

CITY OF FLORENCE PLANNING COMMISSION
February 12, 2013 ** MEETING MINUTES **

Training for Planning Commissioners

Items included but not limited to are:

The Role of the Planning Commissioner

Overview of Public Meeting Requirements

Overview of Public Records and E-mail Communications

The training session was called to order at 5:10 p.m. All Planning Commissioners were present including Commissioner Curt Muilenburg, Commissioner Cheryl Hoile, Commissioner Bob Bare, Commissioner Alan Burns, and Commissioner John Murphey. Staff in attendance included Interim Planning Director Kelli Weese, Associate Planner Michelle Pezley, Resource Assistance for Rural Environments (RARE) Participant Katya Reyna, and City Attorney Ross Williamson.

The Planning Commission began the training by introducing themselves, their backgrounds, and their reasons for wishing to serve on the Commission. City Attorney Williamson presented a PowerPoint presentation to train the Planning Commission on the items listed on the agenda. (Attachment 1)

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

Acting Chairperson Curt Muilenburg opened the meeting at 7:05 p.m. Roll call: Commissioners: Bob Bare, Cheryl Hoile, Alan Burns, and John Murphey were present. Also present: Interim Planning Director Kelli Weese, and Associate Planner Michelle Pezley.

1. APPROVAL OF AGENDA

Commissioner Bare moved to approve the agenda as presented; second by Commissioner Hoile; by voice all ayes, motion carried unanimously.

2. APPROVAL OF MINUTES

*** Meeting of November 27, 2013**

Commissioner Bare moved to approve the minutes of November 27, 2013 as presented, second by Commissioner Muilenburg; by voice all ayes, motion carried unanimously. Commissioners Hoile, Burns, and Murphey noted that they were not present at the meeting.

3. PUBLIC COMMENTS

*This is an opportunity for members of the audience to bring to the Planning Commission's attention any items **NOT** otherwise listed on the agenda. Comments will be limited to **3 minutes per person**, with a maximum time of 15 minutes for all items.*

There were no public comments.

4. ELECTION OF CHAIR AND VICE-CHAIRPERSONS

Commissioner Burns moved to nominate Commissioner Hoile to the office of Planning Commission Chairperson. Second by Commissioner Bare; by voice all ayes, motion carried unanimously.

Commissioner Bare moved to nominate Commissioner Muilenburg to the office of Planning Commission Vice-Chairperson. Second by Commissioner Hoile; by voice all ayes, motion carried unanimously.

5. PLANNING COMMISSION DISCUSSION ITEMS

Commissioner Bare said he was saddened to hear that AP Pezley would be leaving the City at the end of February and expressed his appreciation for all the hard work and dedication that she had put into the planning projects at the City, and wished her luck in all her future endeavors. The Planning Commission agreed. AP Pezley said she appreciated their sentiments and said she had done a lot of growing at the City and appreciated the Planning Commission's assistance throughout her tenure.

6. DIRECTOR'S REPORT

IPD Weese gave a brief introduction to the monthly reports included in the Planning Commission's packet including the overview of land use over the past five years.

Commissioner Hoile asked what the status of the culvert collapse on Spruce Street was. IPD Weese said the City Council had approved a Resolution at the last Council meeting to declare the collapse an emergency and in order to seek grant funding for a large scale improvement in the area. However, staff was still looking into the permitting process for a smaller scale fix. Commissioner Hoile suggested staff contact Jeff Stump at the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, who might be able to assist the City in the search for funding for the collapsed culvert.

7. CALENDAR

IPD Weese informed the Commission on three upcoming calendar events including...

- Thursday, February 21st – Volunteer Appreciation Night
- Monday, April 15th – Siuslaw Estuary Partnership Joint Work session
- Tuesday, May 21st – Siuslaw Estuary Partnership Joint Hearing

Acting Chairperson Muilenburg adjourned the meeting at 7:17 p.m.

Curt Muilenburg, Planning Commission Acting Chairperson

Planning Commission Basics and Beyond



Ross M. Williamson

City of Florence - February 2013

Local Government Law Group PC

A Member of Speer Hoyt LLC

975 Oak Street, Suite 700

Eugene, OR 97401

Telephone: 541.485.5151

Carolyn H. Connelly (chc@speerhoyt.com) Christy K. Monson (christy@speerhoyt.com)

Ross M. Williamson (ross@speerhoyt.com) Lauren A. Sommers (lauren@speerhoyt.com)

Emily Newton Jerome (emily@speerhoyt.com) J. Kenneth Jones (jkj@speerhoyt.com)

Planning Commission Basics and Beyond

Ross M. Williamson
City of Florence - February 2013



Local Government Law Group PC

A Member of Speer Hoot LLC
975 Oak Street, Suite 700
Eugene, OR 97401

Telephone: 541.485.5151
Carolyn H. Connolly (cconnolly@speerhoot.com) Christy H. Munson (cmunson@speerhoot.com)
Ross M. Williamson (rwilliamson@speerhoot.com) Lauren A. Sommer (lsommer@speerhoot.com)
Email: Newen Jerome (njerome@speerhoot.com) J. Kenneth Jones (jjones@lglaw.com)

On the Job Training

- Congratulations! You are a city public official and partner with the city in fulfilling the city's duties under state land use law.
- Learn the lay of the land: tours, orientations, homework, staff.



10,000-Foot View of Oregon Land Use



- Federal Law
- State Statutes
- Statewide Planning Goals
- County Comprehensive Plan
- City Comprehensive Plan
- City Code
- District Partners
- Tribal Law

Planning Commission Authority

Ask Two Questions Before You Act

Question 1: Can we do it?

- Know your statutes, ordinances and plans
- Know your Roles
 - Quasi-judicial decision maker
 - Partner in legislative process

Planning Commission Authority

Question 2: Do we have a quorum and a majority?

There is only power in numbers.

Individual Authority

...sound of crickets chirping

City and Commissioner Liability

- ORS 294.100: Misexpenditure of Funds
- Scope of Duties/Employment
- Ethics
- Public Meetings
- Criminal Actions
- Civil Actions

City and Commissioner Liability

City vs. Individual Liability

- Action against public body, not individual. ORS 30.255; *but also* 42 USC §1983
- City duty to defend and indemnify. ORS 30.285
- Exceptions/scope of employment

Process and Procedure

Public Meetings

Resources to Know and Use

- ORS 192
- Attorney General's Public Meetings and Open Records Manual: 1-503-378-2992
- Add shameless plug for attorneys here

Process and Procedure

Public Meetings

Which public bodies are subject to the law?

- "all meetings of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter."



Process and Procedure

Public Meetings

What meetings are subject to the law?

- Quorum, purpose of meeting
- Electronic meetings? Emails, IMs, and Texts.
- Serial discussions.

What are the requirements of a public meeting?

- Notice
- Space, Location, Accessibility and Attendance
- Voting
- Records

Process and Procedure

Public Meetings

Executive Sessions

- Limited discussions only
- How to convene (see back of AG's Manual for script)
- No final decisions
- Media



Process and Procedure

Public Meetings

The following contains non-legal advice on how you can have a productive meeting, serve the public, stay friends with your colleagues, maintain satisfying personal relationships, and still get home at a decent hour.

Process and Procedure

Public Meetings

- Chair must set realistic agenda
- Circulate materials/minutes in advance
- Keep it formal
- Have simple rules
- Public participation does not always mean public conversation
- Consider work sessions
- Restate vote, note if staff must follow up

Process and Procedure

Role of Staff

- Staff supports and partners with the Planning Commission.
- Staff does not work for the Commission or any Commissioners.
- Staff answers to the Planning Director and City Manager.
- Requests for staff come from the Commission, not individuals.

Process and Procedure

The Quasi-Judicial Application

- Completeness Review
- Staff Report
- Public Hearing
- Criteria
- Findings
- Written Decision

Process and Procedure

The Quasi-Judicial Application

- Planning Commission as Judge
 - Criteria
 - Record
 - Due Process

Process and Procedure

Public Records

What is a public record?

- Any writing that contains public business information that is prepared, owned, used, or retained by a public body regardless of physical form or characteristics

Process and Procedure

Public Records

Oregon law favors disclosure.

- Not a confidentiality law. Must disclose unless exempt under the law. See ORS 192
- Even when exempt, often subject to public interest balancing tests.

Ethics

Don't Use Your Position for Personal Gain.

Ethics

The "BUT-FOR" Test 244.040(1)

A public official cannot use position

- To get \$ or to avoid losing \$
- For the PO OR for a relative or a member of the household
- If that opportunity would not be available BUT FOR your position

Ethics

DOES NOT INCLUDE

- Compensation or Reimbursement
- Unsolicited awards, or legal expense donations
- Or GIFTS and honoraria (within limits)

Ethics

"Relative" 244.020(15)

- Spouse
- Children of the public official or of the PO's spouse
- Brother or brother-in-law
- Sister or sister-in-law

Ethics

"Relative" (cont.)

- Parents or parents-in-law
- Anyone for whom the public official has a legal support obligation or provides employment benefits
- DIFFERENT definition for nepotism rule

Ethics

Gifts are Limited to \$50 per year, per giver.



Ethics

"Gift" 244.020(5)

- Something of economic value
- Given to public official, the PO's relative or member of the PO's household
- Without receiving value back and
- NOT given to the general public on the same terms

Ethics

The GIFT RULE:

1. You (your relative or a member of household)
2. Cannot ask for, receive, or give
3. Or even hint at getting/giving
4. Gifts over \$50 from any single source in one year
5. IF your source has an interest in your official actions: i.e., a decision or vote

Ethics

A Gift is Not Limited if it is a:

- Campaign Contribution
- Present from relatives or household members
- Unsolicited award/token of appreciation with resale value <\$25
- Discounted registration at professional education event

Ethics

A Gift is Not Limited if it is a (cont.):

- Informational material related to your official duties
- Part of a customary private business practice and not related to your public office
- Incidental food, beverage, and entertainment
- Food, beverage, and entertainment when acting in official capacity, representing the city

Ethics

Conflicts of Interest



Ethics

"Actual Conflicts" (Will Happen)

- An action, decision, or recommendation
- By a *public official*
- Resulting \$ to PO or a relative or business associated with PO or relative

Ethics

"Actual Conflicts" (Will Happen) (Cont.)

- Would result in avoidance of \$ detriment to public official
- Or *relative*
- Or any *business associated* with PO or relative

Ethics

"Potential Conflict" (Could Happen)

- Could result in avoidance of \$ detriment to public official
- Or *relative*
- Or any *business associated* with PO or relative

Ethics

"Business with which Person is Associated"

- Any private business in which you or a relative are an owner, director, officer, or employee or in which you or a relative has \$1,000+ worth of interest
- Any publicly held corporation in which you or a relative has \$100,000 of interest or you or a relative is an officer/director

Ethics

"Business with which Person is Associated"

- OR if you file a Statement of Economic Interest, if you or your household members get 10% or more of total income from the business

Ethics

- ORS 244.135 establishes additional restrictions for commission members
- No participation when there is a direct financial interest by a:
 - Family member
 - Business of commissioner
 - Future business of commissioner

Ethics

Conflicts of Interest Rules
(Both Actual and Potential)

When in Doubt: Shout it Out!

- State the nature of your conflict
- Do it before voting or discussing the matter
- Do it on the record
- Do it each meeting issue is discussed
- Send it to the Ethics Commission

Ethics

Actual Conflict Only

- When in Doubt, Shout It Out...and then Shut It Up.
- Same rules as Potential Conflict, but no talking and no voting...
- Unless Commission cannot act without you (but still no talking)

Ethics

It is not a conflict if the financial benefit happens because of:

- Membership to a group required by law (bar association, medical review board)
- Membership in a class (any large, distinguishable group of citizens that the Commission determines is a class)
- Membership in a non-profit (501(c) status)

Ethics

Statement of Economic Interest

At the city only city councilors, planning commission members and the city manager are required to file.

Ethics

Statement of Economic Interest

Statements are due to the Ethics Commission on or before April 15th every year.


