

**CITY OF NORTH PLAINS, CITY COUNCIL MEETING  
MINUTES REGULAR SESSION**  
North Plains Senior Center  
31450 NW Commercial Street  
Monday, April 20, 2015

1. **CALL TO ORDER:** Mayor Hatcher called the Regular Session of the City Council to order at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE:** Hatcher led the Council in the flag salute.
3. **ROLL CALL:** Mayor David Hatcher, Council President Teri Lenahan Councilors: Robert Kindel, Jr., Charlynn Newton, Sherrie Simmons and Scott Whitehead.

Excused: Sandi King

**Staff present:** City Manager Martha DeBry; Public Works Director Blake Boyles; Police Chief Bill Snyder; City Recorder Margaret Reh

4. **CONSENT AGENDA:**
  - A. Approval of regular session agenda
  - B. Approval of minutes of 04/06/2015 Council meeting

Motion by Kindel. Second by Simmons to approve the Consent Agenda. Motion was approved unanimously.

5. **PUBLIC COMMENT:**

Andrew Thompson of Troop 275 presented his proposal to Council for his project to receive his Eagle Scout designation. Thompson's project involves installing 14 bird houses along the Vern Galloway Linear Park and into the McKay Creek open space. Council asked questions of Thompson and wished him well on his project. Thompson anticipates completing this project by June 2015.
6. **PRESENTATION**

None Scheduled.
7. **STAFF REPORTS:**

**Public Works Director.** Blake Boyles stated he had nothing further to add than what was reported at the April 6, 2015 meeting.

**Chief of Police.** Snyder had to step out to respond to a police call.

8. **PUBLIC HEARING:**
  - A. Appeal of Planning Commission decision on application for variance for McKay Creek Crossing subdivision

Andrew Tull (contract planner for the City from 3J Consulting) stated this was an appeal of the Planning Commission decision to deny an application for a variance to the 75-foot setback requirement in the Significant Natural Resource (SNR) area for a 58 lot subdivision referred to as McKay Creek Crossing. The Planning Commission approved the 58 lot subdivision but denied the variance. Tull presented the staff report. The applicant has made a request of the Council in an either or format. The applicant would like to see the Council affirm the 58 lot plan decision but approve the proposed variance to allow lots 18-25 to encroach 25 feet into the contested SNR buffer. The other option if the variance denial is upheld, is to approve an alternative design of the subdivision to create a tentative plan with 52 lots.

City Manager DeBry read the order of business rules of the public hearing process. Mayor Hatcher opened the public hearing at 7:25 p.m.

Hatcher asked for any ex parte contact. Councilor Lenahan stated she attended the April 8, 2015 Planning Commission meeting, as the ex officio member of the Planning Commission, at which time she was informed of the March 11 minutes and able to read them. Additionally, Lenahan asked the City Manager to provide a copy of those minutes to the Council, which DeBry did. Hatcher declared he also attended the March 11, 2015 Planning Commission meeting, as the ex officio, at which the Planning Commission denied the variance.

Michael Robinson, the applicant's attorney, stated that Chris Goodell, AKS Engineering; Stacy Reed, AKS, Certified Wetland Scientist; Alex Hurley, AKS Engineering; and the applicant Vince Biggi, who is going to buy the property, were also in attendance. Exhibits were passed out reflecting the 58 lot subdivision and the alternative plan for a 52-lot subdivision.

Robinson stated that if the Council did not grant the variance for the eight lots in the proposal, AKS will need to present the 52-lot plan. The 58-lot plan will not work without the variance. The 58-lot development plan was approved by Planning Commission but they denied the variance. Robinson entered a copy of the City's Goal 5 report into the record.

Further explanations and discussion ensued about how the 75-foot safe harbor riparian requirement came about.

Robinson stated that there is another request on the table regarding the need to approve a variance to construct the access road across the riparian corridor to the storm water facility – Tract A - that runs down to McKay Creek.

AKS stated that only the variance was the subject of the appeal. A number of findings were submitted with the approval of the 58 lot subdivision and all subdivision criteria were met. All the criteria that the Planning Commission looked at were satisfied.

Other comments were presented to the Council from the team representing the applicant.

Lenahan asked the applicant why they declined the opportunity to adjust their plan when the Planning Commission offered it. Robinson stated he did not remember that being offered, however, they did change the plan. After a break at the March 11 proceedings, AKS countered with a change in the number of lots that they would request the variance for. But that was still denied.

The applicant testified that the (City) code doesn't prohibit having a section of the riparian corridor within the dimensions of a lot.

Hatcher invited proponents to come forward.

Robert Bass, 31470 NW Commercial Street, North Plains, Oregon, has been involved in real estate since 1987. Bass provided positive input regarding the quality of homes and building projects that he has witnessed Biggi Construction complete in this community. Biggi is a local builder and he is here to stay. Bass stated he was part of the team that was involved in the pre-application conference in which the SNR corridor and the CWS riparian requirements were discussed.

Hatcher asked for opponents.

Aaron Riding, 10065 NW 307<sup>th</sup> Avenue, North Plains, Oregon, came forward. Riding addressed the proposed 52 lot subdivision. He questioned the applicant's comment regarding residents not being able to place fencing at the property line, but yet the developer could put up a fence. This fencing on the property line would already be encroaching the SNR. Riding also stated a differing opinion than Bass, regarding the builder's caring about the finished neighborhood. Riding stated that after the Planning Commission, Riding and some other members of the Home Owner Association were talking about a park trail and asked about the walkway and the builder grumbled regarding it. Riding also addressed the lack of gauges on McKay Creek to track the various elevations that the water reaches. Riding stated that this extra 25 foot easement beyond the required 50 ft. CWS riparian buffer will add another 25 feet of protection to the homeowners against flooding in the future. Riding stated that if the Council grants this variance, Council will need to grant any other variance that come before them regarding the riparian corridor.

Hatcher asked for those that are neutral-for or against.

Heather LaBonte, 32000 NW Meadow Drive, North Plains. LaBonte stated the Planning Commission likes the 25 foot extra riparian buffer. LaBonte stated the Planning Commission felt it did not need to approve the variance because they liked the additional buffer.

LaBonte was concerned regarding the information that was available to the general public regarding this appeal. This modification that was given to the general public did not provide enough information. The location of the street has been moved and it wasn't clear as to what street standards were going to be used in the 52 lot plan. Sidewalks are also a concern. She did not feel that enough detailed information was given to adequately assess and accept the modifications to the plan.

Discussion ensued regarding street standards.

Hatcher called for rebuttal.

Robinson stated that the road standards were in the original application, they did not change from what the Planning Commission heard at both February 11 and March 11 Planning Commission meetings. The plans comply fully with the North Plains Municipal Code requirements. Lenahan asked why they use different standards. Robinson stated they are not using different standards. This information has been available to the public from the beginning. The Planning Commission adopted those findings-the fact that the findings have differing street standards was an error on the Planning Commission. They need to be corrected. This project is using the same street standards that were used in the development on Curtis Street, which is just west of the McKay Creek Crossing development.

Robinson addressed the other comments that were brought up by the opponents. He addressed the comment that if this variance application is approved it sets a precedence. He stated that it does not set a precedence. Each quasi-judicial hearing requires the burden of proof for each individual application. It will vary with each development and the property being represented at the time. He state that LaBonte knew this is a de novo hearing and there could be new evidence that just came in. The Council can approve this application for a 52 lot subdivision instead of a 58 lot subdivision and it will not need to go back to the Planning Commission for further testimony. Council can approve it. Goal 5 standards were addressed. There is a variance procedure. It is not inappropriate for an applicant to ask for a variance. A developer may be aware of restrictions and it is on them to provide the burden of proof to see that it meets conditions.

Discussion ensued regarding the logistics of the storm water facility, fencing, access and the flow of water and future development that may impact McKay Creek.

Hatcher closed the public hearing at 8:45.

Hatcher asked for consensus and provided more opportunity for Council to ask questions. Council suggested fencing along the edge of the 75 foot area and use this additional 25 foot buffer as the walking trail along that easement. Clean Water Services may require a fence at the 50 foot buffer. This suggestion would require a second fence at 75 feet mark. Discussion ensued regarding fencing. DeBry stated that if the city were to pursue this 25 foot buffer as a walking trail, Council would need to acquire an easement from each homeowner as this 25 foot buffer will be private property on some of these lots.

More discussion ensued regarding the pre-application conference.

Motion by Kindel. Second by Simmons to uphold the Planning Commission decision to deny the variance on the eight lots. Motion approved unanimously.

Motion by Lenahan. Second by Simmons to approve the variance for access to Tract A as presented on the 52 lot subdivision. Motion approved unanimously.

Motion by Lenahan. Second by Whitehead to approve the 52 lot subdivision as presented on April 20, 2015. Motion approved unanimously.

Motion by Simmons. Second by Kindel to direct staff to conform the findings of the conditions of approval to the 52 lot subdivision approved by the City Council.

B. Approve Resolution No.1881 adopting 2014-15 Supplemental Budget with new appropriation allocating JT Roth TDT Credits

DeBry presented the staff report. The TDT credit isn't a discretionary act, but the approval of the supplemental budget is a discretionary act. Staff is recommending approval of Resolution No 1881. JT Roth has requested TDT (Transportation Development Tax) credit for McKay Fields in the amount of \$135,242 for road improvements and right-of-way dedication along the south side of West Union Road along the site's north property frontage. Total TDT fees to be paid by JT Roth for the McKay Fields Subdivision will be \$265,188. A credit is a reduction in the amount of the SDC for a specific development. The SDC Act requires that credit must be provided for the construction of any "qualified public improvement" that is required as a condition of development approval; is identified in the plan and list of projects on which improvement fee SDC revenues may be used; and either is not located on or contiguous to property that is the subject of development approval, or is located on or contiguous to such property and is required to be built larger or with greater capacity than is necessary to meet the needs of the particular development project. The work JT Roth is performing on West Union meets all three requirements, and thus they are eligible for TDT credit.

Hatcher opened the public hearing at 9:16 p.m. Hatcher asked for any comments from the audience for comments for or against. There were none. Hatcher closed the public hearing at 9:17 p.m.

Discussion ensued regarding the flow of the funds that go into TDT fund and how they are disbursed. There will be another request for this credit when Polygon gets to this point with the Sunset Ridge development. Portions of these credits may span over the next fiscal year also. We are the administrator of the fund.

Discussion ensured regarding what a right-of-way is and the costs incurred when doing these types of construction for developments.

Motion by Simmons. Second by Whitehead to adopt Resolution No. 1881 adopting the 2014-15 Supplemental Budget with new appropriation allocating Transportation Development Tax (TDT) credits and authorizing credits to JT Roth Inc. for McKay Fields Subdivision. Motion passed with a 4/2 split vote with Kindel and Newton voting against.

9. **NEW BUSINESS:**

A. Approve Resolution No.1882 appointing Lani Miles to the North Plains Budget Committee

Lani Miles is an applicant for the North Plains Budget and URA Budget Committees. The Council interviewed Miles for the final open position on these committees.

Motion by Lenahan. Second by Simmons to approve Resolution No.1882 appointing Lani Miles to the North Plains Budget Committee.

B. Approve Resolution No.1883 revising the Master Fee Schedule

DeBry presented the staff report. Management is proposing significantly increased rates for Planning, Land Use and System Development Charges to become effective May 15, 2015. The current rates are not covering costs. The rates on the fee schedule are developed based on the City's cost to provide services, including staff time, consultant costs (attorney, planner and engineer), other direct costs (such as postage or other materials), indirect equipment costs (such as computers, printers, etc.), and an overhead charge of 15%. Some of these increases in fees will cover the cost for planning services and the surcharges will allow the city to begin to recoup the cost of the Comprehensive Plan update project. Discussion ensued regarding the various types of applications, the fees, and the process of each.

Motion by Simmons. Second by Lenahan to approve Resolution No.1883 revising the Master Fee Schedule. Motion was approved unanimously.

C. Approve Resolution No.1884 allocating Special Cities Allotment-Street Fund Grant

Public Works Director Blake Boyles presented the staff report. A Special Cities Allotment grant for \$50,000 has been received by the City. To use the grant in the current fiscal year a resolution transfer must be approved to increase the grant revenue budget line and appropriate funds for capital project expense.

Motion by Newton. Second by Kindel to approve Resolution No.1884 Allocating Special Cities Allotment (SCA) Grant Funds for an Asphalt overlay project on NW Pacific Street. Motion was approved unanimously.

D. Review of March 2015 Check Register

Hatcher asked if any of the Councilors had comments regarding the check register. Discussion ensued regarding the purpose and point of the Council reviewing this report. A few questions were asked by the Council and were satisfactorily answered by staff. Staff will report back to Council regarding the citation charge of \$18.00.

E. Approve Resolution No.1885 appointing James Fage to the North Plains Planning Commission

Resident James Fage had applied for the open position on the Planning Commission. The Planning Commission interviewed Fage at the April 8, 2015 meeting and forwarded

their recommendation to appoint Fage to the Planning Commission. Fage appeared before the Council. Council interviewed Fage.

Motion by Kindel. Second by Lenahan to approve Resolution No.1885 appointing James Fage to the North Plains Planning Commission. Motion was unanimously approved.

**10. UNFINISHED BUSINESS:**

**A. Discussion of marijuana dispensaries**

DeBry presented the staff report. The City Council had requested reviewing medical marijuana dispensaries. The City code is silent on where a dispensary could or could not be located. Legal has been working on establishing guidelines for the code and where they could be located. Recreational marijuana will become legal in July 2015, but OLCC will not be issuing dispensary permits until after January 2016. Staff was seeking a baseline as to what the Council would like to include in requirements and guidelines for a dispensary and its location. Discussion ensued. It was suggested to use a 2000 ft. distance from parks, schools and licensed daycare facilities for a location of a marijuana facility. DeBry asked Council how restrictive they want the report to be to begin with. They suggested that it have road frontage; consider the amount of required parking spaces; and research what a couple of other cities have in place.

Staff will draft a report and bring it back to Council for review. A report will be forwarded to the Planning Commission for review and comment then passed on to DLCD. An evidentiary hearing will need to take place.

**B. Discussion on setting City Council Goals**

This item was a summary of the goals the Council had discussed previously at the February 2, 2015 meeting. This item has been postponed for the past few meetings due to the fullness of the meeting agendas and how late the meetings ran. Mayor Hatcher asked for this item to be postponed once again to the next meeting to be held on May 4, 2015. Lenahan asked that if it is postponed, that it becomes a priority at the May 4 meeting.

**11. ORDINANCES:**

**FIRST READING:**

None Scheduled

**SECOND READING:**

None Scheduled

**12. CITY MANAGER REPORT**

DeBry stated that the weekly report that was distributed on Friday to the Council has brought the Council up to date.

**13. COUNCIL REPORTS**

Hatcher reviewed the Council calendar and schedule with the Councilors.

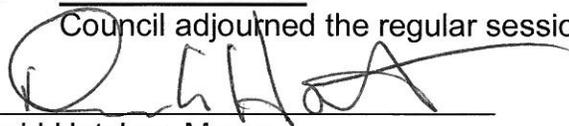
Boyles mentioned the memorial service for Irene Kay will be on Tuesday, April 28 at 10:00 a.m. at St. Edward Catholic Church in North Plains. There will be a reception following the mass at the North Plains Senior Center.

**14. ADVICE/INFORMATION ITEMS:**

- Envision North Plains Community Workshop, Saturday, April 25 from 10:00 a.m. to noon at Jessie Mays Community Hall.
- An Evening with an Author lecture series with Lisa McMinn, Saturday, April 25 at 7:00 p.m. at the North Plains Public Library
- Weed Watcher Workshop, Tuesday, April 28 from 7:00- 8:30 p.m. at Jessie Mays Community Hall

**15. ADJOURNMENT:**

Council adjourned the regular session of the City Council at 10:26 p.m.

  
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David Hatcher, Mayor

  
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Margaret L. Reh, City Recorder

Date approved 05/04/2015