



**OFFICIAL MINUTES OF THE TUALATIN CITY COUNCIL MEETING FOR
NOVEMBER 12, 2013**

Present: Mayor Lou Ogden; Council President Monique Beikman; Councilor Wade Brooksby; Councilor Frank Bubenik; Councilor Joelle Davis; Councilor Nancy Grimes; Councilor Ed Truax

Staff Present: City Manager Sherilyn Lombos; City Attorney Sean Brady; Police Chief Kent Barker; Assistant City Manager Alice Rouyer; Community Services Director Paul Hennon; Finance Director Don Hudson; Planning Manager Aquilla Hurd-Ravich; Deputy City Recorder Nicole Morris; Assistant Planner Colin Cortes; Associate Planner Cindy Hahn; Public Works Director Jerry Postema

A. CALL TO ORDER
Pledge of Allegiance

Mayor Ogden called the meeting to order at 7:02 p.m.

B. ANNOUNCEMENTS

1. Tualatin Youth Advisory Council Report for November 2013

Members of the Youth Advisory Council (YAC) presented a PowerPoint on their latest activities and upcoming events. Six new committee members were introduced to the Council. YAC members participated in the West Coast Giant Pumpkin Regatta by running the craft tent, face painting, and concessions booth. They thanked Whole Foods and Lee's Farm for their generous donations to the event. Four YAC members will be attending the National League of Cities this week.

2. New Employee Introductions: Nancy Beall, Office Assistant II- Library and Emily Antonelli , Library Assistant

Community Services Director Paul Hennon introduced Nancy Bealle, Office Assistant II-Library and Emily Antonelli, Library Assistant. The City Council welcomed them.

C. CITIZEN COMMENTS

This section of the agenda allows citizens to address the Council regarding any issue not on the agenda. The duration for each individual speaking is limited to 3 minutes. Matters requiring further investigation or detailed answers will be referred to City staff for follow-up and report at a future meeting.

Chad Darby spoke in regards to the Seneca Street extension. He believes the City should complete a facilities study before making a rushed decision regarding the street. He encouraged the Council to wait and see what the impacts of the CenterCal project will have on the area before making any decisions.

D. CONSENT AGENDA

The Consent Agenda will be enacted with one vote. The Mayor will first ask staff, the public and Councilors if there is anyone who wishes to remove any item from the Consent Agenda for discussion and consideration. The matters removed from the Consent Agenda will be considered individually at the end of this Agenda under, I) Items Removed from the Consent Agenda. The entire Consent Agenda, with the exception of items removed from the Consent Agenda to be discussed, is then voted upon by roll call under one motion.

MOTION by Council President Monique Beikman, SECONDED by Councilor Frank Bubenik to approve the consent agenda.

Vote: 7 - 0 MOTION CARRIED

1. Consideration of Approval of the Minutes for the City Council Meeting of October 28, 2013

E. SPECIAL REPORTS

1. Vision Action Network Update

REMOVED TO COUNCIL MEETING ON NOVEMBER 25, 2013

2. Quarterly Financial Update

REMOVED TO COUNCIL MEETING ON NOVEMBER 25, 2013

F. PUBLIC HEARINGS – Quasi-Judicial

1. Consideration of a Petition Requesting Annexation of Property at 22120 SW Grahams Ferry Road (Tax Map 2S1 35BA, Tax Lot 5300) and Withdrawing the Territory from the Washington County Enhanced Sheriff Patrol District and the County Urban Road Maintenance District (ANN-13-02)

*Note: This item followed the presentation of agenda item H.1

Mayor Ogden opened the hearing for a petition requesting annexation of property at 22120 SW Grahams Ferry Road and withdrawing the territory from the Washington County Enhanced Sheriff Patrol District and the County Urban Road Maintenance District (ANN-13-02). He read the rules of the hearing in accordance with ORS 107.763(5) and (6) and ORS 197.796(3)(b).

Mayor Ogden stated for the record that he drove the driveway at this property and spoke with the owner. He stated this visit will not influence his position on this matter.

Assistant Planner Colin Cortes entered the staff report and testimony from agenda

H.1 into the record.

Ken Gertz spoke on behalf of the applicant stating this property is a necessary piece to completion of the surrounding subdivision. He stated that once divided this property will be eight lots.

Citizen Comment

There was no comment either in support or opposition.

Council Questions

None

Council Deliberations

None

MOTION by Council President Monique Beikman, SECONDED by Councilor Ed Truax to direct staff to prepare an ordinance granting ANN-13-02 and removing the property from the Washington County Enhanced Sheriff Patrol and Washington County Urban Road Maintenance District.

Vote: 7 - 0 MOTION CARRIED

G. PUBLIC HEARINGS – Legislative or Other

1. Consideration of Plan Text Amendment (PTA) 13-02 Amending the Tualatin Development Code (TDC) Chapter 40 Low Density Residential Planning District (RL) to Include Chicken Keeping as a Permitted Use in Single-Family Residential Areas of the City. Amending TDC 40.020(2).

Planning Manager Aquilla Hurd-Ravich entered the staff report and testimony presented during agenda item H.2 into the record.

MOTION by Councilor Joelle Davis, SECONDED by Councilor Frank Bubenik to direct staff to prepare the Plan Text Amendment (PTA) 13-02 amending the Tualatin Development Code (TDC) Chapter 40 Low Density Residential Planning District (RL) to include chicken keeping as a permitted use in Single-Family Residential Areas of the City and amend TDC 40.020(2).

Vote: 6 - 1 MOTION CARRIED

Nay: Councilor Ed Truax

H. GENERAL BUSINESS

1. Consideration of **Resolution No. 5172-13** Authorizing Execution of an Annexation Agreement With Patricia A. Bither, Trustee of the Patricia A. Bither Revocable Living Trust, to Govern Annexation of 2.59 Acres of Land Located at 22120 SW Grahams Ferry Road (Tax Map 2S1 35BA Tax Lot Lot 5300)

**Note: This item preceded agenda item F.1

Assistant Planner Colin Cortes and Planning Manager Aquilla Hurd-Ravich presented Resolution No. 5172-13 authorizing execution of an Annexation Agreement with Patricia A. Bither to govern annexation of 2.59 acres of land located at 22120 SW Grahams Ferry Road. Assistant Planner Cortes explained that this property will be designated in the Low Density Planning District and the agreement sets the framework for identifying expected attributes of a preliminary subdivision plan and addresses existing and future development. He noted that the analysis and findings show that the petition meets the annexation requirements set for by the Tualatin Development Code (TDC).

PUBLIC COMMENT

No comment in support or opposition.

COUNCIL QUESTIONS

Councilor Truax asked about the septic system on the lot and when it would be required to connect to city services. Assistant Planner Cortes stated upon system failure it would have to connect to city services. Planning Manager Hurd-Ravich added that upon subdivision it would be required to connect the divided lots to city services.

Mayor Ogden asked if the current driveway would be allowed to remain in place. Assistant Planner Cortes stated that upon redevelopment the owner could create a tract for this driveway or divide the driveway land among adjacent tax lots.

Ken Gertz, Developer for Gertz Fine Homes, spoke on behalf of the applicant. He stated they are currently looking at three options for the driveway. Options include dedicating the strip to the properties on the north, subdividing and deeding to the properties to the south, or selling the strip to the City to use as an access path. Mr. Gertz stated that all are feasible options the applicant is considering.

MOTION by Council President Monique Beikman, SECONDED by Councilor Ed Truax to adopt Resolution No. 5172-13 authorizing execution of an Annexation Agreement With Patricia A. Bither, Trustee of the Patricia A. Bither Revocable Living Trust, to govern annexation of 2.59 acres of land located at 22120 SW Grahams Ferry Road (Tax Map 2S1 35BA Tax Lot Lot 5300).

Vote: 7 - 0 MOTION CARRIED

2. Consideration of **Ordinance 1362-13** relating to keeping of backyard chickens; and Adding Chapter 6-15 to the Tualatin Municipal Code.

**Note: This item preceded agenda item G.1

Planning Manager Aquilla Hurd-Ravich and Associate Planner Cindy Hahn noted they would be making one presentation for both agenda items H. 2- proposed Ordinance 1362-13 and G. 1- Plan Text Amendment 13-02.

Planning Manager Hurd-Ravich stated the issue before Council is a proposed amendment to the Low Density Single Family Residential District (RL) to add chicken keeping as a permitted use. The proposed amendment will not allow chickens in other residential planning districts. It is also being asked to separately consider an ordinance to change the municipal code to regulate chickens. She presented the proposed development code language and municipal code regulations and language. Maps identifying RL sample subdivisions where chicken keeping would be possible were presented.

PUBLIC COMMENT

Comment in Support:

Laurie Jarmer spoke in support of chicken keeping. She expressed concerns regarding the proposed 25ft setback and would like to see this changed to 15ft.

Geoff Scott thanked the Council and Staff for all their work on the ordinance. He expressed concerns regarding the proposed setbacks noting that neighboring cities are less restrictive with only 10ft setbacks.

Tonya Peterson spoke in support of chicken keeping.

Anna Christenson spoke in favor of chicken keeping. She expressed concerns regarding the proposed 25ft setbacks. She noted that other cities in Oregon have adopted 25ft setbacks from adjacent dwellings not from property lines.

Anneliese Chapman spoke in favor of chicken keeping but not in favor of the ordinance as presented.

Jeannine Alexander spoke in support of chicken keeping and in opposition to the proposed setbacks in the ordinance.

Connie Price spoke in support of chicken keeping and in opposition to the proposed setbacks in the ordinance.

Dan Harris spoke in support of chicken keeping and would like to see the proposed ordinance have a more realistic setback of 10ft from the property line.

Comment in Opposition:

Dianne Yates spoke to the negative consequences for neighborhoods and the community if chicken keeping is allowed.

Chad Darby spoke in opposition to the ordinance as presented. He stated that the proposed ordinance would exclude a majority of Tualatin residents if a 25ft setback is put in place.

Tim Thornburg spoke in opposition of the 25ft setback and instead would like to see a lot size restriction implemented. He also feels that this ordinance will be difficult to enforce.

Planning Commissioner Nic Herriges presented the Planning Commission's recommendations to the Council. Two motions were presented at their meeting. The first motion presented the idea of permitting chicken keeping in residential areas, the motion passed. The second motion addressed the issue regarding the 25ft setback, the motion passed. The Commission wants to be sure to balance the ability of a reasonable number of people keeping chickens against the needs and concerns of their neighbors.

COUNCIL QUESTIONS

Mayor Ogden asked staff if they had prepared maps showing examples of a 10ft setback. Planning Manager Hurd-Ravich presented maps identifying chicken keeping areas if a 10ft setback is implemented.

Councilor Brooksby asked if neighboring cities had lot size restrictions. Planner Hahn noted that Hillsboro requires a minimum lot size of 7,000 square feet with a 10ft setback.

Mayor Ogden asked how noise and smell are addressed in the ordinance. City Attorney Sean Brady stated that noise complaints are addressed through the noise ordinance.

COUNCIL DELIBERATIONS

None

MOTION by Councilor Joelle Davis, to amend the proposed ordinance to reduce the setback to 10ft from the property line and eliminate the need to send notices to neighboring residences.

Hearing no second the motion failed.

MOTION by Councilor Frank Bubenik, SECONDED by Councilor Nancy Grimes to amend the proposed ordinance to require a 10ft setback from all property lines and a 25ft setback from neighboring residences.

Vote: 6 - 1 MOTION CARRIED

Nay: Councilor Ed Truax

MOTION by Councilor Joelle Davis, to amend the proposed ordinance to eliminate the need to send notices to neighboring residences.

Mayor Ogden stated that he believes a notification to neighbors is not necessary.

Councilor Davis stated that she believes a notice will cause unnecessary tension amongst neighbors.

Councilor Grimes stated that notifications should be looked as an informational/educational item regarding the ordinance.

Council President Beikman believes this is the neighborly approach and will help inform neighbors and reduce tensions.

Hearing no second the motion failed.

MOTION by Councilor Joelle Davis, SECONDED by Councilor Nancy Grimes for first reading of Ordinance 1362-13 relating to keeping of backyard chickens; and Adding Chapter 6-15 to the Tualatin Municipal Code as amended.

Discussion

Councilor Truax stated that he is not in favor of the ordinance. He feels it will create a burden to residents and staff and an opportunity for conflict amongst neighbors.

Vote: 6 - 1 MOTION CARRIED

Nay: Councilor Ed Truax

3. Consideration of **Ordinance No. 1364-13** Relating to Business Licenses; Amending Tualatin Municipal Code 9-1-020 and 9-1-090; and Declaring an Emergency.

Finance Director Don Hudson presented proposed changes to the business license code. He stated the proposed ordinance makes two changes to the Tualatin Municipal Code (TMC) Chapter 9-1-020 and two changes to TMC Chapter 9-1-090. Changes to TMC Chapter 9-1-080 include removing reference to gross receipts related to a contractor eligible for a Metro Business License and adds language that prohibits the issuance of a license to any person that engages in a business activity that violates city, state, or federal law. Changes to TMC Chapter 9-1-090 include allowing the ability of the City Manager or the City Manager's designee to waive any late fees, charges or penalties as determined to be reasonable and adds clarifying language allowing the City Manager to delegate authority to prescribe administrative rules or policies to implement the requirements of the business license ordinance.

COUNCIL QUESTIONS

Councilor Truax asked why this would constitute an emergency. City Attorney Brady stated that staff is trying to make these clarifications before business license renewals occur in January.

Councilor Bubenik asked if this is following the pattern of other cities in the state adding language to their codes to prevent medical marijuana dispensaries. City Attorney Brady stated that this would prohibit medical marijuana dispensaries from receiving business licenses.

PUBLIC COMMENT

No comment in support or opposition.

Comments neutral in nature:

Stephen Titus asked that clarifications also be made to the code regarding the definition of business locations and assessed penalties and fees.

COUNCIL DISCUSSION

Councilor Truax expressed concerns regarding adding language prohibiting medical marijuana dispensaries. He believes that this will lead to future litigation for

the city.

Councilor Bubenik spoke in opposition of the proposed language prohibiting medical marijuana dispensaries as state guidelines for these facilities will not be released until March. He would like to see this discussion occur at a later date to discuss all the city's options.

Mayor Ogden spoke in support of the proposed language. Stating that he prefers the city comply with the federal law on this issue.

Council President Beikman does not want medical marijuana dispensaries to become an issue like hookah bars have become in neighboring cities.

MOTION by Councilor Nancy Grimes, SECONDED by Council President Monique Beikman for first reading of Ordinance No. 1364-13 relating to business licenses; amending Tualatin Municipal Code 9-1-020 and 9-1-090; and declaring an emergency.

Vote: 4 - 3 MOTION CARRIED

Nay: Councilor Wade Brooksby
Councilor Frank Bubenik
Councilor Ed Truax

I. 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.

J. COMMUNICATIONS FROM COUNCILORS

Mayor Ogden addressed the death of city employee Dave Lagassey and sent the Councils condolences to his family. Mayor Ogden declared that City flags be flown at half staff on November 13th in his honor. A moment of silence was held.

K. ADJOURNMENT

Mayor Ogden adjourned the meeting at 9:36 p.m.

Sherilyn Lombos, City Manager

 / Nicole Morris, Recording Secretary

 / Lou Ogden, Mayor