

CITY OF NORTH PLAINS, CITY COUNCIL MEETING
MINUTES REGULAR SESSION
NORTH PLAINS SENIOR CENTER
31450 NW Commercial
Tuesday, February 18, 2014

1. **CALL TO ORDER:** Mayor David Hatcher called the meeting to order at 7:02 p.m.
2. **PLEDGE OF ALLEGIANCE:** Mayor Hatcher conducted the flag salute
3. **ROLL CALL:** Mayor David Hatcher; Council President Teri Lenahan; Councilors: Michael Demagalski, Robert Kindel, Jr., Charlynn Newton, and Glen Warren

Excused Absence: Michael Broome

Staff present: City Manager Martha DeBry, Chris Crean, City Attorney, Public Works Director Blake Boyles, Chief of Police Bill Snyder, Management Analyst Jennifer Knowles, Deputy City Recorder Margaret Reh

4. **CONSENT AGENDA:**
 - A. Approval of regular session agenda
 - B. Approval of minutes of 02/03/2014 Council meeting

Motion by Warren and seconded by Demagalski to approve the Consent Agenda. The motion was approved unanimously.

5. **PUBLIC COMMENT:**
None forthcoming
6. **PRESENTATION:**
None Scheduled
7. **PUBLIC HEARING:**
 - A. Appeal of Planning Commission decision regarding a subdivision at 31790 NW North Avenue

Mayor Hatcher opened the public hearing at 7:05 by reading the beginning of the quasi-judicial public hearing script. This public hearing is for the appeal of permit file #13-044 submitted by Emerio Design on behalf of Biggi Construction. The application is for a five-lot subdivision at 31790 NW North Avenue in North Plains. This appeal was filed by the applicant following denial of the application by the Planning Commission.

Mayor Hatcher disclosed he had some bias considering the application and recused himself from participating in the discussion and decision. He handed the public hearing over to Council President Lenahan.

Lenahan disclosed she was contacted via e-mail on January 6, 2014 by a realtor, Rob Bass who wanted to meet with her to discuss the application. They never did meet.

Lenahan continued to read the quasi-judicial public hearing script into record.

Lenahan asked for the staff report. DeBry stated this is an appeal of the decision of the Planning Commission on the Emerio Design application of a five-lot subdivision. There were a number of variances requested—one for each lot. The details of the variances are stated in the staff report on file. The requests were bundled together and submitted to the Planning Commission. The Planning Commission denied the application stating the variances were not in harmony with the 7.5 zone. The applicant has made some modifications to the application regarding set-backs and lot widths, but since the Planning Commission denied the application outright, instead of continuing the public hearing so the applicant was not able to return to the Commission. Therefore, they have appealed the application to the City Council for a hearing.

DeBry stated that Chris Crean, from Beery, Elsner and Hammond, was present to assist with any legal questions Council may have.

Lenahan invited the applicant to come forward. Ryan O'Brien, 1862 NE Estate Drive, Hillsboro, Oregon and Vince Biggi, 11605 NW Normandy Drive, Portland, Oregon, addressed the Council. O'Brien reiterated the changes to the application that DeBry had stated were in the staff report. This is an in-fill property and one of the last pieces of land left on this section of the city. Because of the existing house on this parcel of land, and the configuration of the parcel, the variances are being requested in order to build four additional homes in this subdivision. He commented that variances are a tool to be used for unusual circumstances. He stated the homeowner wanted to keep the existing home. Council asked some clarifying questions regarding the set-backs, access to the back lots, and standards for the water line. Vince Biggi worked hard to meet the concerns of the Planning Commission to get more of what they wanted.

Lenahan asked for public testimony from proponents to the application to step forward.

Roger Newton, 10260 NW 313th, North Plains, Oregon, stated that his concern regarding the Planning Commission having a 2-1 vote denying this application. He felt they could have suggested some changes and continued the meeting for the applicant to bring it back. Newton also thought the hearing should have been continued until more Commissioners were present. He didn't think they should have made it a final decision of denial.

R.Newton also applauded the city for the incentives available that encourage in-fill development. Additionally, he stated variances are necessary for development to happen with in-fill properties. However, when someone brings an application to the City and it gets denied people this is not encouraging it—that is like you are just throwing the incentives away. Also take into consideration the density requirement, increasing the tax base. Newton encouraged Council to approve this application especially with these changes.

Dick Vandehey, 31880 NW North Avenue, North Plains, Oregon, stated he had submitted a statement against the application when it was before the Planning Commission. He also stated that Michael Basile, the property owner, had spoken with him at the beginning of the process. He doesn't have any problem with the property being developed. He knows the property quite well. Vandehey was offered the property by the previous owner and looked at developing it. He ran into some issues and did not purchase the property at the time. He understands that Biggi wants to develop it and make money on it. Vandehey did develop the VanRodison Estates that adjoins this property. When Vandehey put in his development his intent was to raise the grade of the city. He developed homes that were not entry level homes. They cost more and the lots were more expensive.

From a developer standpoint Vandehey stated if you have less lots there is less lot improvements that need to be put in. Water, sewer, street, curbs and sidewalks all need to be installed, but you can get more money back with larger lots to cover those costs.

Vandehey feels that if the property is divided into bigger lots, larger homes can be built and the city will get more tax dollars with more expensive homes built on those lots. He said that with the smaller lots they will build \$190,000-\$240,000 homes on those lots. These smaller houses will devalue the homes in the area. When cheap houses are built they will begin to deteriorate within five years. Because the owners would be low income they would not be able to afford to keep them up the way they should.

Vandehey stated he isn't against the property being developed it just should be four lots, not five. They should be able to do the in-fill.

Vandehey feels the Planning Commission had valid reasons for denying the application.

Michael Basile, 18212 NW Pumpkin Ridge Road, North Plains, Oregon, is the property owner. Basile stated that when the VanRodison Estates went in the application required variances to make all the properties work. This application isn't any different. Basile stated that Vince Biggi has built homes in the surrounding area and they are beautiful homes, well-constructed, and add value to the area. They will be consistent with the surrounding area. They will not be low income homes. They will be adding value to North Plains. Basile is also pleased they will be able to retain some of the very old trees. He stated he is very much in favor of this development.

Vicki Vandehey, 31840 NW North Avenue, North Plains, OR, an owner of the property just west of the proposed development. Vicki and her husband Tim had not been a part of the discussion prior to this public hearing due to mix-ups in the paperwork and notifications, but that had all been resolved. Most of her concerns are similar to those that had already been voiced. She would like to see the subdivision be kept to four lots, not five. There is all this focus on numbers but ultimately they are the ones left living next to this subdivision. They have lived in the community for 19 years and when they needed to upsize they elected to stay in North Plains. She is fine with the land being developed but wants it to be held to the 7.5 zoning requirements. She asked the Council to consider those who are living next to the development.

Stacy Mills, 31806 NW Belgium Court, stated she is more comfortable with the development after hearing the proposed changes to the plan. She is not a big fan of neighbors. She doesn't want more neighbors than she has to have. She has a neighbor who has a yippy dog and feels that if three more houses are built behind her house she will get more yippy dogs. Her husband was concerned that they were going to be low income housing and they both are concerned about the increase in congestion. Mills largest complaint is that the city is adding houses to community but she isn't seeing more money going into the school. She stated it is great that we have a better tax base but it isn't helping our schools.

Lenahan asked for anyone who is neutral on the subject to come forward. There was no response.

Lenahan asked DeBry for clarification on the density issue of 5.8 dwelling units per acre whether it is net or gross. DeBry stated this comes from the Comprehensive Plan as a goal for density. Chapter 16 states it is 5.8 per net acre.

Chris Crean shared driveway shared access and shared easement. Proposed easement and part of the conditions of approval. Proposed Comprehensive Plan.

Lenahan called the applicant forward for rebuttal. Biggi stated these homes will not be subgrade and fall apart in 5-6 years. He built three of the homes on 317th in a crummy market and they sold for \$360,000. He is proposing to build the same type of homes in this development and they will probably sell for closer to \$400,000. They are not planning on cramming a bunch of track homes into the area. They will be very similar to Vandehey's development, if not even for a higher value. Biggi stated if they were to tear down the existing house they would still be forced to build five units according to the North Plains code. He also stated that there are already chickens and dogs in the back yard. He feels that he will be bringing an improvement to the neighborhood.

Lenahan closed the public hearing at 8:12 p.m.

Council deliberated. They discussed: the adjustments in the plans since the denial by the Planning Commission; the narrow lot widths and set backs of the lots and standards allowed by the code; the number of variances; the variances that could have been approved administratively; in-fill incentives and purpose of allowing variances; the size and quality of the homes that could be built on this property; livability; lack of sidewalks on back lots; issues with private driveways and easements and how to establish and address those issues in the conditions of approval; the tax base of the homes;

Crean clarified the options the Council has. Deny the application and uphold the decision of the Planning Commission. If they do this they will need to cite the criteria for the denial. He stated at this point there is not enough time or authority to remand this decision back to the Planning Commission. The 120 day deadline is fast approaching. They can uphold the appeal and approve the appeal based on findings. The Council could continue the public hearing but would have same timing issues of the 120 day deadline.

Council discussed the process of applications coming to the Planning Commission. Council suggested that more education take place on options available to the Commission than outright denying an application. If there is still some workability with an applicant, the Commission could explore other possibilities before coming to a final decision to outright deny an application.

Motion by Newton and seconded by Warren to approve the appeal of this application. The motion passed with a 3-2 vote with Demagalski and Kindel voting against.

Mayor Hatcher asked for the Council's approval to move item 9C up to 8A. Motion by Newton and seconded by Kindel to move 9C up to 8A. Motion was approved unanimously.

8. NEW BUSINESS:

A. Presentation on PORAC benefits for Police Officers and Reserve Officers

At a past Council meeting Chief Snyder had requested approval of providing legal defense insurance to his staff. Council needed more information before agreeing to the coverage. Snyder invited an attorney with PORAC to provide that information. Mark Makler, 1225 NW Murray Blvd, Portland, Oregon, is an attorney who works with the Peace Officer Research Association of California (PORAC) legal defense fund. Makler explained the benefits of using PORAC and cited cases showing this coverage would be a substantial risk benefit. The coverage is \$4.50/month for the paid officers and \$3.00/month for the Reserve Officers.

Motion by Kindle and seconded by Demagalski to add PORAC benefits to paid police staff and the reserve officers to the budget. Motion carried unanimously.

B. Discussion of City matching funds raised at the benefit dance at Jessie Mays in March

Councilor Broome had requested the Council consider matching funds raised at the benefit dance scheduled in March. These funds are slated for art supplies at the North Plains Elementary School.

Motion by Demagalski and seconded by Lenahan for Council to match the money raised at the benefit dance in March for art supplies for the North Plains Elementary School. Motion carried unanimously.

C. Resolution No. 1816 waiving fees and approving use of Commercial Street for North Plains Farmers' Market

Cindy Hirst and Vanessa VanDomelen of the North Plains Farmers' Market Board presented a proposal to the Council. There have been a number of changes with the Farmers' Market made in the past months. The Board is now partnering with the North Plains Chamber of Commerce instead of the Senior Center and the structure has been revamped. It is proposed to move the market on to Commercial Street and change the hours from 8:00-1:00 on Saturdays to 4:00 p.m. to 9:00 p.m. on Thursday evenings. The Farmers' Market is requesting assistance from the City with the closure of

Commercial Street; providing portable toilets, tables, chairs, trash pickup, use of electrical drops, barricades and assisting with hanging signs; and waiving fees associated with these items.

The Market will run for 13 weeks from June 5 through August 28, 2014.

Motion by Demagalski and seconded by Warren to approve Resolution No. 1816 with the correction of allowing amplified music from 5:00-8:00 not 5:00-9:00. Motion was unanimously approved.

D. January 2014 Check Register

Council reviewed the January Check Register. They asked a few clarifying questions that were answered satisfactorily.

9. **UNFINISHED BUSINESS:**

A. Discussion and approval of specific draft city policies from number 604-613

The draft policy manual was distributed at the 9/16/13 council meeting to give the Councilors time to review and present any changes or concerns. Council directed staff on 10/21/13 that batches of policies be reviewed at each meeting until they are all approved.

Council went through policies 604-613. Discussion ensued. Clarifying questions were asked but there were no changes made to this group of policies. An edited copy of the whole manual will be delivered to Council at the end of the process.

B. Update on Smokehouse Summit event

Jennifer Knowles updated the Council on the status of the Smokehouse Summit BBQ event scheduled to take place on June 7 & 8. She has heard from the sanctioning committee that the Smokehouse Summit is a World Foods Championship qualifier and with 15 teams registered will be a qualifying event for the Jack Daniels National Competition. Jennifer introduced Jason Specht who is working with her on the event.

10. **ORDINANCES:**

FIRST READING:

A. Introduction of Ordinance No. 419 amending Chapter 6.25 peddlers, solicitors, street vendor and temporary merchant ordinance

Motion by Kindel. Second by Lenahan to read Ordinance No. 419 by title only for the first time.

Hatcher read Ordinance No. 419 an Ordinance of the City Council of the City of North Plains, Oregon, Amending Municipal Code 6.25 Peddlers, Solicitors, Street Vendor and Temporary Merchant Ordinance by title only for the first time.

B. Introduction of Ordinance No. 420 establishing Chapter 4.50 prohibiting sale and use of tobacco and vapor products by minors

DeBry presented the staff report for Ordinance No. 420 and 421. These are the ordinances recommended by Carla Bennett, the Tobacco Prevention and Education Coordinator of Washington County. Council asked question regarding enforcement and fines that will be imposed. DeBry explained that is set by the state Justice Courts. It was suggested that the City inform the businesses in town who sell the vapor products of the Ordinance. It was suggest to change the wording in the title and Section 1 of the Ordinance from “by” minors to “to” minors.

Motion by Demagalski. Second by Warren to read Ordinance No. 420 by title only for the first time with the suggested changes.

Hatcher read Ordinance No. 420 an Ordinance of the City Council of the City of North Plains, Oregon, Establishing Municipal Code 4.50 Prohibiting the Sale and use of Tobacco and Vapor Products to Minors by title only for the first time.

C. Introduction of Ordinance No. 421 establishing Chapter 4.53 disallowing the use of smoking and tobacco products on city property.

Motion by Kindel. Second by Demagalski to read Ordinance No. 421 by title only for the first time.

Hatcher read Ordinance No. 421 an Ordinance of the City Council of the City of North Plains, Oregon, Establishing Municipal Code 4.53 Prohibiting the Use of Smoking and Tobacco Products at City Facilities by title only for the first time.

SECOND READING:

None Scheduled

11. STAFF REPORTS

DeBry stated McKay Fields has 3.69 acres of open space that the City could have an easement to for the use of a walking trail. Discussion will need to take place at a later date regarding the direction Council may want to take in acquiring the land. Council is willing to listen to options.

The Supplemental Budget draft will be sent our within the next two weeks for the Council to begin to review.

The City will need to contract the sheet metal company on Hillcrest to address the equipment he has out in the right-of-way.

DeBry stated the Budget Committee is short a couple of positions and asked Council to keep their ear out for someone who may be interested in serving on that committee.

Planning Commission is still looking to fill one more position.

DeBry commended Public Works on the great job they did of clearing the snow during the storm. They worked long hours to keep things clear. Warren asked Boyles if it is possible to purchase a snow plow blade to use with the truck. Public Works is looking into that.

Heidi Fuiten was also commended for coming in to open the library. North Plains was one of the few libraries that stayed open.

Boyles stated they are working with Washington County in putting down signs for the high water areas.

12. COUNCIL REPORTS

Hatcher asked Boyles if he would look into upgrading the electrical power for use during the Elephant Garlic Festival. A generator needs to usually be used and it is known for giving out on them.

Kindel distributed a list of funds North Plains has received from the Community Development Block Grant. He wanted to emphasize that the donation made to the senior center for the Clean Water Services bill was justified. North Plains has truly benefited from the CDBG program.

13. ADVICE/INFORMATION ITEMS:

- 2/21/14: One Book One Community-Movie Night Double Feature: God Sleeps in Rwanda and Hotel Rwanda
- 2/23/14: Playdate at Jessie Mays @1:30 p.m.
- 2/27/14: One Book One Community-Book Discussion

14. ADJOURNMENT: Mayor Hatcher adjourned the meeting at 10:35 p.m.



David Hatcher, Mayor



Margaret L. Reh, Deputy City Recorder

Date approved 03/03/2014