



CITY COUNCIL REGULAR MEETING
MINUTES
November 17, 2015

1. CALL TO ORDER

Council President O'Neill called the regular City Council meeting to order at 6:31 p.m. on November 17, 2015, in the City Council Chambers, 380 A Avenue.

2. ROLL CALL

Present: Councilors Buck, Collins, Gustafson, Manz, and O'Neill. Mayor Studebaker was present by phone.

Excused: Councilor Gudman. Councilor Gudman called in for the executive session.

Staff Present: Scott Lazenby, City Manager; David Powell, City Attorney; Anne-Marie Simpson, City Recorder; Scot Siegel, Director Planning and Building Services, and Project Manager for the Natural Resources Plan and Sensitive Lands Code Revisions; Leslie Hamilton, Senior Planner; Evan Boone, Deputy City Attorney; Leslie Taylor, Communications Manager, Police Department; Larry Goff, Assistant Fire Chief; Erica Rooney, City Engineer

3. PLEDGE OF ALLIANCE

Council President O'Neill asked for a moment of silence in honor of the terrorist attacks in Paris, and City employee Gary Abraha who lost his life earlier today. Council President O'Neill led the Council in the Pledge of Allegiance.

4. CONSENT AGENDA

Councilor Buck moved the Consent Agenda. Councilor Manz seconded the motion. A voice vote was taken, and the motion passed with Mayor Studebaker and Councilors Collins, Buck, Gudman, Gustafson, Manz and O'Neill voting 'aye.' (6-0)

4.1 Approval of Meeting Minutes

4.1.1 October 6, 2015

4.1.2 October 13, 2015

Motion: Approve minutes as written.

Report and Attachment

4.2 **Ordinance 2681, An Ordinance of the Lake Oswego City Council Granting a Nonexclusive Telecommunications Services Franchise to Astound BroadBand, LLC**

Motion: Enact Ordinance 2681.

Report and Attachment

END CONSENT AGENDA

No items were removed from the consent agenda.

5. CITIZEN COMMENT

► **Gordon Rabing – 16962 Kara Lane, Lake Oswego, OR 97035 – Light pollution**

Mr. Rabing noted that his family has a problem with light trespass, which is a common problem in the United States. A lot of communities are developing policies to address the issue. He has tried to address the issue with his neighbors without success. The neighbor's attitude is that there is no law against it. Various jurisdictions have enacted ordinances, and he provided examples to Council. He asks Council to take this under consideration. **Councilor Manz** indicated she had heard about this issue from other residents and very much appreciated his research.

Councilor Collins asked if City Attorney Powell could provide information about the issue at a future meeting. **Mr. Powell** indicated he would be glad to look at what has been done and provide some options.

Mr. Rabing indicated that Wilsonville's ordinance had served as a model for many communities.

Mr. Lazenby indicated he thought a study session on the topic would be helpful if Council wanted to consider the issue.

5.1 Prior Public Comment Follow-Up

There was no prior public comment follow-up.

6. PUBLIC HEARINGS

6.1 Ordinance 2687, An Ordinance of the Lake Oswego City Council Amending the Comprehensive Plan and Zoning Maps, the Comprehensive Plan Text, the Community Development Code and Related Code Cross-References, to Create Changes to the Natural Resources Program and Sensitive Lands Implementing Regulations, and Adopting Findings (LU 15-0019)

Review of Hearing Procedure

Mr. Powell reviewed the hearing procedure.

Staff Report

Mr. Siegel presented the staff report. He noted the study session on November 3. He gave a presentation on the Natural Resources Program and Sensitive Lands revisions, LU 15-0019. He noted that Ordinance 2687 contained three elements: it amends the Comprehensive Plan (Healthy Ecosystems), the Comprehensive Plan Map and Zoning Map for Sensitive Lands districts, and City code. **Mr. Siegel** reviewed the process that the Planning Commission, Council, and staff have gone through in the past year and then outlined the hearing materials for the evening. Staff worked to adhere to the direction provided by the City Council, including the direction to reduce the burden on private property owners when possible, and maintain compliance with Metro and State law. This ordinance works to correct RP District Mapping, apply designations consistently, address gaps in resource protection, address upland habitat as allowed under Metro code, and to streamline and unify Sensitive Lands provisions under City Code. The proposal adds protections for public and private open space. **Mr. Siegel** discussed incentives. He summarized the program and process improvements. He also reviewed points and questions raised in testimony that were submitted to the City Council electronically. The net result is that there is a reduction in the number of properties subject to Sensitive Lands regulations. He noted that the Total Maximum Daily Load (TMDL) Implementation Plan has been approved but is not before Council this evening.

Mr. Siegel indicated that the Planning Commission recommends approval. They have additional recommendations, including that Council consider a tax reduction program for Sensitive Lands properties. They also recommended that Council provide direction to staff to resume evaluation of annexed properties or annexation proposals for consistency with the Sensitive Lands code.

Councilor Buck referred to the issue of annexation and asked if the City should be concerned about property that is changed in advance of a request for annexation. **Mr. Siegel** indicated that changing a property in advance of requesting annexation could happen, but the property owner would be incurring a risk as it could restrict their ability to annex and requires mitigation. Illegal fill of wetland is governed by the county. The tax reduction program is administered by the

Department of Fish and Wildlife (DFW). The staff at DFW is interested in working with the City. If the City develops a template and policy guide, DFW will support the City on this. DFW has indicated they would be more inclined to support a program that focuses on those areas where the City is removing regulations than one that focuses on areas where the City is maintaining current regulations. They see it as a way to provide incentives for restoration and protection that might otherwise not occur.

Councilor Manz noted the Measure 56 issue brought up by LO Stewards, and asked if the City has complied. **Mr. Powell** reviewed the mailing that had been done and mailing that had not been done. **Mr. Siegel and Mr. Powell** indicated that the mailing requirements were met; not all property owners who are affected by the measure are required to be noticed. **Councilor Manz** wondered about the Stewards comment about the HBA that it was "likely to become regulatory." She wondered why this was so. **Mr. Siegel** indicated that DEQ is satisfied with the proposal that is before Council. Neither DEQ nor Metro is looking to make the HBA regulatory. **Mr. Powell** indicated that the HBA areas are regulated now. Making them incentive areas does not do anything to make them more likely to be regulated in the future. **Mayor Studebaker** indicated he would like to see the requirement for native plants item be removed from the ordinance. Standards in Attachment D of the ordinance require selection from a large native plant list when mitigation is required. **Mr. Lazenby** noted that landscaping that is not required for mitigation is not required to be native.

Testimony

► **Christopher Koback – 520 SW Yamhill St., Portland, OR – attorney representing property owners at 7 and 8-10 Centerpointe Drive, Lake Oswego, OR**

Mr. Koback submitted a letter earlier today. He had a request regarding the mapping of the development. His clients would like certainty and request removal of a portion of their driveway and parking lot from regulation. **Mr. Siegel** indicated that an adjustment to the mapping is a GIS analysis. **Mr. Powell** outlined the issues; he believes Mr. Koback's issues should not affect the process this evening, but are an individual situation to be addressed at another time.

► **Gregory McMurray – 4745 Oakridge Road, Lake Oswego, OR – native vs. non-native plants**

Mr. McMurray indicated his experience on the original Second Look Task Force for Sensitive Lands, the Watershed Council, and the Natural Resources Advisory Board. He clarified the significance of native plants vs. non-native.

► **Cap Hedges – 11950 Breyman Avenue, Portland, OR and owns property in Glenmorrie**

Mr. Hedges spoke in support of the ordinance.

Council President O'Neill closed the public hearing as there was no further testimony.

Questions of Staff

There were no questions of staff.

Councilor Buck moved to tentatively approve LU 15-0019 and direct staff to present the final version of Ordinance 2687, including findings and conclusions, for enactment on December 15, 2015. **Councilor Collins** seconded the motion.

Councilor Gustafson offered a friendly amendment to include the recommendation by the Planning Commission to direct the city manager to evaluate annexed lots consistent with the provisions in the Sensitive Lands code. The amendment was accepted.

Councilor Buck indicated he believed this ordinance provides a good balance at meeting the City's obligations. **Councilor Manz** thanked the citizens and staff who had contributed time and energy to developing the ordinance.

A roll call vote was held, and the motion passed with Mayor Studebaker and Councilors Buck, Collins, Gustafson, Manz, and O'Neill voting 'aye.' (6-0)

Report and Attachment

(Council recessed 7:55 p.m. to 8:04 p.m.)

- 6.2 **Ordinance 2668, An Ordinance of the Lake Oswego City Council Amending LOC Chapter 50 (Community Development Code) for the Purpose of Clarifying, Correcting and Updating Various Provisions (2015), Including Screening of Parking Areas, Restoration of Text; and Lot Depth Definition; and Adopting Findings (LU 15-0011)**

Review of Hearing Procedure

Mr. Powell reviewed the hearing procedure. He asked if any Councilor wanted to make a declaration regarding conflicts of interest. There were none.

Staff Report

Ms. Hamilton presented the staff report. She outlined the sixteen amendments and provided detail on a few items. The amendment clarifies when parking needs to be screened, other parking requirements, and building permits and other items related to fence height.

Questions of Staff

Councilor Manz asked when the ordinance would go into effect. **Mr. Powell** indicated the ordinance would go into effect January 1.

Testimony

There was no testimony.

Councilor Buck moved to tentatively approve Ordinance 2668 and direct staff to present the final version of Ordinance 2668, including findings and conclusions, for enactment on December 1, 2015. **Councilor Manz** seconded the motion.

A roll call vote was held, and the motion passed, with Mayor Studebaker and Councilors Buck, Collins, Gustafson, Manz, and O'Neill voting 'aye.' (6-0)

Report and Attachments

- 6.3 **Ordinance 2688, An Ordinance of the Lake Oswego City Council Clarifying, Revising, and Updating LOC 11.02.130 (Time for Filing Petition), LOC Article 12.02 (City Council), LOC 32.10.560 (Time Limits for Trains Obstructing Highways.), LOC Article 42.03 (Street Design Standards), 42.04.110 (Permit to Construct, Alter, Etc.), and LOC 42.18.1010 (Encroachments Within Public Rights-of-Way/Easements)**

Review of Hearing Procedure

Mr. Powell reviewed the hearing procedure. He asked if any Councilor wished to make any declaration regarding a conflict of interest. There were none.

Staff Report

Mr. Boone presented the staff report. He discussed code maintenance items to clarify the code and make it easier to administer. **Mr. Boone** indicated he had discussed this with Mr. Powell, and they thought Council shouldn't vote directly to do 12.02.060 (Council member's expense allowance) and that it should be pulled from the ordinance because of a conflict of interest, or that the effective date should be in four years. **Mr. Powell** indicated that the finance director had said 12.02.060 was not a major issue and could be pulled from the ordinance.

Councilor Manz moved to eliminate the amendment to 12.02.060 from the proposed Ordinance 2688. **Council President O'Neill** seconded the motion.

A voice vote was held, and the motion passed with Mayor Studebaker and Councilors Buck, Collins, Gustafson, Manz, and O'Neill voting 'aye.' (6-0)

Mr. Boone noted that other issues had to do with the time required for filing petitions to run for a Council position, for people commenting during Council citizen comments not having to state their address for reasons of security and privacy, and the time limit for trains obstructing public highways.

Council President O'Neill asked if citizens could state their general neighborhood. **Mr. Boone** noted that the Planning Commission and the Development Review Commission (DRC) indicate the general vicinity of their residence in order to provide context to their testimony. **Councilor Buck** asked if this just applied to Council meetings or to the Planning Commission and DRC as well. **Mr. Boone** indicated this code provision just applies to City Council. There is no code provision requiring people offering testimony to the Planning Commission or DRC to state their address. **Councilor Buck** indicated he thought not requiring people to give their address was a good idea. **Councilor Manz** concurred.

Ms. Rooney indicated the Engineering Department had some changes to streamline and clarify code. There were no substantive changes.

Councilor Gustafson was concerned about the removal of a requirement for "aesthetic" considerations, and replacement with "compatible with abutting roadway characteristics." **Ms. Rooney** noted that "abutting roadway characteristics" takes a number of objective details into consideration, whereas "aesthetic" is more of a subjective opinion.

Testimony

There was no testimony.

Councilor Gustafson moved to tentatively approve Ordinance 2688 and request that it be brought back for final adoption on December 1. Councilor Manz seconded the motion.

A voice vote was held, and the motion passed with Mayor Studebaker and Councilors Buck, Collins, Gustafson, Manz, and O'Neill voting 'aye.' (6-0)

Report and Attachments

7. COUNCIL BUSINESS

7.1 Public Safety Communication System

Ms. Taylor and Mr. Goff discussed this item. Members of the C800 Executive Planning Committee, an intergovernmental agency serving Clackamas County organization with a radio system, include Lake Oswego's chiefs of the Police and Fire Departments. The public safety communication system is a critical component of the City's public safety program. The current radio system is out of date, out of support, and needs to be replaced. The Committee has been working to plan the system's replacement in an efficient and fiscally responsible way. **Ms. Taylor** provided details of the plans for a new system.

Clackamas County Commission is supportive of a bond measure for \$58,704,000; County staff is working on a bond proposal for the May 2016 ballot. The fiscal impact is dramatic: \$667,000 annually for ten years for Lake Oswego if the bond is not successful.

Council President O'Neill received confirmation from **Ms. Taylor** that this is about 10 cents per thousand. **Councilor Gustafson** asked the status of surrounding counties; he noted that Washington County is considering a similar bond for a similar radio system. **Ms. Taylor** indicated that Multnomah County recently passed a bond, probably in 2013, to replace their system.

Councilor Gustafson asked if the new system would communicate well with the systems in Washington and Multnomah County. **Ms. Taylor** indicated it would. **Councilor Collins** wondered about the timing of the bond. **Ms. Taylor** indicated there were fewer competing bond measures in May. **Councilor Buck** asked how much infrastructure would be in Lake Oswego. **Ms. Taylor** said

there was little infrastructure in Lake Oswego. **Mr. Lazenby** indicated this bond would not cover the mobile units that officers carry. However, replacement units the Police Department has been purchasing are compatible with the new system. **Councilor Manz** asked about emergency back-up in the case of a catastrophic emergency. **Ms. Taylor** indicated there was back-up, and the City would be able to connect to Multnomah County's system.

Report and Attachment

8. **EXECUTIVE SESSION: under authority of ORS 192.660 (2)(e) to conduct deliberations with persons designed to negotiate real property transactions; and (2)(f) to consider records that are exempt by law from public inspection.**

The Council convened in executive session at 8:41 p.m. under the authority of ORS 192.660 (2) (e) to conduct deliberations with persons designated to negotiate real property transactions; and ORS 192.660 (2) (f) to consider records that are exempt by law from public inspection. **Councilor Gudman** called in to the session and **Mayor Studebaker** remained on the phone. Both **Mayor Studebaker and Councilor Gudman** hung up and left the meeting at 9:28 p.m.

The Council reconvened in open session at 9:28 p.m.

9. **INFORMATION FROM COUNCIL**

Councilor Manz shared some of her experience at the National League of Cities conference. She indicated she had received information about the sharing economy and Airbnb, Uber, and Lyft. She also received information about drones, attracting creative innovators, the influence of social media in local government, and conflicts between infill and historic resources. Other information was received on national hot legislative topics: elections, drones, e-cigarettes, narcotics, micro-beads and the waterways, economic development, union PACs, transportation, and immigration. She indicated that the National League of Cities has a multi-city innovation campaign which Lake Oswego may want to look at in the future. The issues regarding drones were whether to regulate them and concern about privacy issues.

Councilor Gustafson noted that Uber brings its own concerns, including traffic and pollution. The sharing economy was widely discussed. Topics at the conference were very relevant to what local elected officials are facing: transparency, engagement, increasing broadband access, municipal bonds, and fiscal health. The conference provided good continuing education for being on Council. He compared the specific issues some jurisdictions have that Lake Oswego shares. Part of the big picture takeaway was that cities used to think about attracting employers to their town. Now they need to attract employees. He noted that one city providing broadband was streaming kids sports games from security cameras at park facilities.

Councilor Buck noted that youth involvement and engagement and their benefits were topics at the conference. A youth delegation attends every conference.

Councilor Buck noted that the Parks and Recreation Advisory Board and the Natural Resources Advisory Board are exploring the idea of combining to form a new board. Their meetings have been joined, and they are working on putting together a description for their new board. The Arts Council has requested to join the boards and commissions summit. **Councilor Buck** would like to see Councilors discuss liaison engagement training.

Councilor Manz noted that the 50+ group has been sending liaisons from their group to other groups to see what other groups are working on. The Historic Resources Advisory Board has ten applicants for new members. **Council President O'Neill** reported that the Tree Committee met last night and had a productive meeting. The SW Employment Plan is seeing progress and will go before the Planning Commission soon.

10. **REPORTS OF OFFICERS**

Mr. Lazenby reported the Metro Council may hold their final hearing on the Stafford urban reserve remand on Thursday. Lake Oswego was not a party to the suit but it has assisted West Linn and

Tualatin and supported them in getting information on the record. There are questions about the adequacy of transportation. This is not inconsistent with Council's position on Stafford. Lake Oswego will get its position on the record.

Councilor Gustafson requested an update on the Laurel Street project. **Councilor Manz** has spoken with staff regarding Laurel Street. Various issues have caused a delayed reopening. The current projection is to open the street to traffic again on November 30, with flaggers.

11. ADJOURNMENT

Council President O'Neill adjourned the meeting at 9.55 p.m.

Respectfully submitted,

Anne-Marie Simpson
Anne-Marie Simpson, City Recorder

APPROVED BY THE CITY COUNCIL: ON <u>January 5, 2016</u> <u>Kent Studebaker</u> Kent Studebaker, Mayor
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