



City of Aumsville

595 Main Street • Aumsville, Oregon 97325

website: www.aumsville.us

Phone 503-749-2030 • Fax 503-749-1852

AUMSVILLE CITY COUNCIL EXECUTIVE SESSION & REGULAR MEETING MINUTES

APRIL 11, 2016

Executive Session -

Labor Negotiations - Council entered into an Executive Session at 6:00 PM under the authority of ORS 192.660(2)(d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations. **Any executive session discussion is off the record, matters discussed are not to be disclosed.** The session adjourned at 6:40 PM.

Exempt Records – The council entered into Executive Session at 6:46 PM under the authority of ORS 192.660.2(f) to consider information or records that are exempt by law from public inspection. **Any executive session discussion is off the record, matters discussed are not to be disclosed.** The session adjourned at 7:10 PM.

REGULAR MEETING CALL TO ORDER: Mayor White called the regular meeting to order at 7:27 PM in the community center, 555 Main Street, Aumsville, OR. Council present were Mayor Harold White, Councilors Robert Baugh, Jr; Nico Casarez, Brian Czarnik, Trina Lee, Della Seney, and Lorie Walters. City Administrator Pro-tem (CA) Dave Kinney and Administrative Assistant Lora Hofmann were also present.

Executive Session Outcome: City Councilor Baugh made a motion directing CA Kinney to include a 2% Cost of Living Adjustment for all employees and to make the adjustments to Finance Officer, Billing Clerk and Police Clerk salaries in the 2016-17 city budget as proposed by Budget Officer Hoyer. Councilor Casarez seconded the motion. Voting in favor of the motion were Councilors Baugh, Casarez, Czarnik, Lee, Seney, Walters, and Mayor White. The motion passed unanimously.

Council provided direction to Sgt. Flowers on how to respond to a code violation dealing with the number of dogs kept at a residence and the continued use of the dogs as companion animals.

PUBLIC HEARING: Amendment to Development Ordinance No. 323 and Comprehensive Plan Maps

Mayor White opened the public hearing at 7:29 PM, gave the opening statement, set out the criteria to be relied upon, and explained the appeal rights.

Declaration of Interests – There were no declarations of interest from the council or no objections from the audience about notice, time and place of the hearing. CA Kinney introduced himself and City Planner Joey Shearer. CA Kinney gave the reason for the hearing.

Staff Report – City Planner Joey Shearer gave an overview of the proposed ordinance changes. He highlighted the general changes first and then discussed the changes that deal with the legalization of recreational marijuana. He gave the background leading up to the proposed changes and said they clean up definitions, fix minor clerical errors, and made changes with regard to set backs and design elements.

He said that the purpose of this update is to streamline and simplify ordinances. APC recommended approval after many work sessions. He said that he wasn't going over the general criteria because none of these are at odds with the city's comprehensive plan.

Definitions were set up for accessory structure, accessory use, and there was a change to the terms used when calculating lot lines and setbacks, and as to how they are measured.

Accessory Uses and Structures in Residential and Multi-family were changed to remove the definitions of acceptable accessory buildings because this is defined in the definitions and all of the rules are moved to Section 22.04.

Roof pitch requirements were clarified.

With regard to the changes to design, in particular, manufactured homes, these proposed changes will bring ordinance language to be more like the language in statute.

Clear Vision – Joey explained why clear vision is important and what the current regulations have said. The current four foot maximum height for structures within the clear vision area is being reduced to three feet.

Requirements for residential accessory structures – With these changes, the maximum height of an accessory structure is 20 feet; there will be no accessory structures in the front yard, and structures in the side and rear yard with a height of 15 feet or less, shall have a minimum setback of 3 feet; buildings over 15 feet to 20 feet shall have a setback of 5 feet. Planner Shearer gave an explanation of why staff is recommending setbacks. It is a good neighbor policy – people need access to maintain their property; minimize the effect of "rain drain"; and APC tried to find a good median. Any accessory structure over 20 feet will have design criteria and needs site development review (SDR) because the design criteria can be subjective. There needs to be findings when it affects a neighboring property owner. SDR guarantees due process and if there is a disagreement, the decision can be appealed.

Mayor White asked about the provisions for fence maintenance being removed (Section 22.02 (D)). He would like to make sure that we do not have dilapidated fences "littering"

neighborhoods. Planner Shearer said that enforcement is an issue, and it is a challenge to determine what needs to be fixed because it is subjective; and there is no teeth to it. Mayor White said that someone can be hurt and it is a safety issue to him. Mayor White said he likes to think that there is something that the city can refer to that lets the city contact the property owner.

Planner Shearer then discussed the separate ordinance addressing marijuana regulations – the city needs to take our current ordinances dealing with medical marijuana references and incorporate the legalization of recreational marijuana (regulated marijuana activities by the state of Oregon).

Aumsville residents will be voting on November 8, 2016 whether to “opt out” of legalized recreational marijuana facilities (sales and grow sites). If the “opt out” passes, medical marijuana grow sites would still be legal – all other regulated marijuana activities would be illegal.

If the prohibition does not pass (recreational marijuana activities are legally allowed), there is a need to remove the references to “medical” marijuana since use of marijuana will be legal. There will also be a need to set out the definitions of marijuana producers, processors, wholesalers, and testing labs, and allow these as a conditional use in the industrial zone. Section 22.18 sets the boundaries and hours of operation; requires these businesses are located in permanent buildings without drive-through purchases. They must be registered with the proper state agency: Oregon Health Authority (medical) or Oregon Liquor Control Commission (recreational). The restrictions on location pretty much follow state language.

Proponents Testimony

Jerry Flowers 412 Meadowbrook Ln, Stayton – shared that he has had issues in Stayton between the location of a day care/preschool being within 1000 feet of a marijuana facility. Stayton has found that the definition of “school” is a school that is mandated; preschool does not meet that criteria. He also questioned whether the three feet set back for accessory structures is from the foundation or the eave. Planner Shearer said that accessory structures are measured from the closest point to the property line. He also shared that the city’s 1000 foot regulations specifically include parks, daycares, and churches.

Travis Knierman, 913 Highberger Loop, questioned whether a metal accessory building has to match his hardi-plank siding on the house; Planner Shearer said that there are design criteria regulations for buildings over 15 feet.

Opponents Testimony - None

General Testimony – CA Kinney asked council to review the emails that were received from residents and asked what council intends to do with the sheds in the city that do not meet the criteria with this three feet setback or the prior regulation, which was a five feet setback. Planner Shearer said that new regulations generally create a pre-existing approval. However, in this case, the regulations are actually less restrictive. So, if a setback doesn’t meet the new regulation, it didn’t meet the regulation in effect when the accessory building was constructed.

If it was built legally, they don't have to make changes to meet the new requirements. Mayor White said that it doesn't make sense to ask people to move their sheds.

Rebuttal - none

Questions – Chris Chytka, 943 Highberger Loop also asked about current non-conforming buildings and whether the city was going to enforce the ordinance for any buildings less than three feet from property line. Councilor Baugh said that the planner referred to legally erected buildings; this is about the buildings that never conformed and if it is complaint driven, the city has to investigate. Mr. Chytka said what happens to the buildings that have no complaints. He had been told by PW Director Oslie there would be flyers sent out telling people that they needed to have their buildings in compliance. Chris has no problem when the city receives a complaint having to enforce the ordinance; his concern is about the neighbors that get along and whether they will have to move their buildings. Councilor Czarnik said that he would hope that enforcement of set backs are complaint driven vs. city staff looking for problems.

CA Kinney asked again what direction the council wants staff and police to take; there is clearly some question about the non-conforming use. There was no definite answer.

The Public Hearing closed at 8:14 PM.

Council Deliberations

Councilor Casarez said that some neighbors came to him and he told them that the non-conforming shed issue and ordinance was put in abeyance, at least with regard to the complaint in the manufactured home parks.

Councilor Baugh said that the city is not in the business of going out and being a storm trooper or playing a Nazi. That is not the city's practice. They have never gone door to door just looking for ordinance violations. He gave an example of a carport that sheds rain on the neighbor's property because it hasn't followed setback requirements and that neighbor has the right to complain and ask for relief.

Mr. Chytka said that PW Director Oslie had said he had marching orders from council to go out and enforce the ordinance on buildings. Council consensus was that there were no marching orders given – Councilor Seney said there was one person that wanted to pursue it, but it was not from council. Councilor Baugh said that what came up was the question about a safety issue of what is stored in a shed and if a fire should come. That was how it was brought up for discussion. He said that a property owner wants to make choices about his property, but you have to consider the neighbor. People should ask and they often don't – it can save a lot of grief later. He wondered if a newsletter article should be prepared.

Councilor Seney said that you need to consider the eave that goes over on the other property – it raises an issue that now becomes a legal argument. Councilor Casarez said that we aren't sending people out to tattle on each other, and it really comes down to a communication issue. City needs to communicate to developers and home owners. We want an attractive community, but we don't want to cause a burden when a shed is built for either the homeowner or the

neighbor. He doesn't want to be seen as slapping hands; the city should empower people to make good decisions. He is pretty supportive of the changes being proposed, but we need to communicate to our citizens. Mayor White said that it is important for people to ask and when people don't ask, be prepared to enforce. Councilor Czarnik asked who is going to enforce? He wanted to know what the planning commission's thoughts were on grandfathering in the illegal accessory structures. He gave an example of his own back yard.

CA Kinney said that council needs to decide – is it a safety issue, is it an encroachment issue, and was it built in compliance, if a building permit was required.

Planner Shearer asked how do staff determine what is grandfathered in, and what has to be enforced? When was it built? It is an arbitrary process for staff and difficult to decide.

Mr. Chytka said that the "Grandfather clause" came up in planning commission and they they deferred to council.

Councilor Baugh said that maybe it should be tied to whether the accessory structure is moveable, or is strapped down to a foundation.

CA Kinney asked for clarification of a couple of questions that came up – he wanted to confirm that an accessory structure between 15 to 20 feet requires a five foot setback. He also questioned whether council was removing the language dealing with fence maintenance. Councilor Baugh said he thinks it should remain; Mayor White wants it to remain; CA Kinney said that it would be left in. Planner Shearer said the problem is subjectivity from staff. There was further discussion about addressing dilapidated fences. Council was given the option of drafting an ordinance for approval, or sending it back to the planning commission for further work. Councilor Czarnik said that he wants to see a draft and Councilor Baugh said he wants to come up with directions to staff for the ordinance language and not kick it back to APC.

Council Decision – they discussed approving the proposed ordinance amendments with the corrections discussed. Councilor Casarez made a motion to approve the staff report and findings, and to move forward with the implementing of the ordinance with two changes: leave maintenance of fences in place and clarify that there is a 5 foot set back for buildings 15 to 20 feet in height. Voting in favor of the motion were Councilors Baugh, Casarez, Czarnik, Lee, Seney, Walters, and Mayor White. The motion passed unanimously.

Council took a break at 8:41 PM and was called back to order at 8:49 PM.

Flowers Meadows Subdivision and Variance Public Hearing

The Hearing opened at 8:50 PM and Mayor White said that he reiterates what was said in the prior public hearing. There were three councilors that declared prior contact regarding this application: Councilor Seney, Councilor Baugh and Mayor White indicated that either applicant was a friend, or they had a conversation with the applicant. All three indicated they had no bias, or would not be influenced by that when making a decision. No one objected to their continuance in the hearing.

Staff Report – Planner Shearer gave the background of this subdivision application and described the property and its location. In 2007, 22.42 acres were annexed into the city with approval of an 85 lot subdivision and variance. It expired. The current application is much the same as the prior application. The planning commission unanimously recommended approval. There was information about the 3+ acres that was part of the acreage when the annexation of 22.42 acres took place. These 3+ acres are outside of city limits. It is a separate residence with a well and access to Bishop Road. Planner Shearer then discussed the surrounding properties and their zoning. Applicant is requesting a variance for the extension of Willamette Street to Bishop Road. With this development, Deer, Fox, and Elk Streets will now connect to Bishop Road. The lots are between 7000 sq ft to 18,000 sq feet, and Lots 4 & 6 are proposed for park land. The applicant has proposed three tracts for storm water management. The subdivision will be completed in three phases: Phase 1 is the 26 lots in the south portion of the property, next is the 38 lots in the mid-portion of subdivision, to include the connections to Bishop Road, with Phase 3 being the 21 lots in the north portion of the subdivision.

Staff's position is that Lots 4 & 6 should be dedicated to park land, and staff is recommending negotiations between the applicant and the city as to compensation.

Planner Shearer said that there are four main criteria:

Dwelling density matches the comprehensive plan. There are actually no densities in the comprehensive plan at this time. Looking at the overall plan for residential density – it looks like a calculation of 4.4 homes per acre. The net density for this subdivision is 5+.

The application matches the zoning requirements for the zone, as well as the total square footage minimum of 7000 sq. ft. Fifty-one lots do not meet the lot width of 70 ft. and the variance is to allow less than a 70 foot width in order to continue the current street configuration. A variance was given to the prior development application. The lots are extra long and to stay close to the 7000 square feet total, it necessitates a narrower lot width.

There are city facilities to support the development. The city engineer and public works had no comments and there are public works standards in place that address development of streets, utilities, etc. Marion County submitted comments that are included in the packet.

Planner Shearer talked about the Transportation Safety Plan (TSP) requirements and how this proposal is different, but has been found to be a safer, more efficient connection to Bishop Road. The proposal doesn't create land-locked properties or flag lots. Staff likes this alignment and noted the connection problems that sit currently with Highberger Loop. Requiring the $\frac{3}{4}$ street connection from Willamette to Bishop Road now does away with that possibility happening again.

Applicable Design criteria: the proposed Lots & Blocks with an approved variance meet the criteria; There is a 50 foot requirement about distance between driveways – he is recommending shared driveways. The city wants applicant to make $\frac{3}{4}$ street improvements

and provide an easement from Willamette to Bishop Road.

Planner Shearer noted there is a slight change in the conditions – it has to do with park land dedication.

Mayor White asked about the finding: the possibility to connect a new storm drain lane into Highberger Development – will the current line be able to handle the increased storm water? Planner Shearer said it was raised at the APC hearing and the public works standards set a level of service which applicant has to meet.

Applicant's Testimony – Brian Vandetta, the engineer for applicant, represented and presented the applicant's testimony. He said that he agrees with most of the presentation from the city planner and reiterated that they want an 85 lot subdivision and a variance approval. The city planner did a good job of explaining why there is a request for a variance. He noted that there was an approval in 2007 and the drawings were approved by the city engineer at that time. He said they want to replace current storm drain pipes along Willamette Street that are deficient and explained their planned detention ponds. They compare what water is coming off the undeveloped property now vs. what will come after development and that determines the size and number of detention areas. He discussed wetlands and they want to mitigate them (do away with them) – Division State Lands will set the requirements and he set out the list of additional criteria they will have to meet because of it (national rain and fisheries etc). The criteria for wetlands is more stringent now than in 2007. They believe they have met all of the criteria and the planning commission recommended approved with conditions.

He spoke about Section 20.06 of the Development Ordinance (ADO) – a developer can dedicate property to parks as an offset to Park SDC credits. He explained what they offered and the city's counter offer. He said that they disagree about the detention pond not being feasible as park land. They would like the detention facility to be considered towards the Park SDC. Applicant is agreeable to giving lots 4 & 6; the issue is the value of the land. He explained their thinking and how that differs with the city's valuation thinking.

The applicant's proposed conditional language – Developer shall dedicate to the City of Aumsville Lot 4 and Lot 6 for park purposes. The city of Aumsville shall credit the developer's owed Parks SDC fees in an amount equal to the Marion County Assessor's assessed value of the dedicated land as platted lots, *after the subdivision final plat is recorded*. Applicant wants SDC credits as opposed to cash payments to be used up as he pulls building permits.

There was no Opponent, General Testimony or rebuttal.

Questions – CA Kinney said he wants Mr. Vandetta to answer a question about the proposed tree buffer of 20 feet along the Hwy 22 corridor to the north. Mr. Vandetta said that they are amenable to the request and said that they think the buffer is reasonable.

CA Kinney asked about the upsizing of the storm drain line in Willamette. Mr. Vandetta explained the current storm water problems and there is good reason to believe that the development will improve these because of the detention ponds and an upsize of the line.

The improvements would restrict the flow and the applicant will compare all of the parameters of the various agency requirements and institute the strictest criteria.

Mayor White asked about the restriction of the flow to Highberger ditch. Mr. Vandetta explained the restrictive device that will actually back the water up into the detention ponds. Mayor White talked about his concerns with flooding. Mr Vandetta said they will upsize the piping all the way to the ditch. There was discussion of the ditch and whether it can hold the water. Councilor Baugh talked about the necessity of keeping a big tree in place in the proposed 20 foot buffer to guarantee that the trees don't come down on the property. Mr. Flowers looked at the trees and he said that there are some nice size trees and they aren't too close together. They discussed the possibility of them coming down in a big wind storm. Councilor Baugh said he wouldn't want to buy the property if he couldn't take the trees down. It was considered. CA Kinney said that they need to do a safety risk assessment when considering the trees. The trees to the west are coming down.

CA Kinney explained the extension of Willamette Street to Bishop Road and explained what they are proposing is 40 foot (3/4) street improvements. The pavement will be 24 feet, which would allow two-way traffic. There will be a right of way dedication included in the partition request for the 3+ acres. The street improvements must be made prior to the plotting of phase 2.

There were questions raised about safety at Leverman, Bishop Road and Mill Creek. Marion County is not requiring changes from the developer. The county indicated no reported incidents at that intersection.

Councilor Baugh asked about improvements on Bishop Rd. Applicant said they have a 10 foot right of way to improve along the road. Mr. Vandetta explained what they have planned. Councilor Baugh asked if the city will eventually own Bishop Road and CA Kinney said that the county would have to transfer jurisdiction and it is done by resolution. It is many years down the road, but all development along there will be required to meet urban standards. The city will end up with maintenance. Mr. Vandetta said that building to Marion County standards meets or exceeds Aumsville standards

The Public Hearing closed at 9:41 PM.

Council Deliberations –Mayor White had concern about drainage and those concerns have been answered. He addressed the variance application and said that council is more concerned about the 7000 sq feet vs. the width of the lots. It was done previously, and he has no problem as long as they meet minimum lot size. Councilor Baugh said Aumsville has no high-end homes – it means we are attracting families and older residents. We need some larger homes. He thinks it ties into the ability to attract businesses. Mayor White acknowledged his statements and talked about “Shaw Heights” and where Aumsville may grow in the future.

CA Kinney said that there are a couple of things – Planner Shearer is recommending approval with many conditions. CA Kinney explained the city can require dedication of the park land.

He thinks that there needs to be negotiations and he asked council to designate him to negotiate.

CA Kinney said the SDC credit needs to go back to the developer. CA Kinney said it doesn't seem appropriate to negotiate at a public meeting. Mr. Vandetta asked that it not be long. CA Kinney said that the APC set out the recommendations to obtain the lots for park land or to let them become buildable lots, but it comes down to council. Mr. Vandetta said that there is a five month window, but is hopeful that the decision is made in 60 days. Mayor White agreed.

Council Decision: There was a motion for City Council approval of the Subdivision and Variance applications, adopting the findings and conditions contained in the staff report and memo and to define a 60 day negotiation window which CA Kinney is authorized to negotiate. Councilor Lee seconded. Voting in favor of the motion were Councilors Baugh, Casarez, Czarnik, Lee, Seney, Walters, and Mayor White. The motion passed unanimously.

CA Kinney asked the applicant to address the viability of the trees from the engineering standpoint and explained that council has the intention of taking Lots 4 and 6 for park property and staff will negotiate the price.

Council took a break at 10:00 PM and was called back to order at 10:07 PM

ORDINANCES & RESOLUTIONS:

A RESOLUTION MAKING A 2015-2016 PARK SDC FUND BUDGET APPROPRIATION TRANSFER was considered. Councilor Czarnik made a motion to approve the resolution and Councilor Seney seconded. Voting in favor of the motion were Councilors Baugh, Casarez, Czarnik, Lee, Seney, Walters, and Mayor White. The motion passed unanimously.

A RESOLUTION REPLACING RESOLUTION NO. 10-13, TO BE MARKED AS EXHIBIT "A" OF ORDINANCE NO. 308, SETTING COLLECTION FEES FOR SANTIAM SANITARY, DBA REPUBLIC SERVICES OF MARION COUNTY, IN CONNECTION WITH THE EXCLUSIVE FRANCHISE AGREEMENT BETWEEN THE CITY OF AUMSVILLE AND SANTIAM SANITARY SERVICE was considered and Councilor Casarez made a motion to approve the resolution and Councilor Baugh seconded. Voting in favor of the motion were Councilors Baugh, Casarez, Czarnik, Lee, Seney, Walters, and Mayor White. The motion passed unanimously.

REVIEW OF BILLS: The March 9, 2016 through April 5, 2016 Check Registers were considered.

APPROVAL OF MINUTES: The March 7th, March 14th and March 28th, 2016 ACC Minutes were considered. Councilor Lee noted there was an error on the March 7, 2016 minutes – it indicates that Gary Dahl was at the meeting and she was not. Councilor Casarez made a motion to approve with the change. Councilor Czarnik seconded. Voting in favor of the motion were Councilors Baugh, Czarnik, Lee, Seney, Walters, and Mayor White. Councilor Casarez voted in favor of the motion for March 7th and 14th, and abstained on the March 28th minutes. The motion passed.

PLANNING COMMISSION REPORT: The February 18, and March 17, 2016 APC Minutes were noted.

SPECIAL COMMITTEE REPORTS:

Park and Recreation Commission (PARC) – Councilor Walters said they are doing great and getting ready for the summer program to start.

Park Advisory Committee (PAC) – CA Kinney said that the final design plans are part of the PAC’s final meeting this week.

CORRESPONDENCE: Marion County Public Works – Population and Urban Growth Boundary Workshop – the County will update every 4 years and PSU will make the annual projection and a 20 year forecast. The county will not start the process until fall probably. Councilor Baugh asked about UGB expansion and then talked about what land is left, and where the new UGB might go.

CA Kinney said that there are two factors that Department of Land Conservation and Development (DLCD) is going to look at: Protection of agriculture lands and the financial ability of the city to extend facilities. CA Kinney said that the city needs to decide the secondary UGB line when drawing the new expansion. Mayor White said it is important to decide where you want to go, and take it incrementally as allowed. They discussed the history of Aumsville’s projections for the future and what needs to come next. There was discussion of whether Aumsville will continue to grow more quickly than other Marion County cities and what needs to be done to protect our interchange. Councilor Seney said they are starting discussion about improvements to Hwy 22 and it will incorporate Cordon Road. CA Kinney said that Aumsville needs to maintain the seat on MWAC – Councilor Seney said she just got reappointed to two more years.

POLICE REPORT: Chief Schmitz’ Monthly Report was considered.

PUBLIC WORKS REPORT: Director Osie’s Monthly Report was considered and some of the maintenance needed was discussed. Public Works might be able to weld it and it would save money. Councilor Lee asked about the conflict with the waterline and the storm drain and CA Kinney explained. It and the gas line is holding up the Safe Routes to School project.

OTHER BUSINESS:

CA Kinney brought up a possible piece of property over by Highberger Park to obtain, with a future planned use for a bathroom for the popular park. The owner has indicated they would donate, if city would do the lot line adjustment and make sidewalk improvements.

CA Kinney asked if the council likes getting the weekly memo from him and they all loved it and would like it to continue. Councilor Czarnik said that he likes getting the council packets electronically and Councilor Casarez agreed. He asked if it might be beneficial to transition to I-pads. CA Kinney gave some information about how much it improved his life. The only down side is if you pause and look at the members using an I-pad during a meeting, the board

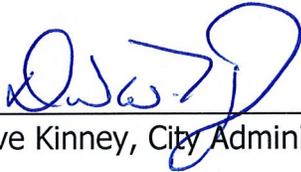
was looking at the monitor instead of people. He explained it is not an email communication, it is just an electronic set of packets. They discussed how to make documents easily accessible for public and officials.

ANNOUNCEMENTS:

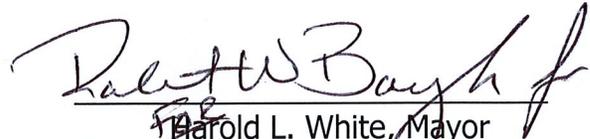
Annual Statement of Economic Interest Electronic Filing Due by April 15, 2016 – one question from Councilor Czarnik and it was answered.

ADJOURNMENT at 10:44 PM without objection.

ATTEST:



Dave Kinney, City Administrator Pro-Tem



Harold L. White, Mayor
ROBERT W BAUGH JR,
Council President