



TUALATIN CITY COUNCIL WORK SESSION MINUTES OF NOVEMBER 22, 2010

PRESENT: Mayor Lou Ogden; Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, and Ed Truax, Councilor-elect Frank Bubenik; Sherilyn Lombos, City Manager; Mike McKillip, City Engineer; Kent Barker, Police Chief; Paul Hennon, Community Services Director; Don Hudson, Finance Director; Dan Boss, Operations Director; Aquilla Hurd-Ravich, Acting Planning Manager; Kaaren Hofmann, Civil Engineer; Ben Bryant; Maureen Smith, Recording Secretary

ABSENT: Councilor Donna Maddux* [** denotes excused*]

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

A. CALL TO ORDER

Mayor Ogden called the work session to order at 5:00 p.m. and Council went immediately into Executive Session pursuant to ORS 192.660(2)(h) to discuss current and pending litigation.

(Council resumed regular work session at 5:22 p.m.)

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. *Transportation Priorities*

City Engineer McKillip presented information on preparation of materials for projects to receive federal funding through reauthorizations and appropriations process. The process for identifying projects is starting earlier with criteria that includes projects must be able to be "obligated" by the end of FY2012. Tualatin does not currently have any identified projects that could meet the "obligated" criteria. Council discussed looking at advocating for a project on last year's list. If there are no "priorities" it consensus was to to move forward with support of the Wilsonville "project" unless there is something that comes up in Washington County to support.

2. *Allocation of Funds to Outside Agencies*

City Manager Lombos presented information on the allocation of funds to outside agencies, and noted \$15,000 is allocated in the budget for these requests. An additional request was received this year from the Washington County Bicycle Coalition, for a total of \$20,500 requested from all agencies that submitted a request. Brief discussion followed and Council consensus of all present was to proceed with the same amount of disbursement as was done last year.

3. *Utility Undergrounding*

City Engineer Mike McKillip gave a PowerPoint presentation and displayed a map that indicated where overhead lines are located in the City. Costs were reviewed of what it would entail to underground all utility lines of the approximately 29 miles of above-ground lines currently in the city. Also reviewed some information on ordinances from other cities on their process with regards to undergrounding. How funding could be done to pay for undergrounding was also reviewed and City Engineer McKillip reviewed how it could proceed with planning for conversion of the Stafford Basin, Basalt Creek and Southwest Concept Plan areas, developing code language to require undergrounding as part of development, and to consider the costs as part of all city projects.

Discussion followed. City Engineer McKillip said it gets prohibitively expensive to underground. Asked and answered that redevelopment doesn't require undergrounding from property to the street. Discussion of whether Council wants to require undergrounding of *existing* lines, and also about addressing the Basalt Creek, and other project areas.

Council continued with discussion on whether to require existing lines undergrounded, and if so at what cost to the community. After discussion, Council asked staff to take a look at other cities and their process and the what they are charging for undergrounding.

Staff will return with more information at a future work session.

C. CITIZEN COMMENTS

N/A

D. CONSENT AGENDA

Council reviewed the Consent Agenda with no changes.

E. PUBLIC HEARINGS – Legislative or Other

N/A

F. PUBLIC HEARINGS – Quasi-Judicial

N/A

G. GENERAL BUSINESS

1. *Speed Hump Criteria Staff Report*

This item was placed on the Consent Agenda by the Council.

2. Consideration of an Ordinance Relating to Building Specialty Codes; Adopting the Solar Installation Code, the Energy Efficiency Code, the Fire Code and Fire Alarm Verification; and Amending TMC 4-1-010

MOTION by Councilor Harris, SECONDED by Councilor Truax for a first reading by title only. MOTION by Councilor Harris, SECONDED by Councilor Truax for a second reading by title only. MOTION CARRIED. The poll was unanimous. [Maddux absent.] MOTION by Councilor Harris, SECONDED by Councilor Truax to place adoption of the ordinance on the Consent Agenda. MOTION CARRIED.

3. Consideration of an Ordinance Relating to Bancroft Bonds; and Amending the TMC 2-4-040 and 2-6-100

MOTION by Councilor Harris, SECONDED by Councilor Truax for a first reading by title only. MOTION by Councilor Harris, SECONDED by Councilor Truax for a second reading by title only. MOTION CARRIED. The poll was unanimous. [Maddux absent.] MOTION by Councilor Harris, SECONDED by Councilor Truax to place adoption of the ordinance on the Consent Agenda. MOTION CARRIED.

4. Consideration of an Ordinance Prohibiting Motor Vehicle Traffic on a Portion of Blake Street; and Adding a New Section, TMC 8-3-150, to the Tualatin Municipal Code

MOTION by Councilor Harris, SECONDED by Councilor Truax for a first reading by title only. MOTION by Councilor Harris, SECONDED by Councilor Truax for a second reading by title only. MOTION CARRIED. The poll was unanimous. [Maddux absent.] MOTION by Councilor Harris, SECONDED by Councilor Truax to place adoption of the ordinance on the Consent Agenda. MOTION CARRIED.

H. ITEMS REMOVED FROM CONSENT AGENDA

N/A

I. COMMUNICATIONS FROM COUNCILORS

Councilor Davis noted the representatives from the Human Rights Council, regarding the proclamation on tonight's Council agenda may not be able to attend.

J. EXECUTIVE SESSION

Mayor Ogden noted an executive session pursuant to ORS 192.660(2)(h) to discuss current and pending litigation.

K. ADJOURNMENT

The work session adjourned at 6:19 p.m.

Sherilyn Lombos, City Manager

Recording Secretary / Maureen Smith





TUALATIN CITY COUNCIL MEETING MINUTES OF NOVEMBER 22, 2010

PRESENT: Mayor Lou Ogden, Councilors Chris Barhyte, Monique Beikman, Joelle Davis, Jay Harris, and Ed Truax; Sherilyn Lombos, City Manager; Mike McKillip, City Engineer; Paul Hennon, Community Services Director; Kent Barker, Police Chief; Maureen Smith, Recording Secretary

ABSENT: Councilor Maddux* [** denotes excused*]

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

A. CALL TO ORDER

Mayor Ogden called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was led by Councilor Harris.

B. PRESENTATIONS, ANNOUNCEMENTS, SPECIAL REPORTS

1. Proclamation Declaring the Week of December 6 – 12, 2010 as “*Human Rights Week*” and December 10, 2010 as “*Human Rights Day*” in the City of Tualatin
- Presented by Human Rights Council Representative Chair Alfonso Lopez-Vasquez

Human Rights Council Representative Alfonso Lopez-Vasquez was present and gave a brief background on the Council’s mission and establishment in 2006. Mr. Lopez-Vasquez noted other cities in Washington County will be adopting similar proclamations, and welcomed Council’s support in promoting human rights. Councilor Davis said she has been a member of the Human Rights Council since 2008, and there has been a number of activities and outreach that has been done.

Councilor Davis read the proclamation declaring December 6 – 12, 2010 as “Human Rights Week” and December 10, 2010 as “Human Rights Day” in the City of Tualatin.

2. *Starry Nights and Holiday Lights Presentation* – Carl Switzer, Community Services Parks and Recreation Manager Carl Switzer was present to invite Council and community to attend the Starry Nights and Holiday Lights event on December 3, 2010 at 5:30 p.m. on the Commons. Council President Chris Barhyte will be officiated the lighting the holiday tree. Parks and Recreation Manager Switzer said it is a great opportunity for the community to come together and have a good time.
3. *Photo Red Light Presentation* – Avery & Tualatin-Sherwood Road – Police Chief Barker Police Chief Kent Barker gave an update and presented a PowerPoint on the photo red light program, and reviewed some of the “myths” associated with photo red light. Chief Barker also explained how the choice was made on the two intersections that were chosen to have photo red light installed. The first installation is at Tualatin-Sherwood Road and SW Avery, which has been operating since the first of November. The other installation is at Lower Boones

red light installed. The first installation is at Tualatin-Sherwood Road and SW Avery, which has been operating since the first of November. The other installation is at Lower Boones Ferry Road at 72nd Avenue. Chief Barker will come back before Council when the second photo red light is installed.

C. CITIZEN COMMENTS

None.

D. CONSENT CALENDAR

Items G-1, G-2, G-3, G-4 were placed on Consent Agenda at Work Session. MOTION by Councilor Barhyte, SECONDED by Councilor Beikman to adopt the Consent Agenda as amended and read:

1. Approval of the Minutes of the Work Session and Meeting of November 8, 2010
2. Resolution No. 5012-10 Accepting Public Improvements Constructed in Association with SW 115th Avenue Half-Street Improvements
- G-1. Speed Hump Criteria Staff Report
- G-2. Ordinance No. 1312-10 Relating to Building Specialty Codes; Adopting the Solar Installation Code, the Energy Efficiency Code, the Fire Code and Fire Alarm Verification; and Amending TMC 4-1-010
- G-3. Ordinance No. 1313-10 Relating to Bancroft Bonds; and Amending the TMC 2-4-040 and 2-6-100
- G-4. Ordinance No. 1314-10 Prohibiting Motor Vehicle Traffic on a Portion of Blake Street; and Adding a New Section, TMC 8-3-150, to the Tualatin Municipal Code

MOTION CARRIED.

E. PUBLIC HEARINGS – Legislative or Other

1. Public Hearing to Consider an Ordinance relating to Conditional and Permitted Uses in Residential Planning Districts, and Amending the TDC 31.060, 35.030, 40.015, 40.020, 40.030, 41.020, and 41.030 (PTA-09-09)

Mayor Ogden opened the public hearing.

Associate Planner Will Harper presented the staff report and entered the entire staff report, including the attachments relating to public comments, into the record. This amendment began last year, and arose out of Council's concerns of the appropriateness of certain conditional uses in residential areas. Five work sessions were held reviewing the current uses and what has been changed/modified as proposed by Council review.

Associate Planner Harper reviewed the conditional uses remaining for discussion. Parks and playground/recreational buildings would be changed to a permitted use. Nursing homes would be removed from residential and permitted in multi-family residential. Another category of uses that will be removed are "cemeteries, etc. that will no longer would be listed as allowed conditional uses in the Tualatin Development Code (TDC). Associate Planner Harper said schools will be expanded, along with churches, and "country club". Also there is reduction of building heights from 75 feet to a maximum of 50 feet. Also noted in Attachment F is a number of comments received on the proposed changes. The Tualatin Planning Advisory Committee (TPAC) also reviewed and recommended Council approve the list as presented, with the exception of non-conforming uses.

Staff recommends Council consider the staff report and proposed language and supporting analysis and findings, and provide comment and direction.

PROponents

Eric Barber, 6050 SW Port Orford Street, Tualatin, OR, is a proponent because of the proposed building height maximum of 50 feet. He lives in Sequoia Ridge Subdivision directly across from Meridian Park Hospital, which is in the process of a land use amendment that includes increased building height.

Todd Allison, 5753 SW Joshua Street, Tualatin, OR, voiced his opinion in support of the amendment, and said while he knows it is difficult to bring the Development Code up to modern-day guidelines, appreciated the challenge and efforts of the task of doing so.

OPponents

Tom Miller, 17340 SW Cheyenne Way, Tualatin, OR, said his parcel of property he owns is in the floodplain and floodway and surrounded by agricultural uses. During the time he has owned property he has enhanced the wetlands portion of the land. He purchased the property based on being able to use it for agricultural use, which would change with this proposal. Without the option of a conditional use permit, the property becomes unusable, and Mr. Miller noted his opposition, and if it is approved asked that the property be "grandfathered-in".

John Karsseboom, 21550 SW 108th Avenue, Tualatin, OR, owns the Garden Corner Nursery, which is a retail nursery, currently located in unincorporated Washington County. His issue with this proposed change is if it will become a problem in the future for the nursery. By taking the use out essentially eliminates the chance of having a retail nursery in the City of Tualatin.

Bob Bosak, 10605 SW Hazelbrook Road, Tualatin, OR, thanked Council for their service, and read a letter for the record from the Hazelbrook Neighborhood Association, opposing the proposed change. Their area of concern is having livestock, with much of the land in this area in the floodplain. They are proposing the properties north of Hazelbrook Road between Tualatin Country Club on the east and Highway 99W on the west be "grandfathered in". It was asked of which properties (of those) that signed the letter are in the city limits and which are not, that are being used for agricultural uses.

Jim Zupancic, 5960 SW Nyberg Lane, Tualatin, OR, as landowner of a project "Stafford Hills" Racquet Club, said it appears with this change his property would become non-conforming. Mr. Zupancic said he also owns additional property in the area that only a portion is developable. And while he understands, and is working within the constraints of what was approved by the Council for their development, he wants to be treated as everyone else. Other have testified to have their property "grandfathered in" if Council chooses to move forward, and asked that Council adopt the Tualatin Planning Advisory Committee (TPAC) recommendation of grandfathering in established conditional uses.

Linda Moholt, Tualatin Chamber of Commerce, 18791 SW Martinazzi Avenue, Tualatin, OR, said she is in support of those that have testified. She believes Tualatin has diversity and suggested grandfathering in those existing businesses, and allowing flexibility in the Development Code to account for the future.

Bonnie Peterson, 10155 SW Jurgens Lane, Tualatin, OR, noted although she is outside the city limits, also signed the letter from Hazelbrook Neighborhood Association, and supports the grandfathering in of the area north of Hazelbrook. Ms. Peterson said if she were to annex into the City, she would not be able to have her subsistence farm, and is taking away

property rights by proceeding with this amendment. She said there is historical precedence and gave additional reasons and encouraged Council to take that into consideration.

Chloe ??, said her concern is to address some of the proposed language, and said property owners may need to adjust the opportunity, such as being able to "rent" goats to clear their land. Regarding chickens and salmonella, healthy chickens do not acquire salmonella, and while there is a need to have certain restrictions in place, this amendment would remove the ability and right to raise chickens, which seems to her to be an abridgement of freedom, and suggested it be allowed legally to have chickens.

COUNCIL DISCUSSION

Council President Barhyte mentioned when this was originally brought up over a year ago, his understanding was there wasn't any issues with the "hatched" areas referenced on the map. Associate Planner Harper explained that none of those properties have a conditional use permit to have livestock, prior to annexation were having livestock, and after annexation were allowed to continue with the use, without a condition use. It was asked about the Peterson property if annexed, would be required to hook up to sewer system.

It was asked and discussed if a property when annexed had an illegal use, how would it be dealt with. It was also asked about the process of when a property were to annex into the city, would the property owner be required to pay for a conditional use permit. It was explained that a legal non-conforming use runs with the land.

Continued discussion of how the process would work if the amendment were approved. Also explained about the annex process and how the annexation criteria is addressed.

Ms. Peterson spoke again and wanted to clarify in speaking with her neighbors, three of them are located in the City, and one currently is not using as livestock. If not used for a time and a property owners then sells questioned what would happen.

A break was taken from 8:49 p.m. to 9:03 p.m.

It was asked if Clean Water Service (CWS) allows for repair on property where a septic tank were to fail. City Engineer McKillip said CWS would allow for repair without annexing into the City, although he has not researched recently.

Mayor Ogden closed the oral testimony portion of the hearing.

COUNCIL DELIBERATION

MOTION by Councilor Barhyte, SECONDED by Councilor Harris, to adopt the staff report, with the following two changes – to allow private clubs if the conditional use permit was issued before December 22, 2010, and keep the current language of TDC Chapter 40.030, Section (4)(m), with a modification of the map, to reflect what's on the eastside of Interstate 5.

MOTION RESTATED by Councilor Barhyte, to add Section M, back in the language, modify the Community Plan Map, and create a section to allow private clubs if the conditional use permit was issued before December 22, 2010.

Discussion on Motion

FRIENDLY AMENDMENT by Councilor Davis to keep Section (4)(g), *Retail*

Nursery in the current language. Council President Barhyte commented he is not certain how to address a property that is not currently inside the city limits.

Councilor Harris said he doesn't have a problem keeping "retail nursery" in the current language.

Mayor Ogden commented there should be consistency with the approach to how conditional uses are addressed.

Councilor Beikman asked if it would be better served cost-wise if Garden Corner were to annex into the City or to use the conditional use process. Associate Planner Harper said the property would have to be brought in as residential and then apply for a Plan Map Amendment.

Council President Barhyte noted he will vote for the friendly amendment but shares Mayor Ogden's concern.

MOTION CARRIED. [Vote: 5-1-1; YES – Ogden, Barhyte, Beikman, Davis, Harris; NO – Truax; ABSENT – Maddux]

F. PUBLIC HEARINGS – Quasi-Judicial
None.

G. GENERAL BUSINESS

Items G-1, G-2, G-3 and G-4 were placed on the Consent Agenda by Council at Work Session.

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. EXECUTIVE SESSION

Mayor Ogden noted an executive session pursuant to ORS 192.660 (2)(h) to discuss current and pending litigation was held during the work session.

J. COMMUNICATIONS FROM COUNCILORS

None.

K. ADJOURNMENT

MOTION by Councilor Harris, SECONDED by Councilor Barhyte to adjourn the meeting at 9:28 p.m. **MOTION CARRIED.**

Sherilyn Lombos, City Manager

Recording Secretary / Maureen Smith



Maureen Smith