. Industrial Master Plan Request for JAE Oregon, Inc. Property in the Manufacturing Park (MP) Planning District (IMP-09-01)

Mayor Ogden read language required by legislation before a comprehensive plan or land use regulation and opened the public hearing.

Will Harper, Associate Planner, entered the entire staff report into the record. The application is for property on SW Leveton Drive. The primary access is on SW Leveton Drive. Mr. Harper reviewed current and future plans. This does not propose changes to land amounts, building heights, or other requirements. The Engineering Division reviewed the submitted traffic information. Due to required setbacks, the amount of development size would be slightly reduced. In decrease of size, the floor area is reduced and "worst case" scenario for traffic impacts - reduction of over 600 daily average trips. Staff feels with the recommended conditions, the requirements for IMP-09-01 are met. Mr. Harper reviewed the conditions for Council. He did note if any modifications come in that exceed what is currently allowed, they will have to come back to Council for approval. If new access onto Tualatin Road is proposed in

the future, that would have to come back with a traffic evaluation for Council approval.

Staff recommends that Council consider the staff report with conditions and direct staff to prepare a final resolution for approval.

PROPONENTS

Kelly Niemeyer, Group Mackenzie, Portland, is here representing JAE. Ms. Niemeyer noted they had worked diligently to meet conditions.

OPPONENTS - None.

COUNCIL QUESTIONS

Mayor Ogden asked Ms. Niemeyer about the traffic report and the two accesses shown; he was concerned about how trips would be distributed between the two accesses. The main is the southern access. Ms. Niemeyer said that as part of the future partition, a traffic analysis would be done to determine this. Mr. Harper noted an access is proposed in the northwest corner, which is not a part of the IMP approval. An access would be allowed through the partition process. Terms for evaluation are being set.

Councilor Harris questioned the shared access. Mr. Rux stated that some access issue decisions are made at a staff level, appealable to Council. Councilor Davis questioned if there was a potential project lined up for the parcel; Ms. Niemeyer noted no buyer at this time, this process is queuing up for the eventuality. Further discussion followed regarding access.

Mayor Ogden closed the public hearing.

Council Deliberation – None.

MOTION by Councilor Truax; SECONDED by Councilor Maddux directing staff to prepare a resolution granting approval of IMP-09-01 with the conditions listed in Attachment F. MOTION CARRIED.

2. Conditional Use Permit for the Stafford Hills Racquet & Fitness Club (SHR&F Club) as a Private Club Use and for Additional Building Height in the Low-Density Residential (RL) Planning District at 5916 SW Nyberg Lane (Tax Map 21E19C, Tax Lot 900) (CUP-09-01)

Resolution No. - - - Granting a Conditional Use Permit for the Stafford Hills Racquet & Fitness Club as a Private Club Use and for Additional Building Height in the Low-Density Residential (RL) Planning District at 5916 SW Nyberg Lane (Tax Map 21E19C, Tax lot 900) (CUP-09-01)

[hearing continued from April 27, 2009]

Councilor Barhyte was present for the public hearing via cell phone.

Councilor Harris recused himself as his company has done some consultant work for this project. Mayor Ogden then continued the public hearing from the April 27, 2009 hearing and immediately closed the public hearing and proceeded to Council Questions.

COUNCIL QUESTIONS

Councilor Barhyte asked about the references to 75-100 trips per day if there were 372 manufactured homes on the property (packet page 161, top of page) more peak hour trips would be generated. Page 160 subsection 3, if this site and the Brown's Ferry Park site were developed as 372 manufactured homes – more traffic would be generated. Does the 372 homes assume these are on the 5 developable acres or the total 15 acres. For the purpose of this report, the two parcels (5 acres and Brown's Ferry Park) would equal a total of 372 manufactured homes. Councilor Barhyte asked if a developer could appeal to LUBA if the City turns down the racquet ball club; Mr. Rux said this was a difficult question to answer.

Mayor Ogden clarified trips per day if single family. He then asked of the 1,000 average daily trips generated by the racquetball club, how many are a.m. peak and how many are p.m. peak. Mr. Harper clarified that for this site/this development 50 total a.m./100 total p.m.

Discussion followed regarding the conditions and if the applicant meets all criteria, Council is obligated to allow the use. If a decision is made to deny the proposed use, then it must be shown why the criteria are not met. Findings have to be legally defensible.

Councilor Maddux questioned Mr. Rux about the May 4 letter from Zupancic Group. Language of the proposed resolution does not seem to mirror the conditions included in the letter. In May 11th hearing, the letter reflected conditions, this resolution has no changes from April 27th hearing. Mr. Harper reviewed the 7 additional requirements:

- * Increased buffer between residential to the east – applicant indicates interest in increasing the buffer space from previously proposed to somewhere between 20- to 25-feet between parking and property lines.
- * In that same increased buffer space – proposing some type of masonry fence which will serve as a visual and a noise barrier.
- * Parking layout modifications – change the number of parking stalls, reducing and moving some to the west side of the building, and trying to change center of parking and make it further from residential.
- * Lighting – committing to a development that has lighting that won't interfere with residential area.
- * Noise impacts to residential to the east – large open doors to indoor tennis courts will have some limits imposed on door usage.
- * Proposing to make the tennis building slightly smaller to create more room basically on the west to push the building towards the west and increase the setbacks on the east.

- * Wildlife habitat impacts – addresses issues previously raised.

Council Deliberations

Councilor Davis said she is happy to see the changes that are proposed for moving of the staff parking. There are still concerns that the existing tall vegetation be kept by the masonry fence.

Councilor Barhyte stated he is concerned about the potential noise issues and the impact of early morning or late evening hours. He stated that he understands the “NIMBY” attitude when people bought into an area assuming the open property would most likely be single family residential and now this large project is being proposed.

Discussion followed regarding the term “substantially” and the definition for the purpose of this development. Does this proposed development substantially impair, limit, or preclude the use of the surrounding properties. Councilor Barhyte also questioned how the term is defined. Councilor Maddux questioned the term “use”... does it mean only single family residential as that is what is in this area, does it mean “enjoyment” or does it mean effectively you can still have a home there. More discussion followed regarding terminology and definitions.

Councilor Maddux said this is a very tough call. She must weigh the upwards of 150 jobs that will be created by this proposed development. Also, the recent proposal of a City recreation center that went to the public for a vote and was denied. That did not preclude a developer coming in with private funds and building a facility. Mayor Ogden said from a traffic standpoint, a.m./p.m. peak volumes are not substantially greater than if it were developed as single family residential.

Councilor Truax stated he thinks this may be a great idea, but he feels it is the wrong place for it. He feels it does substantially impair the use of the surrounding area. He feels the overall increase in daily trips is significant; the amount of impervious surface is too great.

MOTION by Councilor Truax, **SECONDED** by Councilor Barhyte to deny the CUP due to noise pollution to the surrounding neighborhood, light pollution into the surrounding wetlands, increase in traffic in overall trips (not on a.m./p.m. peak) is significant, and increase in impervious surface caused by the building and parking lot is not sufficiently mitigated to protect the wetland.

Discussion on Motion

Councilor Maddux said she feels under current code the applicant has met the requirements, legally.

MOTION FAILED. *[In Favor: Truax, Barhyte; Opposed: Maddux, Beikman, Davis, Ogden; Recused: Harris]*

MOTION by Councilor Maddux, SECONDED by Councilor Beikman to consider staff report and all supporting attachments, including items submitted into the record which was left open after the April 27, 2009 public hearing on CUP-09-01, and that the attached resolution with the amendments referred to in the May 4, 2009 letter, which would grant CUP-09-01 with the discussed amendments which would allow the private clue use and increase the building height with the proposed conditions.

Discussion on Motion

Councilor Barhyte asked for clarification on which letter contained the additional conditions. It was stated that is was the letter from the applicant dated May 4, 2009.

MOTION CARRIED. [In Favor: Maddux, Davis, Beikman, Barhyte, Ogden;
Opposed: Truax; Recused: Harris]

G. GENERAL BUSINESS

H. ITEMS REMOVED FROM CONSENT AGENDA

Items removed from the Consent Agenda will be discussed individually at this time. The Mayor may impose a time limit on speakers addressing these issues.

I. COMMUNICATIONS FROM COUNCILORS

None.

J. EXECUTIVE SESSION

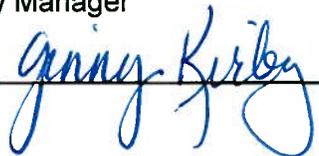
Pursuant to ORS 192.660(2)(d), an executive session to discuss labor relations was held after work session.

K. ADJOURNMENT

The meeting adjourned at 8:55 p.m.

Sherilyn Lombos, City Manager

Recording Secretary

A handwritten signature in blue ink, appearing to read "Ginny Kirby", is written over a horizontal line.