

**CITY OF THE DALLES
CITY COUNCIL AND
PLANNING COMMISSION
JOINT WORK SESSION MINUTES
Thursday, July 18, 2013
City Hall Council Chambers
313 Court Street
The Dalles, Oregon 97058
Conducted in a handicap accessible room
6:00 p.m.**

CALL TO ORDER:

Chair Lavier called the meeting to order at 6:00 p.m.

ROLL CALL:

COMMISSIONERS PRESENT:

Bruce Lavier, Rob Raschio, Chris Zukin, Dennis Whitehouse, Jeff Stiles, Mark Poppoff

COMMISSIONERS ABSENT:

Mike Zingg

COUNCIL PRESENT:

Mayor Lawrence, Bill Dick, Carolyn Wood, Tim McGlothlin, Dan Spatz, Linda Miller

COUNCIL ABSENT:

None

STAFF MEMBERS PRESENT:

City Manager Nolan Young, City Attorney Gene Parker, Planning Director Richard Gassman, Administrative Secretary Carole Trautman

APPROVAL OF AGENDA:

It was moved by Raschio and seconded by Whitehouse to approve the agenda as submitted. The motion carried unanimously; Zingg was absent.

APPROVAL OF MINUTES:

Chair Lavier requested that Commissioner Poppoff be noted as present at the June 6, 2013 meeting. It was moved by Zukin and seconded by Raschio to approve the June 6, 2013 minutes as amended. The motion carried unanimously; Zingg was absent.

WORK SESSION:

Director Gassman highlighted the staff memorandum regarding residential infill, especially as it related to facilitating development and satisfying City standards. Gassman pointed out the goals of the session (page 2) which were: 1) discussion on the effects of HB 3479 and potential subsequent City code changes; and 2) general guidance from the joint group regarding the eight items listed in the memorandum that pertained to minor partitions and building permits.

Mayor Lawrence said this work session was called in response to reading the Planning Commission's April 4, 2013 meeting minutes wherein the City Council's directive was not passed by the Planning Commission.

Lawrence stated he would be more interested in having a broad-based discussion at this work session rather than working out the “nuts and bolts” issues listed in the staff memorandum. Two items of discussion he wished to discuss were: 1) the intent of the recent legislation, HB 3479; and 2) to identify if there was a difference between City and rural area development. Lawrence stated the Planning Commission dealt with the law and applied it. The Council was concerned with philosophy and goals of development. He commented that another question in his mind was to understand how much of the current Land Use and Development Ordinance (LUDO) was mandated by the state, especially in respect to definitions. For instance, did the term “developer” include a property owner?

Councilor Wood noted that a task force was formed in 2006 that reviewed the LUDO regarding these matters. Wood wondered if similar or different results would be reached with the formation of another task force. Councilor Dick suggested that one potentially easy solution could be to allow minor partitioning in the residential urban growth area (UGB) without requiring any improvements at the time of the minor partition application. He said improvement costs could be discussed later, possibly at the time the partitioned parcels were developed. Councilors McGlothlin and Miller agreed with Dick’s statement.

Commissioner Zukin said the Planning Commission looked at the Council’s directive at the April 4th meeting and agreed it was an easy solution for the moment, but it did not resolve the entire issue of development, i.e. waivers of remonstrance, the elimination of “spot development,” full improvements, etc. Zukin believed the 2006 task force did not fix the problems.

Councilor Spatz said the Council could develop philosophy, and staff could develop the mechanics for implementing policy. He suggested three goals: 1) encourage residential infill city wide; 2) do so in such a fashion that it did not create economic disincentives for landowners seeking to partition large lots; and 3) do so in such a fashion that taxpayers city wide do not ultimately subsidize minor partition landowners’ improvements. Commissioner Zukin agreed and noted that a process also needed to be added that would not create disincentives for development. City Manager Young recommended utilizing the Planning Commission as a task force. He felt the Commission had the experience in dealing with the LUDO to address the issues and work through the process. The Planning Commission would then bring its findings before City Council, Young stated. Regarding Councilor Dick’s suggestion of drawing a line and not calling it development, Young said that it would be a good first step to give staff some direction on developing some mechanics and recommendations that could be brought back to the Planning Commission so they could begin to resolve some of the partition issues relating to the intent of the House Bill. He said the entire process could possibly be reviewed later on.

Mayor Lawrence asked if the process should be for staff to work with the Planning Commission (like a task force), take it back to City Council, and not go through the Planning Commission decision-making process formally. Or have Council set policy first, then have the Planning Commission work on the mechanics. City Manager Young suggested allowing the Planning Commission to develop the ideas, work with the public, then meet with the Council in another joint work session. Then the Planning Commission could develop a recommendation and go through the hearing process. Young noted that land use ordinances required due process to become policy. Commissioner Stiles said he was concerned that the process would take a long time, and there were people waiting for remedies. Young said the Council or Planning Commission could identify the issues that needed immediate attention, such as partitioning, and handle them simultaneously with the long term issues. For instance, state law and LUDO required charging a fee for partitions in the UGB, which needed to be administered because it was current law. Also, current laws required a building permit fee in the UGB, and there was a concern about not charging that fee any longer. The law would need to be changed, Young said. Chair Lavier commented that changing an ordinance was a similar process to making annual LUDO amendments. Planning Director Gassman said this process would take a little longer, because the amendments would be more complex in nature. They would require more notice to the public, and the public would be more involved.

Mayor Lawrence asked for a schematic of the process. City Manager Young presented a verbal schematic as follows: The work session gives general and/or specific instruction to staff (two different paths). For specific instruction: 1) staff would prepare information for a Planning Commission hearing; 2) there would be a City Council hearing; 3) City Council would adopt LUDO amendments. For general instructions: 1) staff would gather information, bring findings back to the Planning Commission and workshops as often as needed; 2) the Planning Commission would put together a recommendation with alternatives that would go back to a joint session workshop to address policy differences; 3) Planning Commission hearing; 4) City Council hearing; 5) City Council would adopt LUDO amendments.

Commissioner Raschio asked what other cities, comparable in size, had done about development issues. Young said the City's Administrative Fellow prepared a study of six cities, and the policies and methods varied. McGlothlin said he called some cities and learned that many cities were not experiencing growth.

Councilor McGlothlin asked how many potential requests for partitions existed. Gassman said there were three potential areas for partitioning—the east, south, and west sides of town; the largest area was on the east side. He said there were lots throughout town that were capable of being partitioned.

Randy Hagar, 2804 East 10th Street, The Dalles, Oregon, stated he had partitioning paperwork he had been waiting on for seven years to see how the decisions would go. Councilor Spatz said he doubted there were lots in town in the same situation as the people with large lots on the east side. Director Gassman said he would hesitate to make that statement. However, he advised the group that he knew of two individuals that were working on two separate subdivision projects. With potential changes in requirements, Gassman stated, these individuals were looking at minor partitioning rather than subdividing, because the House Bill changes seemed easier and less expensive. Councilor McGlothlin said he objected to the definition of “developer” to include both property owners and developers. He believed the language should be separated and that subdivision applicants should be considered as developers.

Jerry Johnson, 3102 East 13th Street, The Dalles, Oregon, stated he owned 4.5 acres on the east side. To divide one corner of his property, he was told the City needed one-third of it to develop right-of-ways. To say partitioning was “just drawing a line on the map” was not correct, Johnson said. He felt there was more to it than that. Property owners on the east side were previously under the County's jurisdiction and paid for the County's improvement standards. Now the City wanted the property owners to pay for City standards without other taxpayers paying anything. He said some people on the east side didn't want the City out there. Johnson said if the City wanted to come out, then they should “bring their checkbooks.” He has wanted to purchase his father's corner parcel for 10 years, but he could not afford it.

Mayor Lawrence asked why the rural roads had to meet City standards. He asked for Council's feedback on his opinion that a partition should be a partition, with no up-front charges required at the time of minor partition, sale, or building permits. He thought maybe the rural roads should stay rural, and why was the City imposing all new roads with sidewalks and curbs? Councilor Dick said that it was complicated, and he urged the group to come back to the House Bill and the minor partition issue. Councilor Wood reminded the group that the east side of town needed to comply with the Clean Water Act; there was currently a water drainage issue. Wood also stated that recorded non-remonstrance agreements were placed on the lien docket for future land buyers to be aware of any obligations. Future non-remonstrance agreements could be placed on the docket as well.

City Manager Young summarized the group's general consensus thus far: 1) individuals could, under the laws of minor partitioning, make a minor partition without any obligation being attached to unimproved property; and 2) the House Bill allowed the City to charge a fee, but the group's wish was to not tie any obligation to the property at the time of minor partitioning. Young said staff recommended considering the delayed development agreement at the time of minor partitioning as a matter of record that eventually some improvements could be made. Mayor Lawrence replied that the delayed development agreement was just a non-remonstrance agreement with another name. City Manager Young disagreed and explained that a non-remonstrance agreement was associated with local improvement districts, and a delayed development agreement

acknowledged the fact that there was an obligation to develop the street to standards at some point in time. Staff felt the two processes were different, and the delayed development agreement conformed to the law. Councilor Wood stated she felt the delayed development agreement should be included so property owners would be notified of possible future development costs.

Rodger Nichols, 1617 Oregon Street, The Dalles, Oregon, said there was a philosophical difference between telling a person that they would be required to pay for improvements sometime later on, such as a delayed development agreement, and signing something such as the non-remonstrance agreement. Mayor Lawrence said he believed the two processes were similar because they both assumed the rural roads would be brought up to City standards, and the property owners would be waiving their rights to object to the improvements later on. For the Council to agree to the delayed development agreement would be making a statement that rural roads would be improved, and Lawrence thought perhaps some rural roads should remain as is.

Commissioner Stiles said it would make more sense to put the burden on the property owner that would develop the land. To place an obligation on undeveloped land at the time of minor partitioning would detract from future development. City Manager Young commented that staff recommended adding the delayed development agreements now, because if they were not required now, it would be impossible to obtain later. Regarding the question on why rural streets would need to come up to urban standards, Young said two words—"Thompson Street." The street was almost fully developed and not brought up to standards, and it was not a good situation, he said.

Commissioner Zukin asked if street improvements could be required at the time of a building permit if there was no delayed development agreement at the time of minor partitioning. City Manager Young said it was possible, but without attaching something to the property, there would be a potential of a person considering purchasing a parcel of land for development without any knowledge of future street improvement expenses. With the delayed development agreement, Young said, the title report would show the obligation at the time of purchase. Councilor Dick said every deed in the State had a warning that property usage must be approved by the local planning jurisdiction. He preferred to allow the minor partitioning without improvement obligations and require improvements at the time of development. Dick spoke to the audience and stated there should be a clear understanding that development of minor partitions would not take place unless improvements were made.

Director Gassman estimated there had been approximately 10 minor partitions completed since 2006 or 2007, and an equal amount of people came in and started the process but never finished because of costs. Twice as many people had come in, inquired and left, he said.

Councilor McGlothlin suggested the formation of an engineering LID that would create an entire project where major arterials would be identified so there would at least be some programmed growth to feed traffic. He suggested that the "branches" to the identified arterials could be the rural roads that would not necessarily be required to meet the urban street standards.

City Manager Young summarized the group's directives as follows: 1) prepare LUDO changes that allow minor partitions to take place without any obligation for improvements at that point; 2) formulate "cleanups" to HB 3479 to correct the application from "city limits only" to "city limits and the UGB"; 3) remove partitioning fees and the non-remonstrance agreements at the time of minor partitioning; and 4) change the definition of development to not include minor partitions.

Councilor Spatz asked for a timeline for the changes. Director Gassman said two to three months at the earliest.

Bob Perkins, 2845 East 10th Street, The Dalles, Oregon, asked why HB 3479 came about and what the message was. Chair Lavier said he believed the House Bill came about because the City did not have enough time to work through solutions.

Jerry Johnson, 3102 East 13th Street, The Dalles, Oregon, asked who would pay for improvements on the west side of town. City Manager Young said, under the current LUDO, the people developing the property were obligated to pay the costs.

Larry Loop, 980 Morton Street, The Dalles, Oregon, stated that when he purchased his property in 1996, there was no 9th Street. He had no notification of obligation to pay for Morton Street improvements, and now he could not pay. He felt the improvements were the City's problem, not the property owner's problem.

Heather Thompson, 4405 Highway 30 West, The Dalles, Oregon, said she had heard a lot of people talk about property development, costs, and prices. She felt there was a philosophical issue to address regarding the safety of pedestrians, especially children.

COMMISSIONER/STAFF COMMENTS:

Randy Hagar announced there will be a town hall meeting on Thursday, August 8, 2013, regarding HB 3479 issues, that would be open to the public. The meeting will be held at the college theater at 6:00 p.m. Commissioner Raschio advised that Representative Huffman and Mr. Hunnicutt would be in attendance.

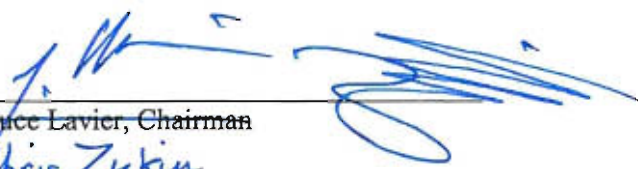
NEXT MEETING:

The August 1, 2013 Planning Commission meeting was cancelled, and there will be a specially-scheduled meeting on Thursday, August 22, 2013 at 6:00 p.m. regarding Comprehensive Plan and Zone Ordinance amendments.

ADJOURNMENT:

Chair Lavier adjourned the meeting at 7:45 p.m.

Respectfully submitted by Carole J. Trautman, Administrative Secretary



Bruce Lavier, Chairman
Chris Zukin
Acting Chair