



CITY OF OREGON CITY

CITY COMMISSION REGULAR MEETING - REVISED MINUTES

**Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Wednesday, September 1, 2021 at 7:00 PM**

6:00 PM - EXECUTIVE SESSION OF THE CITY COMMISSION:

The Executive Session began at 6:00 PM immediately prior to the City Commission Regular Meeting.

- a. *PURSUANT TO ORS 192.660(2)(h): To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.*

7:00 PM - REGULAR MEETING OF THE CITY COMMISSION

1. CONVENE MEETING AND ROLL CALL

Mayor Lyles Smith convened the meeting at 7:02 PM.

PRESENT: 4 - Mayor Rachel Lyles Smith, Commissioner Adam Marl, Commissioner Denyse McGriff, Commissioner Rocky Smith, Jr.

ABSENT: 1 - Commissioner Frank O'Donnell

STAFFERS: 13 - City Manager Tony Konkol, Asst. City Recorder Jakob Wiley, Community Development Director Laura Terway, Asst. City Engineer Josh Wheeler, Police Chief Jim Band, Econ. Dev. Manager James Graham, Library Director Greg Williams, Finance Director Matt Zook, Parks & Rec. Director Kendall Reid, Police Captain Bill Kler, Deputy City Attorney Carrie Richter, Human Resources Director Patrick Foiles, Asst. to the City Manager Lisa Oreskovich

2. FLAG SALUTE

3. CEREMONIES AND PROCLAMATIONS

4. CITIZEN COMMENTS

Karla Laws, resident of Oregon City, discussed some concerns she had with the posting of land use notices and notices not being sent to neighborhoods. She was also concerned about the City misquoting groups.

Bob LaSalle, resident of Oregon City, read a letter from the Citizens Involvement Committee regarding concerns about land use policies and practices.

Catherine Pieslewicz, resident of Oregon City, gave a history of her personal experience with the Community Development Department and development in her area with no notification.

5. PRESENTATIONS

6. ADOPTION OF THE AGENDA

Agenda Item 7d was pulled from the consent agenda and a new item was added under General Business regarding the water rate ballot measure. The agenda was adopted as amended.

7. CONSENT AGENDA

Motion made by Commissioner McGriff, seconded by Commissioner Smith, to adopt the consent agenda except Item 7d. The motion carried by the following vote:

Yea: 4 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, and Commissioner Smith

- 7a. Amendment No. 4 to the Personal Services Agreement with Brown and Caldwell for the Scattering Canyon Project (CI 19-012)
- 7b. Personal Services Agreement with Murraysmith for the 2022 Oregon City Roadway Reconstruction Project (PMUF) (CI 21-008)
- 7c. Minutes of the August 4, 2021 Regular Meeting
- 7d. Minutes of the August 10, 2021 Work Session

8. PUBLIC HEARINGS

- 8a. AP 21-00004 and AP-21-00005: Two Appeals of Planning Files GLUA-21-00002: SP-21-00001 / LL-21-00002 for a Lot Line Adjustment and Site Plan and Design Review for a 60-Unit Residential Condominium Project on Holmes Lane - Neighborhood Association Fee Waiver Request Associated with One Appeal

Mayor Lyles Smith opened the public hearing.

Carrie Richter, City Attorney, read the hearing statement. She asked if the Commission had ex parte contacts, conflicts of interest, bias, or any other statements to declare including a visit to the site.

Commissioner Marl was on the Barclay Hills Neighborhood Association Facebook page but removed himself in anticipation of the hearing and did not read any posts that took place there.

Commissioner McGriff was a member of the McLoughlin Memorial Association who owned property across the street from this development. She was a former colleague and friend of the property owner, but they had not discussed this issue. She also knew the neighborhood association chairs. She had advised the president of the Memorial Association to submit comments on this application.

Commissioner Smith had received several email chains from Ms. Laws regarding this application that did not go to the rest of the Commission. He had forwarded them to the City Manager for the record. He did not respond to the emails.

Mayor Lyles Smith knew the location. She had seen a lot of emails and received phone calls from the neighborhood association regarding the process. Generally, people did not think the process was transparent. She became the point person between citizens and staff. She could make a decision based on the criteria and application materials and not on challenges the neighborhood had with the process.

Garrett Stephenson, attorney representing the applicant, asked Commissioner McGriff questions about her involvement with the McLoughlin Memorial Association who had objections to the application.

Commissioner McGriff answered that she had advised the board on the process and referred them to the notice that specified the criteria.

Ms. Richter reviewed the jurisdictional questions for the Commission to address. They were: did Barclay Hills Neighborhood Association submit written comments within the comment period and did they properly seek a fee waiver.

James Donnelly, representing the Barclay Hills Neighborhood Association, discussed his request for a fee waiver and experience filing the appeal with Community Development and City Hall. He did not think the process was transparent or fair.

Ms. Pieslewicz said a fee waiver should be granted because Barclay Hills Neighborhood Association submitted the appeal. The neighborhood had authorized Mr. Donnelly to represent them in making the appeal at their May meeting.

Ms. Laws said she had written the minutes from the May 2021 meeting and a notice had gone out in advance of the meeting through social media. The minutes reflected that at the meeting Mr. Donnelly was authorized to represent them and she was upset that the validity of the minutes was being questioned.

Mr. Stephenson objected to the continued participation of Commissioner McGriff based on her comments that the motion to dismiss the appeal was specious. The grounds for the motion to dismiss were the fact the neighborhood association failed to pay the required fee and failed to request a fee waiver. He did not believe they went through the proper steps. The neighborhood had to submit comments before the written record period was closed to achieve standing, but that had not happened. Mr. Donnelly had submitted comments on his behalf, but no comments were reported to be from the neighborhood association. He did not think the neighborhood could take the comments submitted by someone else and turn them into their own comments to achieve standing in order to appeal. The applicant thought the Commission was without jurisdiction to hear the Barclay Hills Neighborhood's appeal tonight.

Ms. Pieslewicz said the neighborhood association held a meeting in May and at that meeting, they elected Mr. Donnelly to represent them and file comments. She thought Mr. Stephenson was wrong about the timeline.

Ms. Laws said as the association chair, she was never informed when the deadline for public comment was.

There was discussion regarding the public comment timeline.

Ms. Richter clarified the minutes were not submitted during the open record period. They were submitted as part of the appeal and that was what the neighborhood association was using to establish that the vote for the fee waiver was duly authorized. That did not establish Mr. Donnelly with standing during the comment period. His written comments did not say they were submitted on behalf of the association.

Commissioner McGriff thought based on the vote that was taken in May 2021, Mr. Donnelly was under the direction of the association to submit the comments and was acting on their behalf. She thought they had established standing. The Commission agreed.

There was discussion regarding the fee waiver request. Ms. Richter said the minutes of the neighborhood association did not reflect a discussion and official approval of the fee waiver. Commissioner Smith thought the neighborhood association did not discuss it because they assumed the fee would be waived.

Mayor Lyles Smith asked about the bylaws issue brought up by the applicant. Ms. Richter said the applicant was asking the Commission to take official notice of the bylaws to call into question the notice and process the neighborhood association went through. Whether or not the association followed their own bylaws was not the question, it was if they voted in a duly announced meeting. It didn't say how the

notice had to occur and she cautioned the Commission to not micromanage neighborhood association business.

Commissioner McGriff said neighborhood associations had issues with notices due to COVID-19 and virtual meetings. Based on what she saw in the record, the association did provide notice for the meeting.

Motion made by Commissioner Smith, seconded by Commissioner McGriff, to find that the Barclay Hills Neighborhood Association went through the proper process for the appeal fee waiver. The motion carried by the following vote:

Yea: 4 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, and Commissioner Smith

The Commission took a break from 8:40 PM until 8:53 PM.

Ms. Richter explained the review of the merits of the appeal was to be limited and affirmed the names of those who could participate. She then discussed the record, items to consider rejecting, issues not related to the approval criteria, and applicable approval criteria.

Laura Terway, Community Development Director, presented the staff report. She discussed the subject site and development proposal for 60 multi-family units. She summarized the Barclay Hills Neighborhood Association's appeal including rezoning the property as well as stormwater and runoff into Singer Creek.

John Replinger, consultant, discussed the street system and associated transportation analysis.

Commissioner McGriff discussed her experience with site distance issues and speeding in this area. Ms. Richter reminded Commissioner McGriff to keep the comments on the information presented in the record and not her personal experience. Ms. Terway noted there were two conditions of approval addressing site distance. She then discussed parking, Stafford Park and historic resource protections, and landscaping and trees.

Commissioner McGriff asked about fencing and access to the park. Ms. Terway said there was no criterion to require the applicant to build a fence or to retain trees.

Ms. Richter said the applicant had filed a separate appeal. The focus of that appeal was in respect to condition of approval #3 which required frontage improvements along the full length of Holmes Lane. They also raised concerns with respect to other conditions not being clear and objective. The staff report provided alternative language that would address those concerns.

There was discussion regarding taking public testimony and continuing the hearing.

Motion made by Commissioner Smith, seconded by Commissioner McGriff, to continue the meeting past 10:00 PM and start the public testimony with a hard stop of 10:30 PM. The motion passed by the following vote:

Yea: 3 - Mayor Lyles Smith, Commissioner McGriff, and Commissioner Smith

Nay: 1 - Commissioner Marl

Mr. Stephenson reiterated his objection to Commissioner McGriff's participation. He discussed the applicant's appeal on Condition #3. He did not think the applicant should be required to make improvements along the full frontage of Holmes Lane as one lot was not planned to be redeveloped at this time. There were already interior pathways going to the parks.

Neil Fernando, engineer for the applicant, discussed grading, stormwater facility, and erosion control on the site. They would be meeting all the standards set by the City.

Steve Miller, land use planner for the applicant, discussed the landscaping plans, buffer area, and tree removal.

Scott Miller, representing the developer, added that they had gone through a pre-application process and were advised to do the lot line adjustment and land use application concurrently.

Ms. Laws, Barclay Hills Neighborhood Association, discussed traffic safety concerns.

Mr. Donnelly discussed communications with the Confederated Tribes of Grand Ronde and recommendations for cultural research surveys and possible artifacts on the property, rezoning back to R-6 for lower impact, and landscape buffer and fire lane.

Ms. Pieslewicz discussed notice issues for meetings and stormwater studies. The assumption that all of the stormwater on this site was going to travel to the catch basin was wrong. Looking at the contours of the site, the stormwater would be directed onto adjacent streets and Singer Creek.

Motion made by Commissioner Smith, seconded by Commissioner McGriff, to continue the hearing for AP 21-00004 and AP-21-00005: two appeals of Planning Files GLUA-21-00002: SP-21-00001 / LL-21-00002 to September 15, 2021. The motion carried by the following vote:

Yea: 4 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, and Commissioner Smith

9. GENERAL BUSINESS

Water Rate Ballot Measure

Tony Konkol, City Manager, said the Commission passed two resolutions related to the water ballot measure proposed for the November election. One was in regard to taking on additional debt and the other was authorizing a temporary water rate increase above the 3% annual Charter limit. The resolution for the rate increase was challenged at Circuit Court. The judge issued the decision that the ballot language should be changed. He explained the options for the ballot question and summary.

Motion made by Commissioner Marl, seconded by Commissioner McGriff, to choose the first version of the question and use the word “additional” in the summary to be consistent with the court order and to direct the elections officer to provide the amended ballot title to the County Elections Office to be used in the Voters Pamphlet. The motion carried by the following vote:

Yea: 4 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, and Commissioner Smith

Minutes of the August 10, 2021 Work Session

Commissioner Marl edited the minutes to include under Future Agenda Items his request to look at changing the process of mayoral appointments to the Planning Commission and Historic Review Board.

Motion made by Commissioner Marl, seconded by Commissioner McGriff, to approve the August 10, 2021 Work Session minutes as amended. The motion carried by the following vote:

Yea: 4 - Mayor Lyles Smith, Commissioner Marl, Commissioner McGriff, and Commissioner Smith

- 9a. Resolution No. 21-46, A Resolution to Allow Temporary Parklets in the Right-of-Way and Temporary Private Property Outdoor Dining and Retail from November 30, 2021 to November 30, 2022

This item was postponed to September 15, 2021.

10. COMMUNICATIONS

11. City Manager

None

12. Commissioners

Commissioner McGriff discussed downtown business concerns. This item would be added to the next City Commission Work Session.

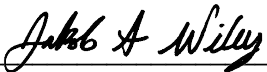
13. Mayor

Mayor Lyles Smith said the Willamette Falls Legacy Project partners met and decided to include the five tribes at the decision table.

14. ADJOURNMENT

Mayor Lyles Smith adjourned the meeting at 10:43 PM.

Respectfully submitted,



Jakob Wiley, Assistant City Recorder