



**CITY OF YAMHILL, CITY COUNCIL MEETING
Wednesday, June 7, 2017 7:00 P.M.
MINUTES**

REGULAR MEETING/ PUBLIC HEARING

1. CALL TO ORDER: Roll Call

The meeting was called to order by Mayor Terp at 7:00PM

Present: Mayor Terp and Councilors Disbrow, Gilmore and Potter

Excused Absence: Councilor Echaury

Staff present: City Recorder Gilmore, Superintendent Howard, Chief Graven,
City Planner John Morgan, Attorney Walt Gowell

2. PUBLIC HEARING (S):

**A. Public Hearing on the Yamhill/ Carlton School District Variance
Application Appeal – Variance Permit Case #17-01.**

Mayor Terp opened the public hearing at 7:02pm on the proposed appeal of Variance Permit Case #17-01.

Mayor Terp asked for objections to Jurisdiction. No comments were made.

City Planner, John Morgan reported that the public hearing is based on an appeal of a Yamhill Planning Commission's May 2, 2017 approval of a Variance permit. The District is requesting a variance to the height requirements for the two buildings with dome roofs. The justification is based on the fact the dome roof is the most cost-effective roofing structure for the type of facilities being built and there is no provision in the Yamhill Development Code for using a dome roof. To maintain proper structural design, and to start the dome on top of a vertical wall of adequate height for the internal structure, the dome must rise to the designed height. The actual peak of the roof is only found at the middle of the structure. Many codes measure roof height as the average height between the eaves and peak, a standard these roofs would meet. Also, the R-2 zone is a residential single-family zone. The 35-foot height limit keeps houses at practical and aesthetically appropriate heights. The 35-foot limit may not be appropriate for many uses allowed in the R-2 zone through the conditional use or development permit processes, such as schools, churches, and neighborhood clubs. Morgan stated that this is a "de novo" hearing, meaning the record is open to all input relevant to the applicable criteria. Morgan briefed the Council on the City's role in reviewing the

Variance permit application as opposed to the property owner or developer. Morgan explained that the Council is acting as a judge in this quasi-judicial proceeding where there are discretionary criteria decisions to be made. Morgan stated that the Council is not reviewing the Planning Commission's decision, but receiving it as input for the deliberation process and acting as the original hearing body. The Council's decision will be final, unless the decision is appealed to the Land Use Board of appeals.

The decision was appealed by Roger Grahm regarding the Yamhill-Carlton School District's variance request to allow the new buildings on the School District campus to have maximum heights of 43.5 feet where 35 feet is the maximum allowed in the zone. The Staff Report will not present arguments to justify the positions of either the applicant or the appellant beyond those offered in the original staff report of May 2, 2017. The analysis in that report, and the recommended findings of fact, supported the School District's request.

Morgan indicated that it is the School District's responsibility to demonstrate compliance with applicable criteria and it is the School District's responsibility to offer counter arguments to those raised by the appellant. It was noted that a response to the appeal was received from the School District on June 6, 2017 and is included in the agenda packet.

Morgan read and reviewed the criteria for a variance that are found in the Community Development Code in Section 10.100.030.

Morgan inquired if there were any questions and if not, recommended hearing from the appellant and public.

Mayor Terp asked to hear proponents of the Appeal, beginning with the principal applicant, Roger Grahm.

Roger Grahm began his presentation by reading a letter from his legal representatives, Landerholm, P.S., dated June 6, 2017, addressing the letter of appeal for Case 17-01. A copy of the letter was entered into the record. Grahm testified that the school district's proposal to construct a concrete domed building is not cheaper to construct than a normal building, so the factual premise upon which this application is based is fundamentally flawed. However, even if the round concrete dome were cheaper to build, construction cost alone cannot be the basis for a justification of a variance. Grahm noted that the school district did not submit a timely written response to the appeal at least seven days prior to the hearing, and therefore, the appellant is entitled to hold the record open for at least seven days to respond to any new evidence submitted by the school district.

Grahm stated that other than cost, there is no explanation in the decision for why a dome roof is needed. However, cost is insufficient to meet the hardship requirement of the code to grant a height variance, and the school district has failed to identify any hardship or practical difficulty sufficient to support a variance. Grahm requested that the appeal be granted and the variance approval by the Planning Commission be reversed and denied because the code criteria for an unnecessary, unreasonable hardship and exceptional or extraordinary circumstances, as well as the substantial property right criteria are not met.

Rocky Losli of Yamhill, stated that he is a proponent of the Variance Appeal. Losli stated concern that the Variance approval does not meet the criteria for the following three

sections of the Community Development Code: Section 10.100.030; (C) That granting the application will not be materially detrimental to the public welfare or be injurious to property or improvements in the neighborhood of the premises; (E) That the granting of the application will not, under the circumstances of the particular case, adversely affect the health or safety of persons working or residing in the neighborhood of the property of the applicant; (F) That granting of the application will be in conformance with the intent and purpose of this Title and any officially adopted comprehensive plan. Losli stated that he does not believe that the Uniform Fire Code has been consulted, referenced or utilized in the Variance decision. Losli will withdraw his objection to the variance approval if the Uniform Fire Code had been consulted in making the variance decision.

Chuck McCord of Yamhill, did not speak in favor of the appeal but requested to make a statement. McCord is bothered that John Morgan, the City Planner made a recommendation for the decision of the variance permit contained in the May 2, 2017 Staff Report. McCord would like to remind Council that they need to make an independent decision based on the criteria and evidence submitted. Mayor Terp clarified that the City Council receives all documents in advance of the meeting with sufficient time to review prior to any decisions.

Mayor Terp asked to hear opponents of the Appeal.

Tim Pfeiffer of Yamhill, representing the Yamhill-Carlton School Board and the School District would like the school bond project to move forward. Pfeiffer stated that the two domed buildings have been planned for the middle of the campus so as not to encroach on any adjacent properties. Pfeiffer gave a background on the choice of constructing a dome building, reporting that the domes will be thin-shell construction which are extremely fire safe, highly rated for earthquake, tornado and hurricane safety. The domed gymnasium would also be used in an emergency as a local safety shelter. Pfeiffer would like Council's consideration in upholding the Variance approval.

Deb France the architect with OH Planning+Design Architecture introduced herself and encouraged the Council to take the recommendation from Planning Commission to approve the Variance Permit request. France explained that the concrete thin-shell dome construction is a type 1 building by the State Building Code which means they are the most restrictive code type and are the code applied for hospitals. The dome falls under that category because of the non-combustible concrete construction. The dome buildings will also have a sprinkler system in place. France indicated that the current High School on the site is taller than the requested variance of 43.5 feet in height and the requested dome buildings will be more centrally located on the site at a lower grade level, so will be significantly lower than the High School. France explained that the overall height of a gymnasium constructed of traditional methods would exceed 40'-0". A gymnasium requires minimum spatial clearances for areas of play for both basketball and volleyball, as well as mechanical, lighting and structural systems must be placed outside of the area of play. France stated that the neighboring City of Carlton has a school zone that has a standard building height of 45' for that zone. France noted that the community approved 2016 Bond Improvements Measure sought to control costs of

construction of the Gymnasium and the CTE Building, and would be fulfilled with the cost of thin-shell dome construction. After conducting an analysis for the cost of thin-shell dome construction vs traditional construction methods, the project cost would increase approximately \$430,000 if traditional building was used, thus presenting an undue hardship. France also noted that under conventional building construction practices the building of a gymnasium using traditional building methods would require a height of at least 40' and a variance permit would still be required. France requests that the City Council deny the variance appeal and honor the Planning Commission's decision.

Kevin Shuba, Attorney at Law representing the Yamhill-Carlton School District stated that included in tonight's documents is a two-page memorandum from OH planning + Design that has a diagram of the proposed dome building. Shuba noted that the dome will have a much lower profile than traditional construction and only 10% of the roof would be over the 35' height. Shuba addressed the appeal letter submitted by Roger Grahn, that referenced a Stricklin vs. City of Astoria LUBA case from 2008. The LUBA case was held that mere economic convenience is not sufficient to justify a variance, but Shuba pointed out that the Stricklin case was argued that the reason for the height variance request was for an economic return from the proposed building. The School District Variance request is not for economic gain, but for a cost savings for a citizen approved bond project. Shuba believes that the case is very different factually and recommends reading the case carefully to understand the difference. Shuba stated that the Variance request from the School District is asking for minimum relief to achieve the building design that was approved by the voters. Shuba urged Council to uphold the Commission's decision and close the records tonight, with time being of the essence for the School project.

Mark Gaibler of Carlton, stated that the School's project was referred to the voters for a bond that was approved by over 60% of the voters. Many meetings were held for the public to attend to review the proposed project. Gaibler questioned how three citizens that spoke against the variance can upset the project that the taxpayers of the community approved.

Brian Jensen, Fire Chief of the Yamhill Fire District wanted to clarify some key points of the project. Jensen noted that the Type 1 Building that the School is proposing is a less combustible material which combined with the planned sprinkler systems will require fire flow of 1,500 gallons per minute, if the building were a conventional type 5 building the required fire flow would be 4,000 gallons per minute for three hours. Regarding the required fire access and fire lanes, Jensen has not received the plans yet and will not be signing off on the building permits until those are received and approved.

Chuck McCord spoke to Mark Gaibler concerning being included in the three citizens that spoke against the variance, and reiterated that he did not speak in favor but made a statement to ask the Council to do their job independently based on the code criteria.

Terp asked for proponent rebuttal comments prior to closing the public hearing.

Roger Grahn stated that he agrees with many of the opponent's statements tonight but believes that the fire safety etc., are irrelevant as the issue at hand is that the criteria has not been met to have the variance approved. Grahn also believes that a building can be built that will meet the 35' requirement. Grahn argues that the variance criteria have not been met, and feels LUBA will agree. Grahn reiterated that the testimony tonight has been irrelevant, it should be whether the criteria has been met.

Patty Pairan of Yamhill, questioned if the dome buildings are the only size that can be built, or can they be built smaller. Deb France, the Architect stated that to meet the size requirement for a regulation size sports court, the dome would need to be the proposed size and height.

Patricia Manson of Yamhill, stated that as a community member and a voter, two domed buildings were not in the voter's pamphlet and the voters were not asked to approve two buildings, but only one dome. Manson reported that she asked at several school meetings and the information was not provided. Manson stated that she would like for the Council to review the variance criteria and is concerned that the community needs to have the most economical buildings as well as safety for the school children.

Karen Wright of Yamhill, stated that all the architectural plans and exact specifications could not be completed and final prior to the Bond measure, as the finances to pay for the architectural plans are funded by the Bond. Wright noted that the citizens representing our community, such as the School Superintendent, the School Board and the Citizens Advisory Committee have been put in place to do the right thing for our community and to oversee the project.

There were no further comments, and Mayor Terp closed the oral testimony for the public hearing at 8:00 pm.

Attorney Gowell reported that the public hearing would be open for 7 days for additional written testimony, and another additional 7 days for rebuttal of written testimony. The public hearing may be closed at the end of the 14-day period at which time the City Council will meet and make a decision on the Variance Permit Case #17-01.

John Morgan also stated that no deliberation can be done at tonight's meeting, but the deadline for making a decision is due before July 12, 2017.

Mayor Terp noted that a special Council meeting will be set for Thursday, June 22, 2017 and notice will be posted.

B. Public hearing on the proposed use of State Revenue Sharing Funds.

Mayor Terp opened the public hearing and asked for testimony.

No comment or questions were forthcoming and the public hearing was closed at approximately 8:10P.M.

C. Public hearing on the 2017-2018 Fiscal Year Budget.

Mayor Terp opened the public hearing and asked for testimony.

(1) Memo regarding the proposed transfer from the Economic Development Fund to the General Fund.

Walt Gowell provided a memo that gave background information on the original creation of the Economic Development Fund that was started in 1989, with the balance of funds from a Federal Government Urban Development Action Grant (“UDAG”) in 1984. It was noted that current City Staff and Elected Officials were not aware that the Economic Development Fund would need to be used only for activities eligible under Title 1 of the Housing and Community Development Act of 1974.

Gowell stated that in his opinion the proposed \$100,000 of funds can be transferred from the Economic Development Fund to the General Fund *if*: The fund transfer is treated as an inter-fund loan subject to re-payment over a maximum of ten years in accordance with statutory requirements and inter-fund loan policies previously adopted by the Council, *or*, Subject to the restriction and requirement that the funds can only be used for eligible purposes allowed by Title I of the *Housing and Community Development Act of 1974*.

If the Council desires to make a permanent transfer from the Economic Development Fund to the General Fund, it can do so subject to requiring that such funds are utilized only for the following applicable activities constituting “Activities eligible for assistance” from Section 5305 of the 1974 Act: The Act stipulates that funds may be used for:

1. Acquisition of blighted real property appropriate for rehabilitation and conservation purposes to be used for public purposes;
2. Acquisition construction, reconstruction or installation of public works eligible for assistance under the act or for other public purposes;
3. Code enforcement of deteriorated areas together with public or private improvements to such areas;
4. Special projects to remove barriers to restricted mobility for elderly or disabled persons;
5. Payments to housing owners of losses of rental income for units reserved for relocation of individuals and families displaced by redevelopment activities;
6. Disposition of real property acquired with such funds;
7. Payment of the non-federal share of Federal grant-in-aid programs undertaken as a part of assisted activities;
8. Paying costs to complete a project funded under title I to the Housing Act of 1949;
9. Relocation assistance;
10. Development of a comprehensive community development plan;
11. Assistance to public or non-profit organizations undertaking community development;

12. Activities benefitting low or moderate-income persons;
13. Acquisition or rehabilitation of property to provide housing.

Gowell stated if the Council elects to treat the proposed transfer as an inter-fund loan, the Council must follow the requirements of law and policies of existing city resolutions. The maximum term for any such loan that will be used for Capital Expenses is currently ten years, and non-Capital Expenses must be paid back by the end of the following 2018-2019 fiscal year.

Council's consensus is to approve the proposed 2017-2018 Fiscal Year Budget that includes the \$100,000.00 transfer from the Economic Development Fund to the General Fund and determine at the end of the Fiscal Year how much total has been transferred and what amount spent was for Capital Expenses and what amount was spent for Operational Expenses. Resolutions and loan amortizations will be done at that time for the schedule for repayment to the Economic Development Fund.

Mayor Terp asked for any final comments concerning the budget. Terp closed the public hearing at 8:30P.M.

D. Following closure of the public hearings, consider the following items related to the 2017-2018 Fiscal Year Budget.

(1) Resolution No. R-741 - allowing disbursement of State Funds.

Motion by Disbrow, seconded by Gilmore, to adopt Resolution No. R-741 allowing disbursement of State Funds.

Roll Call: Ayes: Disbrow, Terp, Potter and Gilmore
Nays: None

The motion carried.

**RESOLUTION NO. R-741
A RESOLUTION BY THE CITY COUNCIL OF YAMHILL, OREGON, ALLOWING
DISBURSEMENT OF STATE FUNDS, IN ACCORDANCE WITH ORS 221.760.**

(2) Resolution No. R-742 -electing to receive State Revenue Sharing funding.

Motion by Disbrow, seconded by Gilmore, to adopt Resolution No. R-742 electing to receive State Revenue Sharing funding.

Roll Call: Ayes: Disbrow, Terp, Potter and Gilmore
Nays: None

The motion carried.

RESOLUTION NO. R-742
**A RESOLUTION BY THE CITY COUNCIL OF YAMHILL, OREGON, DECLARING
THE CITY'S ELECTION TO RECEIVE STATE REVENUES.**

**(3) Resolution No. R-743 -Adopting the 2017-2018 Fiscal Year
Budget.**

Motion by Disbrow, seconded by Gilmore, to adopt Resolution No. R-743 adopting the 2017-2018 Fiscal Year budget in the total amount of \$4,123,474.00 and approving the property tax rate of \$3.7389 per \$1,000.00 of assessed value.

Roll Call: Ayes: Disbrow, Terp, Potter and Gilmore
Nays: None

The motion carried.

RESOLUTION NO. R-743
**A RESOLUTION BY THE CITY COUNCIL OF YAMHILL, OREGON, ADOPTING THE
2017-2018 FISCAL YEAR BUDGET, APPROPRIATING MONIES FOR OPERATION
AND LEVYING A PROPERTY TAX**

3. PUBLIC COMMENT:

Roger Grahn addressed the City Council to explain why he chose to appeal the variance Permit request from the Yamhill/Carlton School District. Grahn stated that he believes it was the right thing to do, regardless of how it affects the process.

4. PRESENTATIONS & APPOINTMENTS:

A. None Scheduled

5. UNFINISHED BUSINESS:

A. Discuss Timber/BLM reports.

Gowell gave a brief background on the 60 acres of property that the City owns near the watershed. The property was deeded to the City of Yamhill in 1926 with the stipulation that the Federal Government would reserve their timber and power rights to the land that included the ownership and cutting of trees that is interpreted to mean, trees that were merchantable in 1926, at the time the land was deeded over to the City of Yamhill.

In 2011 the services of Steve Garner were engaged by the City, to cruise the timber and submit a summary report of an estimate for the percentage of Douglas Fir and Red Cedar, as well as a projected net amount of proceeds from logging the property. The Bureau of Land Management did an analyst of the predicted ownership of what timber was merchantable in 1926 and the data did not correspond with our research. In 2014 Steve Garner was engaged by the City to take tree coring samples to also predict ownership of what timber was merchantable in 1926. Recently, Council approved hiring an independent consultant and researcher from Oregon State University to review both the City's and BLM's reports and tree-coring data to develop the possible current ownership based on variable "merchantability" standards.

Gowell recommends that the Council decide what approach that City Staff should take to move forward with resolving the rights to harvest the timber on the watershed property. Gowell provided an option to possibly “buy out” BLM’s portion of the property by negotiating another piece of property that the City would acquire and exchange it with BLM for turning over the timber deed to the watershed property. Another option would be to go to Court for the right to harvest the timber and to determine which timber is the City’s.

Motion by Disbrow, seconded by Gilmore, to authorize City Council to direct City Staff to negotiate a property swap with BLM and bring back to the City Council for a review.

Roll Call: Ayes: Disbrow, Terp, Potter and Gilmore
Nays: None

The motion carried.

6. ORDINANCES:

FIRST READING:

A. None Scheduled

SECOND READING:

A. None Scheduled

7. NEW BUSINESS:

A. Request by Dave Larmouth of Recology Western Oregon regarding Rate Review Report and Annual Financial Report.

Dave Larmouth was unable to attend, but provided the Rate Analysis for Recology Western Oregon Waste. Larmouth provided a new cost rate adjustment for the coming year at a rate adjustment of 2.30% to be effective July 1, 2017. The rate increase will result in an increase of .63 cents per 90-gallon cart monthly and a .41 cent increase for a 90-gallon cart bi-monthly.

It was determined that it would only be a formality for Council to vote on the increase, as it is not a Council decision but a contractual CPI rate increase.

Motion by Disbrow, seconded by Gilmore, to approve the CPI rate increase of 2.30% by Recology Western Oregon Waste.

Roll Call: Ayes: Disbrow, Terp, Potter and Gilmore
Nays: None

The motion carried.

B. Discuss and consider a Local Option measure to provide funds for General government public services – Attorney Walt Gowell.

Attorney Gowell explained a future option to help with the General Fund that has been failing due to rising employee retirement costs, healthcare costs and no growing tax base for property tax income, could be to ask voters to approve a local option levy. Gowell explained that it would be a longer-term option and a levy could be up to five years for whatever amount is necessary to supplement the General Fund. Gowell stated that many cities have police personnel that are funded through local option levy's, and it is a way to ask voters if they want the services and are they willing to pay for them. Gowell noted that it is a long process to pass a Local Option Levy measure and it would not help the General Fund in the 2017-2018 Fiscal Year.

- C. Consider and approve project for upgrading transmission water line from the reservoir into the City.

Mayor Terp reported that Yamhill is currently updating their Water Master Plan, and as included in the CIP, upgrading the water line from the reservoir into town has been identified as a future necessary project. Yamhill-Carlton School District Superintendent Cline contacted Representative Ron Noble in Salem regarding if Grant Funding could be available for the City to upgrade their water transmission line into town. The School District is currently doing an expansion project and would like the City to upgrade their water lines to help to supply more water flow to the School District. Terp reported that a meeting was held in Salem with Noble to discuss possible funding options. Terp explained that it is not a requirement or obligation of the City to supply more water flow than is required for residential customers, but if funding is available to upgrade line, it would be in the best interests of the City to pursue those options.

Terp cannot move forward seeking funds until the City Council has approved and authorized the project of upgrading the transmission water line. Howard reported that he is currently working with City Engineers to do a preliminary cost estimate to redo the water line from the reservoir into town, to the corner of Pike Street and Olive Street with an 18" water line. Terp indicated that before grant funding can be applied for, the project would need to be approved and authorized by the City Council and preliminary plans would need to be started. Terp clarified that this project would be independent from any project that the school district is doing.

Council consensus is to move forward with the upgrade project.

Disbrow made motion, Gilmore seconded to authorize City Staff to move forward with the upgrade project for the transmission water line.

Roll call: Ayes: Potter, Disbrow, Terp, and Gilmore
Nays:

The motion carried.

8. CONSENT AGENDA:

- A. Approve Council Minutes
(1) Regular Session – May 3, 2017
- B. Financial Statements

- C. Approve the following Purchase Order:
- (1) C. F. Laughlin Logging Co. – PO #17-064 - \$2,604.10 – Removal of Oak Trees in Beulah Park.
 - (2) Ernest Solutions, LLC – PO # 17-065 - \$1,882.10 - replace laptop to use program for the cameras at Beulah Park.
 - (3) Ernest Solutions, LLC - PO # 17-066- \$962.00 – replace old workstation for administrative department.

Motion by Disbrow, seconded by Gilmore to approve the Consent Agenda as presented.

Roll call: Ayes: Potter, Disbrow, Terp, and Gilmore

Nays:

The motion carried.

9. DEPARTMENT/COMMITTEE REVIEW/REPORTS:

A. Police Review– Graven – Monthly report in packets

Chief Graven reviewed Police business for May and provided a report of May calls, no questions followed regarding the report.

Graven reported that Officer Miller will start the Police Academy on June 12, 2017. Graven also reported that he had back surgery last week and he is recovering well.

B. Public Works Review – Superintendent Howard – Memo in packets

Superintendent Howard provided his staff report included in packet, no questions followed regarding the staff report.

Councilor Potter questioned if the additional school zone sign's that were discussed a few months ago have been followed up on. Howard stated that he talked to the company that manufactures the signs and recommends that the City purchase one sign to see if it works out, as they are \$1,500.00 – \$2,000.00 each. The signs are solar powered and do not require electricity. Howard will ask Council for authorization to purchase, once a price quote has been received.

C. Mayor/Administration Review-

None Received.

D. Council Review

None Received.

E. Emergency Preparedness Review

Councilor Disbrow reported that there will be an EOC workgroup meeting on Friday, June 16, 2017 @ 9:00am at City Hall.

10. INFORMATION/ANNOUNCEMENTS:

A. OLCC License renewal list.

B. City offices will be closed Tuesday, July 4th, to observe the Holiday.

C. Yamhill Derby Days Parade – July 15, 2017.

- D. Carlton Fun Days Parade – June 24, 2017.
- E. Vacancies: Budget Committee - 2 members- Applications are available at City Hall

11. ADJOURNMENT: 9:30PM

Motion by Disbrow that the meeting adjourn at 9:30PM.
The motion carried by unanimous vote.

Respectfully submitted,

Paula Terp
Mayor, City of Yamhill

ATTEST:
Lori Gilmore, City Recorder