

CITY OF WILSONVILLE
CITY COUNCIL MEETING MINUTES

A regular meeting of the Wilsonville City Council was held at the Wilsonville City Hall beginning at 7:00 p.m. on Monday May 7, 2012. Mayor Knapp called the meeting to order at 7:06 p.m., followed by roll call and the Pledge of Allegiance.

The following City Council members were present:

Mayor Knapp
Council President Núñez - Excused
Councilor Hurst
Councilor Goddard
Councilor Starr

Staff present included:

Bryan Cosgrove, City Manager
Jeanna Troha, Assistant City Manager
Mike Kohlhoff, City Attorney
Gary Wallis, Finance Director
Delora Kerber, Public Works Director
Martin Brown, Building Official
Becky White, Administration Assistant
Keith Katko, Finance Operations Manager
Blaise Edmonds, Manager of Current Planning
Sandra King, City Recorder
Mark Ottenad, Public Affairs Director
Dan Knoll, Public Affairs Coordinator
Steve Adams, Interim City Engineer
Mike Ward, Senior Engineering Tech

Motion: Councilor Hurst moved to approve the order of the agenda with the adjustment to consider Resolution 2359 at the next Council meeting. Councilor Goddard seconded the motion.

Vote: Motion carried 4-0.

MAYOR'S BUSINESS

A. Drinking Water Week Proclamation

Mayor Knapp read the proclamation into the record.

B. 2012 Transportation Safety Month Proclamation

The proclamation was read into the record by Mayor Knapp.

C. Library Board Appointment – held over to the May 21, 2012 Council meeting to allow Council President Núñez to be present.

D. Accept resignation of Jim Sandlin from the Development Review Board Panel B & Direct City Recorder to Begin Recruitment Process for Vacant Seat.

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Motion: Council Hurst moved to accept the resignation of Jim Sandlin from the DRB and for the City Recorder to begin the recruitment process. Councilor Starr seconded.

Vote: Motion carried 4-0.

E. Upcoming Meetings

Mayor Knapp reported on the meetings he attended on behalf of the City.

COMMUNICATIONS

A. Recognize Becky White, Building Division, for Receiving Tyler Technologies Award of Excellence

Martin Brown, Building Official, announced that Becky White, Permit Technician in the Building Division, received the Public Sector Excellence Award at the Eden Conference. Ms. White received the award on behalf of the City of Wilsonville for her innovative proposal to create a special “end of the day” inspection report for building permit customers. The report allows contractors and other customers quick access to their daily inspection status without having to visit the job site or call inspection staff for their results.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

This is an opportunity for visitors to address the City Council on items *not* on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter. Please limit your comments to three minutes.

Mr. Kohlhoff noted the City had received one letter with the request that it be read into the record. Mr. Kohlhoff summarized the letter which dealt with Resolutions 2359 and 2360 requested that as of June 30, 2012, the resolutions be modified to terminate the health insurance option for the City Council, and allow the Council to “elect out” of any stipend payment. The letter has been made a part of the record.

COUNCILOR COMMENTS, LIAISON REPORTS & MEETING ANNOUNCEMENTS

Councilor Hurst – Parks and Recreation Board and Planning Commission liaison, announced the annual WERK Day scheduled for May 12, 2012 and noted the Planning Commission will meet May 9, 2012. He reported an Economic Development Summit hosted by the City at City Hall is planned for May 31, 2012 at 6:30 p.m.

Councilor Goddard – Library, Chamber Board, and Clackamas County Business Alliance liaison reported the Library Board recently drafted a best practices policy for the use of copywrite materials and images. He recounted the activities of the CCBC, and of their support of the Metro UGB expansion proposal. The Councilor reminded citizens of the Bulky Waste Day at Allied Waste set for May 12.

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Councilor Starr –Development Review Boards and Wilsonville Community Seniors Inc. liaison, reported the DRB had approved Resolution 228 regarding Copper Creek Subdivision at their last meeting. He invited the public to attend the Keeping It Local Fair, the Household Hazardous Waste Collection on the 19th, and the Public Works Open House at the Fred Meyer parking lot. The Councilor noted he had attended an informative tour of the city with representatives of the Chamber and business community and Metro’s President Tom Hughes.

Mayor Knapp noted he would be speaking at the Chamber Breakfast on Tuesday on the future of bicycle tourism in the area.

NEW BUSINESS

- A. **Resolution No. 2359** – continued to the May 21, 2012 Council Meeting
A Resolution Of The City Of Wilsonville Adopting City Council Stipend Effective January 1, 2013

Motion: Councilor Hurst moved to continue Resolution 2359 to date certain of May 21, 2012. Councilor Goddard seconded the motion.

Vote: Motion carried 4-0.

- B. **Resolution No. 2360**
A Resolution Of The City Of Wilsonville Adopting Modified Mayoral Compensation Effective January 1, 2013

Mr. Kohlhoff read the resolution into the record by title.

Mayor Knapp recused himself from the discussion and vote.

Motion: Councilor Hurst moved to approve Resolution No. 2360. Councilor Goddard seconded the motion.

Vote: Motion carried 3-0.

- C. **Resolution No. 2361**
A Resolution Of The City Of Wilsonville Acting As The Local Contract Review Board Approving The Bid Process; Accepting The Lowest Responsible Bid; Awarding A Construction Contract To Brix Paving, The Lowest Responsible Bidder; And Verifying Fund Availability For The Project Titled 2012 Street Maintenance.

Mr. Kohlhoff read the title of Resolution No. 2361 into the record.

Mike Ward, Engineer, made the presentation. This contract continues the City’s policy of maintaining City streets on a rotating schedule. The work is scheduled to be done this summer and will include the Renaissance at Canyon Creek, Villebois, and Charbonneau neighborhoods

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along with other locations. Work will include crack repair, slurry sealing, pavement overlay, and pavement removal and patching. Residents of the Old Town Neighborhood view concrete placement to be inconsistent with the neighborhood's Master Plan, therefore, until some resolution is agreed upon, maintenance of streets in Old Town has been deferred to 2013.

Motion: Councilor Hurst moved to approve Resolution No. 2361. Councilor Starr seconded the motion.

Vote: Motion carried 4-0.

CONTINUING BUSINESS

- A. **Ordinance No. 703** – continued hearing and 2nd reading.
An Ordinance Of The City Of Wilsonville Approving A Zone Map Amendment From The Residential Agricultural – Holding (RA-H) Zone To The Planned Development Residential – 4 (PDR-4) Zone On 19.962 Acres Comprising The Northerly Portions of Tax Lots 103, 105, And 200 Of Section 14A, T3S, R1W, Clackamas County, Oregon. Holland Partner Group, Applicant.

Council President Nunez joined the meeting via speaker phone.

Mayor Knapp reopened the continued public hearing on Ordinance No. 703 at 8 p.m. The Mayor noted there had been some additional information. The Mayor queried if any City Council member wished to abstain, declare a conflict of interest, or report any exparte contact or any information gained outside of this hearing.

Councilor Goddard mentioned that he and the Mayor attended a couple of Chamber meetings where factual information was presented on Brenchly Estates, and the project was mentioned as an example of planned development, planned density within our community. These meetings were the tour with Metro President Tom Hughes, and the Chamber Government Affairs Committee. The comments were very general and there was no pro or con discussion of the application. The Councilor wanted to make sure he mentioned these as they may be viewed as exparte contacts. However, they did not and do not bias or prejudice the Councilor in any way hearing this matter on the facts presented.

Mayor Knapp stated he attended a one-and-a-half-hour long round table discussion which included the mayors of other communities, Chamber members, Councilor Goddard, and council members from the cities of West Linn, and Tualatin. There was no specific discussion about Brenchley, the name Brenchley was brought up as an example at one point but there was no ensuing discussion one way or another that would have shed new light on the application; therefore the Mayor felt he was not biased in any way by that contact.

Councilor Starr said density as a generic topic has been talked about in the community. Due to the nature of tonight's meeting, he wanted to share his recollection of some of the exparte contact he had with residents. Councilor Starr did receive an email from Doris Wehler a few weeks ago, but did not respond to it and the copy has been turned over to the City Attorney. The

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Councilor was also part of the Metro tour with Councilor Goddard in which that development was mentioned. Councilor Starr said he did have lunch with Pat Johnson and Steve Gilmore of the Chamber several weeks ago where density as a generic topic was mentioned and there could have been a statement about Brenchley Estates, but he did not think it was a contributing factor to any part of this particular issue as much as it was just overall where the density is in town. Councilor Starr did not recall any other specific discussions about Brenchley other than with City staff regarding questions and dialogue about the proposal itself in front of Council. The Councilor stated he has not been biased by any of these or any other contact in his pursuit of judgment regarding the outcome of this resolution before Council tonight.

Mr. Kohlhoff read the email from Doris Wehler into the record, which went to Richard Goddard, Steve Hurst, Celia Núñez, and Scott Starr. The message reads: "Subject: Holland's density request. At last night's economic development meeting I asked Ben Altman this question, "Can the council partially turn down the Holland application or is it an all or nothing situation." Ben replied that they could accept with conditions such as denying density transfer, going with the minimum (rather than the maximum) density according to the city's written document, etc. if this truly is possible and you want to do it, it would put the ball back in Holland's court (considering they said they would not be changing their application) just food for thought. Doris."

Mr. Kohlhoff indicated the Councilors wanted this email message read into the record. He suggested each Councilor needed to individually state for the record whether or not this biases or prejudices them.

Mayor Knapp asked that question of each of the Councilors who had not made a statement.

Councilor Hurst said "no he did not consider that exparte contact unless he had responded in some way, which he did not

Council President Núñez stated she had no bias; she did recall receiving the email message (from Ms. Wehler) but did not respond nor have a conversation with anyone about it, and did not do anything with the information.

Councilor Goddard said he received the email that Mr. Kohlhoff read into the record at the Council's request. He wanted to mention for the record the receipt of that email did not bias or prejudice his view or opinion on the matter.

Mayor Knapp stated he had not received the email written by Ms. Wehler.

Mr. Kohlhoff indicated the next step would be to ask the audience if they wanted to challenge the participation of any of the Councilors based on what they have heard.

Mayor Knapp asked if any member of the audience wished to challenge the participation of any member of City Council. There was no response from the audience. The Mayor read the land use testimony format.

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Blaise Edmonds, Manager of Current Planning, indicated seven exhibits had been provided by staff to the Council via email and he read the titles of the seven exhibits into the record. They include:

- Exhibit 1 – Letter from David A. Kingery, Vice President of CRP/Holland Brenchley Estates, dated April 24, 2012
- Exhibit 2 – Letter from Darren Harmon General Manager of Family Fun Center and Bullwinkle’s Restaurant in support of the project, dated May 1, 2012
- Exhibit 3 – Impact of Building 100 Multifamily Units in a Typical Metro Area
- Exhibit 4 – Impact of Building 100 Multifamily Units In A Typical Metro Area Summary
- Exhibit 5 – The Local Impact of home Building in a Typical Metro Area Income, Jobs, and Taxes Generated prepared by the Housing Policy Department, June 2009, National Association of Home Builders
- Exhibit 6 – Local Impact of Home Building Technical Documentation for the HANB Model Used to Estimate Income, Jobs and Taxes, Paul Emrath, NAHB Housing Policy Department, June 2009
- Exhibit 7 – Applicant’s concept map of the property titled “Proposed Changes” dated May 2, 2012 showing his willingness to provide senior age restricted housing. This exhibit is not intended to replace the Stage I Master Plan map the DRB approved. The map describes the Applicant’s thought process in lowering the density by 39 units, and also providing senior age restricted housing for those aged 50 and over.

The issue before the Council is to approve or deny Ordinance No. 703 for a zone map amendment from Residential Agricultural Holding (RAH) on approximately 19 acres on the north side of the project site. Mr. Edmonds forwarded the recommendation of the Development Review Board for adoption of Ordinance No. 703.

Mr. Edmonds indicated the Applicant, would express their willingness to reduce their project by 39 units based on the Comprehensive Plan density of the 19 acres, which is a fewer number of housing units than if you had used the Zoning context which allowed higher density.

Mr. Edmonds said the applicant is proposing approximately 25 single family detached units, 46 units in the senior age restricted area, which could be single family, or an apartment building more centrally located.

Directing his question to staff, Mayor Knapp asked if the original recommendation was to approve 398 dwelling units based on the Comprehensive Plan, and was that recommendation being modified.

Mr. Edmonds responded the number was based on the Comprehensive Plan together with the Zone density, which was the recommendation from the Development Review Board.

Mayor Knapp invited the applicant to make their presentation.

Clyde Holland, Holland Partner Group, and Jerry Offer of OTAK, Inc. introduced themselves.

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Mr. Holland distributed copies of the new exhibits read by title into the record by Mr. Edmonds. Responding to a question as it relates to benefit and balance of resources, Mr. Holland referred to the study published by the National Association of Home Builders, and the summary table shown on page 10 of the study which breaks down the estimated economic impact, on average, when 100 units are built, and when they are in place.

Regarding the question of density Holland Group testified that their location in the center of town and proximity to Town Center provides the opportunity for residents to walk or bike to the theater, grocery, nearby employment and education locations. Mr. Holland talked about the positive economic impacts of the development in a sustainable way, particularly in the Town Center area. Mr. Holland stated his company has successfully reached out to the senior community to give them the opportunity to reserve the first floor units within the project.

Mr. Holland addressed concerns about traffic and resource use. Because the project is located close to the center of town, the infrastructure serving the project is nearly fully built out and the development is connecting into existing infrastructure. The System Development Charges paid to the City are not going to have the typical effect of building a large single family development outside town where services needed to be extended.

The request was to have the zoning approved in compliance with the Comprehensive Plan without any variances, voluntarily accept the density calculation at 39 units less than the Development Review Board's recommendation, and voluntarily age restrict the units in Phase III, other than the 25 single family homes along the SROZ to a 50+ age bracket.

The result is that the entire last phase will be occupied by seniors who do not travel during the peak hours. A bus stop will be located in front of that Phase giving seniors the option to use the bus system rather than a personal vehicle.

Councilor Starr asked if age restriction for seniors was legal.

Mr. Holland responded restricting a community for seniors is legal age discrimination. They were seeing a significant demand by seniors for this location because of its proximity to Town Center and bus service. In Phase III they were willing to age restrict everything above 25 units.

Mayor Knapp asked of the reduction of 39 units reduce the profitability, and if so in what magnitude?

Mr. Holland stated if Council wanted to approve the higher density, they could make good use of the density, but they were within a band of acceptability and can make it work with the lower density and senior designation.

Councilor Núñez did not have any questions of the applicant.

Mayor Knapp stated this was the time for the public to speak on the new material presented; hearing nothing, he asked if the applicant had any rebuttal.

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Mr. Holland expressed his thanks to staff. There was a lot to be proud of, while working on Phase I they were held to a higher standard, which he considered tough but fair. He thought the project will be an asset the City could be proud of.

Councilor Goddard commented because new information had been presented, the right approach may be to leave the record open for some additional time and wanted to know if that would create unreasonable hardship for the applicant.

Mr. Holland stated they could not apply for the 1200C (grading permit) until the action is filed, but the more they can do to not be working in the mud would be appreciated.

Mr. Kohlhoff indicated technically we left this open for receipt of new evidence and we received new evidence and some argument along with that, therefore the record needs to be open for seven days. Mr. Kohlhoff suggested that Council vote on first reading, and leave the record open for seven days. There were two alternatives Council could take, one is to continue the matter for a final determination on second reading to the next Council meeting; or Council could vote to do first and then second reading assuming that you did not receive any new information. Our issue is if you do receive it would it make any difference and do you need to then re-deliberate. He thought the Council should vote on the first reading, and leave the record open for seven days to rebut, and make the second reading and final determination at the May 21, 2012 meeting.

Mayor Knapp clarified under the City Attorney's recommendation, the Applicant would not have a decision for two weeks, whereas, if Council were to do first and second reading tonight, and leave seven days open for rebuttal, then the Applicant has an answer in one week.

Mr. Kohlhoff countered Council would need to make their decision subject to reopening the hearing

Mr. Holland requested a decision on the first and second reading tonight which would allow them to make application for the 1200C (site excavation permit). Council could consider anything that came into the City during the process on the new information to the extent that it needed to be opened; we would have at least started the process.

Mayor Knapp asked for a motion on the public hearing.

Mr. Kohlhoff clarified the public hearing was being closed subject to the seven-day rule.

Motion: Councilor Starr moved to close public hearing subject to the seven-day period allowed for rebuttal. Councilor Hurst seconded the motion.

Vote: Motion carried 5-0.

Mayor Knapp closed the public hearing closed at 8:50 p.m. subject to the seven-day period allowed for rebuttal.

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Motion: Councilor Hurst moved to approve the application based on 359 units and the alternative calculation of the lesser calculation described in the conversation tonight finding in the past interpretation of the code, and that we also age restrict any units in Phase III above the 25 unit margin as amendments to the plan. Councilor Starr seconded the motion.

Councilor Hurst thought there were two ideas being deliberated. One is a greater community philosophy on density which needs further definition outside of this particular application.

Mr. Kohlhoff verified that although Councilor Hurst was not at the April 16, 2012 Council meeting he had familiarized himself with the application and the record. Councilor Hurst said he had.

Councilor Goddard appreciated Mr. Holland's commitment to the community and providing housing alternatives for citizens. He indicated that the confusion and inconsistency between the Comprehensive Plan and Zoning Table established in City Code would be cleared up to provide certainty to applicants. He thought the application should be moved forward and was prepared to approve the project as presented in the motion.

Councilor Starr expressed appreciation of Mr. Holland's company's commitment and investment in Wilsonville and echoed the comments of Councilor Goddard. It was one of Council's goals to remove some of the confusion Mr. Holland experienced in moving through the planning process.

Council President Núñez agreed with the comments of Councilor Starr.

Mayor Knapp thought all of the comments made were apropos; however he was troubled by the process at the Council level since the items called into question exceeded Council discretion as listed on page 2 of the April 16, 2012 staff report. "The decision being made involves the application of discrete facts to the applicable standards, e.g., does the proposed density for the zone change comply with that of the Comprehensive Plan and Map density." In the Mayor's mind that was a "Yes" or "No" question, not of applying personal points of view or future scenarios to an application; therefore he did not feel he participated in an appropriate consideration.

The applicant has agreed to reduce the profitability and increase the complexity and extend the time line and costs of this project in order to get an approval in Wilsonville. That amounts to the kind of uncertainty that this Council has talked about reducing and does not reflect the type of environment Wilsonville should portray to future applicants.

Councilor Hurst asked if it would be appropriate to amend his motion to approve tonight on first and second reading.

Mr. Kohlhoff indicated the two readings should be done separately.

Vote: Motion carried 5-0.

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Mr. Kohlhoff read the title of Ordinance No. 707 into the record for second reading and suggested if the Council was to move to approve tonight to do so in conformity with the motion on first reading.

Motion: Councilor Hurst moved to approve Ordinance No. 703 on second reading including all of the stipulations made in approval during the first reading including the seven-day rule. Councilor Starr seconded the motion.

Vote: Motion carried 5-0
Councilor Hurst - Yes
Councilor Starr - Yes
Councilor Goddard - Yes
Council President Núñez - Yes
Mayor Knapp - Yes

Mayor Knapp read the LUBA appeal notice into the record.

CITY MANAGER'S BUSINESS

After providing a brief recap of the meeting, Mr. Cosgrove asked Council to get back to staff on whether they were attending the CCA Dinner in the city of Milwaukie. He noted the information presented during the City tour with Metro Council President Hughes was excellent. The City Manager spent a day in the field with Public Works maintenance crews who take great pride in their work and who look for ways to make maintenance more efficient.

LEGAL BUSINESS

Mr. Kohlhoff attended the Oregon City Attorney's conference which held sessions about public records metadata, qualified based contracting, and reimbursement districts.

ADJOURN

Motion: Councilor Hurst moved to adjourn. Councilor Starr seconded the motion.

Vote: Motion carried 5-0.

The Council meeting adjourned at 9:28 p.m.

Respectfully submitted,

Sandra C. King, MMC, City Recorder

ATTEST:

TIM KNAPP, MAYOR