



City of Oregon City

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Oregon City, OR 97045
503-657-0891

Meeting Minutes - Final City Commission

Doug Neeley, Mayor
Betty Mumm, Commission President
Kathy Roth, Rocky Smith, Jr., Carol Pauli

Wednesday, December 3, 2014

7:00 PM

Commission Chambers

1. Convene Regular Meeting and take Roll Call

Mayor Neeley called the meeting to order at 7:00 PM.

Present: 5 - Member Doug Neeley, Commissioner Rocky Smith, Commissioner Betty Mumm, Commissioner Carol Pauli and Commissioner Kathy Roth

Staffers: 13 - City Manager David Frasher, City Attorney Ed Sullivan, City Attorney William Kabeiseman, Police Chief and Public Safety Director James Band, Public Works Director John Lewis, Community Development Director Tony Konkol, Community Services Director Scott Archer, City Recorder Nancy Ide, Human Resources Director Jim Loeffler, Finance Director Wyatt Parno, Library Director Maureen Cole, Economic Development Manager Eric Underwood and Administrative Assistant Kattie Riggs

2. Flag Salute

3. Ceremonies, Proclamations

3a. Clackamas Heritage Partners' Annual Report

Gail Yazzolino and Dan Fowler presented the annual report for Clackamas Heritage Partners (CHP) and the End of the Oregon Trail Interpretive Center. They discussed the improvements made to the Center, funds that had been raised, partnerships, events held at the site, educational activities, and how they were preparing for future tourism in Oregon City.

Commissioner Smith hoped the next Commission would continue to discuss future tourism and how it tied in to economic growth. He was impressed with what had been happening at the Center and the partnership with CHP.

3b. Recognition of Edward J. Sullivan's 26 Years as City Attorney

David Frasher, City Manager, discussed the career of Ed Sullivan, City Attorney, who had served Oregon City for 26 years. He presented Mr. Sullivan with a plaque and gifts.

Mr. Sullivan thanked the Commission and staff. He gave recognition to his wife who was in the audience that night.

The Commission and staff thanked Mr. Sullivan for his humor, wisdom, and guidance and wished him well in his retirement.

Dan Holladay, resident of Oregon City, discussed his experiences working with Mr.

Sullivan as a former City Commissioner.

Bob Mahoney, resident of Oregon City, related stories about Mr. Sullivan's influence on land use law in Oregon.

4. Citizen Comments

There were no citizen comments.

5. Adoption of the Agenda

The agenda was adopted as presented.

6. Public Hearings

7. General Business

7a. Second Reading, Ordinance No. 14-1018: Adopting Changes to the Pavement Maintenance Utility Fee of Oregon City Municipal Code Chapter 13.30

John Lewis, Public Works Director, gave a brief history of the Pavement Maintenance Utility Fee (PMUF). Recently there had been issues with ambiguity in the Ordinance that created the PMUF. He reviewed the changes that were proposed.

Commissioner Mumm disclosed she had a conversation with Mr. Danielson earlier that day.

Chip Hudson of Lane Powell was appearing on behalf of Hilltop Mall. He introduced Craig Danielson and Chris Bremmer.

Craig Danielson, owner and manager of Hilltop Mall, said his attempts to seek judicial review of staff's determination with respect to his property had undermined what should have been an open public process and made it more difficult to communicate his larger concerns with the way this would impact shopping centers and he elected to dismiss the petition. He supported the PMUF and had served on the stakeholder citizen advisory committee. He explained some of the issues that were discussed by the committee especially in regard to how shopping centers were classified. He discovered the Hilltop Mall was being incorrectly classified and that different businesses in the shopping center were being assigned a different code as well. He did not realize this until December 2013. In the months that followed he worked with City staff to understand how the mall tenants were being billed. Staff thought classifying Hilltop Mall as a shopping center made the fees too low and he did not understand their approach. He thought the combined or internal trip factor was separate and not accounted for by other factors mentioned by staff such as pass by trips. The shopping center classification was the only logical bin for Hilltop based on the description in the Code. He thought any changes to the Ordinance should go through the stakeholder group and that staff should apply the Code as written. The proposed amendments seemed designed to negate the definition of shopping centers as a classification and to avoid uniform standards and leave all of the determination to staff. He thought any revision of the Code should have the primary objective of promoting an assessment system that was objective and easily understood and

applied instead of a case by case determination. He thought staff's interpretation contradicted the Code as it determined the mall had stand alone businesses with no internal trips. There needed to be a uniform standard that accounted for internal trips. He thought the issue deserved more discussion and community input and he asked the Commission to defer the second reading to allow for a reasonable legislative process.

Chris Bremmer, engineer with Kittelson and Associates, discussed a map he submitted with his written comments that showed how a pass by diverted primary and internal trips. The change proposed for a business by business assessment neglected to account for internal trips in a shopping center. The ordinance did allow for an appeal, which was easier for a stand alone business with one driveway. It was more difficult and expensive with a shopping center that had multiple ways in and out of the site and some people who drove through without stopping to connect to other public streets. He wanted the Commission to be aware of unintended consequences especially for these types of shopping centers and campus settings. He thought internal trips should be accounted for and there was data available to do that.

Mr. Hudson said they did not have an issue regarding the change from the 7th to 9th edition of the ITE manual. However there was an issue regarding the definition terms and direction to staff. The current definition of "parcel" was not ambiguous and he did not think there should be replacement of the word "parcel" with "property" as "property" was undefined. It should be an objective process, not on a case by case basis determined by staff. The amendment also created an undefined term "business type" and the concept of internal trips needed to be researched. He thought it was a public benefit to have internal trips and there was a large amount of parking available at the mall. He requested the Commission defer the second reading to allow for a more deliberate process.

Sue Stein of Stein Oil asked the Commission to consider the seriousness of the issue and defer the second reading to get more information and clarification. It was imperative to do things with clarity and to follow the process. She thought staff should take this to the Transportation Advisory Committee for more discussion.

Graham Peterson, resident of Oregon City, was concerned that internal trips were not credited for a place like Hilltop Mall. Internal trips existed and there needed to be consideration for them.

Amber Holveck, Executive Director of the Oregon City Chamber of Commerce, asked if internal trip factors were considered by the original task force. Staff said the changes would have no affect on the existing customer accounts for PMUF, and she wondered if staff had looked at possible impacts to shopping centers.

Commissioner Mumm said the original task force did not discuss internal trip factors.

William Gifford, resident of Oregon City, thought both sides were right. Because the law suit was dropped, there was no longer an urgency for the second reading. He thought it should be go through more process.

Mr. Sullivan said any term would have ambiguity and all required some judgment in their application. This was a short term issue related to an immediate problem that was raised by a law suit that was now dismissed. However the issue might be raised by others. It was up to the Commission to hold the Ordinance over or not. The longer term issues should be addressed by a committee and have a longer range look. Changing the word to "property" would not change the fact staff would have to make judgment calls, but there was an appeals process. If they wanted to look at the

whole ordinance, it should be referred to a committee.

Mr. Lewis said the internal trip factor was not part of the revisions to the Ordinance. He thought it was worth further discussion and consideration in the future. Staff was not implementing the Ordinance differently than what was discussed with the original task force and Commission. He explained how the Hill Top Mall had been classified at the beginning of the PMUF. When the PMUF was created, they agreed that rather than create a whole new methodology for billing, that it would be through utility accounts. They were still charging the same unit amount and it was classified as a shopping center. They were not proposing to change any of the shopping center classifications or how they were billed. He wanted it to be consistent.

Mayor Neeley clarified all this intended to do was make the language more understandable and to be consistent with the current billing process. He thought that internal trips should be revisited by the next Commission.

Commissioner Pauli agreed the new language was for clarification of how the Ordinance was already being applied. The second reading had already been held over, and she thought it was important to have a separate discussion to look at the internal and shared trip issue. She thought this would be a great topic for a Developer Workshop and that the bin number should be included on the bills.

Commissioner Roth did not think it was necessary to handle these as separate issues. Leaving ambiguous definitions up to staff as judgment calls left the City in a libelous position and decisions could change as staff changed. She did not want to set a precedent that things were changed to avoid law suits or legal actions. She wanted to revise the Ordinance correctly and in clear public view. She thought it should be held over for further review and input.

Commissioner Mumm said the internal trips issue was not discussed when PMUF was created, and it should be reviewed by the new Commission.

A motion was made by Commissioner Smith, seconded by Mayor Neeley, to approve the second reading and final adoption of Ordinance No. 14-1018: adopting changes to the Pavement Maintenance Utility Fee of Oregon City Municipal Code Chapter 13.30. The motion carried by the following vote:

Aye: 4 - Member Doug Neeley, Commissioner Rocky Smith, Commissioner Betty Mumm and Commissioner Carol Pauli

Nay: 1 - Commissioner Kathy Roth

8. Consent Agenda

A motion was made by Commissioner Mumm, seconded by Commissioner Pauli, to approve the consent agenda. The motion carried by the following vote:

Aye: 5 - Member Doug Neeley, Commissioner Rocky Smith, Commissioner Betty Mumm, Commissioner Carol Pauli and Commissioner Kathy Roth

8a. Resolution No. 14-32, Establishing Annual Inflationary Adjustments for Water Rates

8b. Election Results for the November 4, 2014 General Election as Certified by Clackamas County Clerk for Mayor, City Commissioner Positions No. 1 and 4, and Ballot Measure 3-463.

8c. Minutes of the November 5, 2014 Regular Meeting

9. Communications

a. City Manager

Tony Konkol, Community Development Director, gave an update on the Willamette Falls Legacy Project. Staff was working on items required to receive the five million dollar appropriation from the Governor's budget. He thought they would be able to meet the deadlines for the funding.

b. Mayor

There was no Mayor's report.

c. Commission

Commissioner Pauli said the tree lighting ceremony downtown would be held on December 6. The Snowflake Raffle was still continuing and she encouraged everyone to buy local. The Friends of the Oregon City Library Luncheon would be held on December 4.

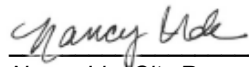
Commissioner Mumm said the next C-4 meeting would be held on December 4.

Commissioner Smith reported on the Ermatinger House renovation. The High School play, A Christmas Carol, would be running December 10-13. One of the High School choirs would be performing downtown on December 13 as well.

10. Adjournment

Mayor Neeley adjourned the meeting at 8:55 PM.

Respectfully submitted,



Nancy Ide, City Recorder