

PLANNING COMMISSION MINUTES
September 8, 2011
7 p.m. Regular Meeting
Newberg Public Safety Building
401 E. Third Street

TO BE APPROVED AT THE OCTOBER 13, 2011 PLANNING COMMISSION MEETING

I. ROLL CALL:

Present:	Philip Smith, Chair Lon Wall Cathy Stuhr	Thomas Barnes, Vice Chair Gary Bliss Kale Rogers, Student PC
Absent:	Allyn Edwards (excused)	Art Smith (excused)
Staff Present:	Mayor Bob Andrews Barton Brierley, Building & Planning Director DawnKaren Bevill, Minutes Recorder	

II. OPEN MEETING:

Chair Smith opened the meeting at 7:00 p.m. and asked for roll call.

III. CONSENT CALENDAR:

Chair Smith entertained a motion to accept the minutes of the August 11, 2011 meeting.

MOTION #1: Barnes/Wall approve the minutes from the Planning Commission Meeting of August 11, 2011. (5 Yes/ 0 No/ 2 Absent [Edwards, Art Smith]) Motion carried.

Commissioner Rogers apologized for not attending the previous meeting. Mr. Brierley said Commissioner Rogers had left a message before the meeting requesting to be excused.

IV. COMMUNICATIONS FROM THE FLOOR:

No items were brought forward.

V. WORKSHOP: PLANNING COMMISSION GUIDELINES – Review of existing and proposed policies regarding attendance, how meetings are conducted, public testimony, and other issues.

Mr. Brierley gave the background for the proposal which provides a documented reference for future Planning Commission meetings and procedures. The rules and guidelines were drafted using the City of Newberg's City Council's guidelines. Mr. Brierley passed out written comment received from Mr. John Bridges of Brown, Tarlow, Bridges, Palmer & Stone, PC.

Absences/Expected Absences: The Commission should decide how to formally recognize an excused absence and how to proceed if a commissioner is frequently absent. If a member knows they will be absent from an upcoming meeting, it is their responsibility to notify the Chair or Planning Director prior

to a meeting. After notice has been given, it is up to the Chair or presiding officer to determine if the absence is “excused” or “unexcused.”

Discussion:

Commissioner Stuhr stated there has been much discussion especially on who would be notified. She thinks it appropriate to contact the Planning Director due to the issue of a quorum.

Chair Smith suggested a generous definition for excused absences by informing the Planning Director ahead of time. A certain number should be stated for unexcused absences and excused absences. If that amount is surpassed, then the Planning Commissioner should be replaced by the City Council. Chair Smith suggested calling it notified/un-notified absences instead of excused or unexcused.

Mayor Bob Andrews asked if it would be okay to just call in without a good reason to be absent. Chair Smith explained he did not want to judge on what is a good excuse or not. An excused absence has never been challenged by the Planning Commission.

Bob Andrews asked what has been the experience with absenteeism. Chair Smith said there was one commission member that was frequently absent. Bob Andrews asked if the Council had been told about that. Barton Brierley stated the City Council had been made aware of it.

Lack of Quorum: If there is a lack of quorum at the scheduled meeting, the hearing shall be continued to the next scheduled Planning Commission meeting by announcement to those present or by posting notice of such continuance prominently at the meeting location.

Bob Andrews suggested with a volunteer committee, it would be inappropriate to have a call of the house.

Voting & Voting Options: According to the City Council guidelines, in quasi-judicial matters, members are required to explain at meetings the reason for their vote. Abstain with good cause: If a member abstains with good cause should that be enough or will they still be subject to explain their answer? Need to define the term “good cause.” Abstain with no explanation: Allow members to abstain without any explanation? This might be appropriate in the situation of one member not fully grasping the issue at hand, but the rest of the members are ready to vote. Abstain and explain reasons for abstention: The Commission could allow an abstention but require the member to explain why they abstain.

Discussion:

Chair Smith asked why the distinction between the quasi-judicial and legislative. Barton Brierley explained because a vote is needed on the quasi-judicial matters. Chair Smith believes it is fair for each member to explain their vote on quasi-judicial matters as well as abstain as long as they explain why.

Bob Andrews stated there was a period when there were one or more Councilors that would abstain without explanation if they disagreed. His experience with the Planning Commission has been the practice of explaining each vote.

Commissioner Wall agrees with Chair Smith. Commissioners should be able to abstain as long as it is not abused. Requiring explanations is good public policy in relating to audience members and applicants.

Commissioner Bliss agrees an explanation is needed in regard to criteria.

Mayor as Ex-Officio Member of Planning Commission: By code, the Mayor serves as a non-voting ex-officio member of the Planning Commission. The Mayor shall be invited to, but is not obligated to, attend all meetings and activities of the Planning Commission. When attending, the Mayor shall sit with the Commission. When participating in legislative matters, the Mayor shall strive to present to the Planning Commission the City Council's perspective, goals, and direction concerning the matter. The Mayor also shall strive to present the Planning Commission's perspective on that matter to the City Council.

Discussion:

Mayor Bob Andrews stated it puts the Mayor in a compromising position in attending all Planning Commission meeting. He has made an overt decision not to attend the quasi-judicial meetings but has the attending the legislative meetings. He does not feel the Mayor should be the spokesperson for the Planning Commission.

Commissioner Barnes has attended Council meetings regarding items the Planning Commission voted on. He believes it is healthy to observe. Barton Brierley delivers the Planning Commission's vote, etc. to the City Council for the commission.

Mayor Andrews stated the Mayor is not a voting member. The Council tries to maintain when a decision is made whether a split decision or not, that is the Council decision. The first item he is fine with but the second bullet point of having the Mayor present the planning commission's view is inappropriate. The Planning Commission decided to delete the second bullet point.

Election of Chair & Vice Chair:

The draft contains the commission's adopted policy of rotating the positions of chair and vice-chair. What if multiple members are appointed at the same time? Options are: Decide by vote, decide seniority by length of residency, or decide by lottery.

Discussion:

Commissioner Wall stated he does not like rotating but it has been done for so long.

Chair Smith stated there have been commissioners who have passed on accepting the position.

Commissioner Stuhr suggested election by vote.

Time Limits for Speakers: The Planning Commission has set a time limit of five-minutes per speaker. Should the applicant be given more time to present his/her case? Perhaps 15 – 20 minutes for the team.

Discussion:

Chair Smith stated the Planning Commission has allowed more time for a team in the past.

Commissioner Wall stated 15 -20 minutes may be needed for an individual applicant since they often need more time; with different spokespeople during that time to be welcomed, as well.

Commissioner Stuhr suggested establishing a 20-minute rule and the applicant can request more if needed. Maximum is 20 minutes and if more is requested it may be granted.

Commissioner Bliss has been on several applications where 15 minutes did not even begin to draw the picture of the application. He suggested if there is a large property involving environmental, land use, drainage issues, etc. more time is needed. The application can determine how much time should be

allowed. If it is a lot-line adjustment, as an example, less time would be required. It should be adjustable.

Chair Smith agreed and stated the amount of time allowed should be judged by the Planning Director. Flexibility is needed.

Commissioner Wall stated an applicant may argue on the flexible presentation time, limiting one but offering more time to another in a quasi-judicial hearing.

Mayor Andrews stated when it comes to general public comment, other than the applicant, five-minutes is appropriate. He likes the idea of having a standard of 15-20 minutes for an applicant's presentation. The applicant should plan on 15-20 minutes, then petition through the Planning Director for additional time which puts everyone on the same playing field. If there is a large application, let them petition for extra time.

Commissioner Stuhr asked if the Planning Commission will allow donation of the five-minute time to someone else. Commissioner Wall said he would like to avoid that. Commissioner Bliss stated that should be allowed as long as it does not surpass a total of 20 minutes. Commissioner Wall said that implied the Planning Commission is driving the presentation. Commissioner Bliss stated it is not automatic but would need to be requested. Chair Smith stated if the material or comments are redundant then the Chair will need to take control of the situation.

Commissioner Barnes stated people can share their time on non-agenda items. Mayor Andrews stated the length of time can be limited.

Late Testimony:

Policy has to be submitted 7 days before a hearing. The options are to read document aloud which would be subject to time limits, shorten to, say, Monday at 10:00 a.m.; limit late testimony to a specified number of pages, or allow late testimony.

Discussion:

Commissioner Wall asked if the state gives requirements to follow for testimony. Barton Brierley replied if you are clear on what the rules are and provided a reasonable time period, the state would find it sufficient.

Commissioner Stuhr finds it very irritating when 10 pages are handed to the Commissioners last minute. It is difficult to read. The public can comment on the staff report in their verbal comments.

Commissioner Wall wants to get away from deciding at a meeting whether to accept it or not. It can be inconsistent, especially in a quasi-judicial hearing. A rule is needed in regard to this issue.

Commissioner Bliss asked when it is posted for quasi-judicial hearings and when is the staff report completed. Barton Brierley replied it is posted 20 days before a hearing and the staff report is completed on Thursdays. Commissioner Bliss prefers having written testimony with the staff report but if that is the timeline, a proponent/opponent will not see it until Thursday and will not be in the packet on Friday. He has never liked having to read something last minute during a hearing as it is hard to concentrate.

Chair Smith asked if there is a way to have more time between the packet and the actual meeting. If there was more time there could be a cut-off time. The problem with that is a shift of office procedures

in preparing for meetings. Mr. Brierley stated staff needs time to review it and put in into a staff report. The City has to respond within a certain amount of days.

Mayor Bob Andrews shared a piece the City Council wrestled with in regard to public comment: “Speakers who wish the Council to consider written material are encouraged to submit the information in writing at least 10 days prior to the Council meeting. In the case of public hearings or items on the Council agenda for action, the submission of written material for consideration or inclusion of record may be subject to stricter time limits established by the Council and publicized by the City. Speakers may submit information at the meeting, however it may not be considered by the Council unless there is time for the Council to read and consider the material.” If the Council accepts it and does not have time to read it, then they can by their motion table any further action and set it to a time certain.

Chair Smith shared three ideas: the packet could come out one day earlier, put in a Monday deadline for written deadlines, and then for getting the comments to the Planning Commission using email if possible so it can be read by Wednesday and ready for the meeting. Commissioner Wall stated there have been issues with email in the past so the commission would have to be careful. Perhaps if the commission said if an item is brought in, it will be accepted but should be limited to a certain number of rules to be added to the record. Chair Smith stated any comments received by email are also in hard paper copy for the public to view at the Planning Commission meetings.

Mayor Andrews asked will there be a conflict if late testimony comes in and the Planning Commission gets it early before anyone else. Mr. Brierley stated there is usually time for a quasi-judicial matter to continue to the next month, but where there can be a bind in items that are appealed which can take up all of the 120 days allowed.

Chair Smith asked staff to write up a draft regarding the three ideas he brought forward.

Orders vs. Resolutions: Charter provides (for City Council) Ordinances – Legislative, Orders - Quasi-judicial, and Resolutions - Administrative.

The consensus of the commission was to follow the City Council Charter regarding Orders vs. Resolutions.

Roll Call: The secretary can state, “Duly noted” or speak it out. Mr. Brierley’s opinion is to have the Secretary announce who is absent.

Commissioner Stuhr stated the commission can do a better job of not speaking over each so it is clear on the audio recording. Mayor Andrews stated in the Council rules, all questions or comments are addressed through the Chair or the Mayor; no one is talking unless they are recognized by the Mayor or the Chair which helps clarification on the audio recording. Also, when a committee member turns the light on their microphone it helps the Chair establish the order of who wants to speak.

Reading of Rules: Should the Chair or Planners read the rules?

Chair Smith suggested it should be read by the Student Planning Commissioner.

Relationship to City Council: There are different ways in which the Planning Commission can represent themselves to the City Council. Some suggestions are for the Mayor to request the Planning Commission Chair present a report to City Council (if requested), the Planning Commission appoints a representative, or the Planning Director can represent the Planning Commission.

Discussion:

Chair Smith has never gone to a City Council meeting to observe or to represent the Planning Commission decision but has relied on the written record and staff report. Do we want to continue staff representing the Planning Commission or otherwise?

Bob Andrews stated an alternative is if the Chair or commission believes it needs to be represented, send someone forward, or otherwise have staff carry it. The Planning Commission has the prerogative.

Commissioner Stuhr has observed when Mr. Brierley has taken things forward to Council and believes it has been presented in facts and in a neutral position and is not sure if the Planning Commission should present. She finds it appropriate for Barton Brierley to continue as it has been.

Commissioner Wall stated right now, Barton Brierley does a good job but prior to him that was not always so. The Planning Commission's wishes need to be communicated well to the City Council. He would not change the relationship to City Council at this time but sometimes the Planning Commission needs to be advocates for the decisions they make.

Chair Smith asked if it would be useful for Barton to ask the commissioners if they want a representative to the City Council on "this" matter; a reminder to either go with the default or not every time. Mr. Brierley said the Planning Commission is only judging on the criteria in quasi-judicial matters but can be an advocate for legislative matters. He can ask that question regarding the Legislative matters.

Minority Reports: Robert's Rules provide for a Minority Report on legislative items. There has never been one submitted but the Planning Commission could place it in the rules in case it does happen. It can be from one member or multiple members reporting their thoughts on an issue.

Mayor Andrews stated there is no reason to beg the question it is allowed in Robert's Rules.

Speaking for Yourself at City Council: The draft states that if a commission member wants to go the City Council and speak for themselves on any item they can as long as that member declares they are speaking for themselves alone and not for the commission.

Commissioner Barnes suggested striking the language regarding "I'm here for myself and not representing the Planning Commission." Commissioner Wall agreed.

Barton Brierley referred to the written communication written by Mr. John Bridges letter.

Chair Smith's practice has been to ask for a motion first and then deliberation on minor issues. On more complex applications he asks for discussion before posing a motion.

Commissioner Bliss stated it has been his experience on quasi-judicial items he does not feel he can do it justice without visiting the site. He disagrees with Mr. Bridges view on this and would like to know what is wrong with walking or viewing a property without sharing the information. Commissioner Wall stated there is nothing wrong with it as long as it is declared as ex-parte ^{contact} conflict. Commissioner Bliss was astounded to hear in a particular case that members of either the Planning Commission or City Council had no knowledge of the site and brought up comments that were obvious if they had driven down the street. Commissioner Stuhr agrees.

Commissioner Stuhr referred to Mr. Bridges point #2 which she agrees with. Mayor Andrews stated that may be expressing a bias in quasi-judicial and the declaration needs to be made. Commissioner Stuhr stated in regard to the round table discussions, a strong Chair is needed in order to not get off base.

Commissioner Wall's opinion is someone should make the motion, second, and then follow the procedure in quasi-judicial hearings.

Barton Brierley stated in regard to the ex-parte contact, it is important to let anything seen that the commissioners might want to debate or respond to be made known and declare the content of the site visit. Commissioner Wall agreed and stated commissioners need to be careful not to bring up something later in the hearing that was not brought up during the ex-parte contact.

Mayor Andrews suggested contacting Terry Mahr, City Attorney; having him come and answer any questions the commission may have regarding this issue.

Chair Smith agreed with having the City Attorney come and speak to the Planning Commission.

Other Items:

Commissioner Bliss pointed out an edit should be made under Section 1.5 – middle of the sentence – the word “by” should be eliminated.

Commissioner Stuhr stated the commission could consider stating the Mission and Vision statement at the meetings.

VI. ITEMS FROM STAFF:

Update on Council items:

Barton Brierley stated the City Council heard the recommendation on the Manufactured Housing Ordinance and approved it. On their Sept. 19, 2011 meeting they will be considering the proposal from the Affordable Housing Action Committee on fees for small units and the proposal was crafted to charge those in accordance with their impacts.

The next Planning Commission Meeting is scheduled on Thursday, October 13, 2011.

VII. ITEMS FROM COMMISSIONERS:

Mayor Andrews thanked the Planning Commission for their consideration of the items tonight.

VIII. ADJOURN:

Chair Smith adjourned the meeting at 9:20 p.m.

Approved by the Planning Commission on this 13th day of October, 2011.

AYES: 6 NO: 0 ABSENT: 1 (Wall) ABSTAIN: 0



Planning Recording Secretary



Planning Commission Chair