



**CITY OF YAMHILL, CITY COUNCIL MEETING
Wednesday, August 9, 2017 7:00 P.M.
MINUTES**

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, Echauri and Potter
Staff present: City Recorder Gilmore, Superintendent Howard, Chief Graven,
City Attorney Gowell and City Planner Morgan.

2. PUBLIC HEARING:

- A. Public hearing on Proposed Code Amendments to the Yamhill Development Code addressing Zoning Code Amendments.

Mayor Terp opened the Public Hearing for the proposed amendments to the Yamhill Development Code addressing Zoning Code Amendments, and reviewed the purpose of the Council and the procedures for the Public Hearing. It was noted that there were no letters or phone calls received regarding the proposed amendment. Mayor Terp asked for objections to Jurisdiction. No comments were made.

City Planner John Morgan presented the Findings of Fact and provided a staff report from the August 1, 2017 Planning Commission Public Hearing for the proposed code Amendments. Morgan gave a brief background stating that the Planning Commission has worked over the last year to address key issues leading to these proposed amendments;

- The Commission has focused on making revisions to the Code which will allow the development of new housing better meeting the needs of Yamhill residents than what is allowed within the Code as it is today.
- The Commission has also worked on issued involving the keeping of livestock within the residential zoned portions of the community.

There were no opponents in attendance for the proposed code amendments. Chuck Mitchell, a proponent of the amendments and Planning Commission Chair, was in attendance and commented that the Planning Commission has done a thorough job of reviewing the current zoning codes and recommended the proposed amendments be approved to help the growth of the City of Yamhill.

Potter questioned the amendment allowing more housing opportunities and how it will change. Morgan responded that the amendment will allow for living in the upstairs of commercial buildings and will remove the code that says under no circumstances shall more than 50% of the building square footage be used for residential purposes.

Disbrow thanked the Planning Commission for all their time and effort working on the amendments over the last year. Terp also offered a thank you for all the work the Commission has done.

There were no further comments, and Mayor Terp closed the public hearing at 7:25pm. Council consensus is to approve the proposed amendments and move forward with considering the adoption of Ordinance No. O-515.

3. PUBLIC COMMENT:

None Received.

4. PRESENTATIONS & APPOINTMENTS:

A. None Scheduled.

5. UNFINISHED BUSINESS:

A. None Scheduled.

6. ORDINANCES:

FIRST READING:

- A. Consider adopting Ordinance No. O-515 an Ordinance of the City of Yamhill amending Chapter 10 of the Municipal Code, adopting new Zoning provisions and declaring an emergency. (Charter Chapter IV, Section 16, adopting an ordinance at a single meeting.) Ordinance No. O-515 will be available. Ordinance posted: July 31, 2017 (Charter Chapter IV, Section VB 16(b).)

Disbrow read Ordinance O-515, by title only, for the first time.

Motion by Disbrow to approve first reading of Ordinance O-515, seconded by Echaury to amending Chapter 10 of the Yamhill Municipal Code, adopting new Zoning provisions and declaring an emergency.

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

The motion carried.

Disbrow read Ordinance O-515, by title only, for the second time.

Motion by Disbrow to approve first reading of Ordinance O-515, seconded by Echaury to amending Chapter 10 of the Yamhill Municipal Code, adopting new Zoning provisions and declaring an emergency.

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

The motion carried.

ORDINANCE O-515
AN ORDINANCE OF THE CITY OF YAMHILL AMENDING CHAPTER 10 OF THE
MUNICIPAL CODE, ADOPTING NEW PROVISIONS AND DECLARING AN EMERGENCY

SECOND READING:

A. None Scheduled

7. NEW BUSINESS:

A. Consult with Council on process for LUBA Variance Case #17-01 -
City Attorney – Walt Gowell

Gowell gave background regarding the decision for Variance Case #17-01, that has been appealed to the Land Use Board of Appeals, LUBA Case No. 2017-070. On June 22, 2017, the City Council considered the Yamhill/Carlton School District Variance application appeal and voted to deny the appeal by Mr. Grahn and approve Variance #17-01, the application of OH Planning+Design on behalf of Yamhill-Carlton School District for a variance to height standards. Gowell reported that a Notice of Intent to Appeal was filed with LUBA by Grahn on July 13, 2017. The City then had a 21-day period starting July 13, 2017 to file the complete record to the Land Use Board that includes all the meeting minutes, agendas, testimonies, recordings, notices, exhibits etc., which the City filed on July 28, 2017. A Motion to Intervene was filed with LUBA by the Yamhill/Carlton School District on July 28, 2017 that allows the School District to intervene on the side of the City of Yamhill and intervene in a review proceeding and make arguments before the Board regarding the variance. Gowell also noted that Grahn (the petitioner) has 21 days from July 28, 2017 to file a formal brief with the Land Use Board of Appeals explaining what errors he feels were in the City's approval and making legal and factual arguments supporting his claim. Once the brief is received from the petitioner by the Land Use Board, the City would have 21 days from that received date to respond to the brief. Gowell also noted that the petitioner's attorney has a specific number of days to object to the record and request for changes or additions to the record, which could extend the time before the proceedings.

Gowell asked for the Council's direction as to what role the City plans to take in the appeal process. The City can choose to take an active role, in which our attorney would actively litigate to LUBA on behalf of the City and a response to the petitioners' brief would be filed. This process would be a significant expense for the City, that would not be recoverable costs. The City could take a different role, and file a pro forma brief, which would join with the School District in their arguments, which would enable the City to be present during the proceeding and participate in the oral arguments. The other option for the City is to take a passive role, and indicate that the City is going to await the outcome of the dispute between the School District and Mr. Grahn, and not actively participate in the appeal process.

Disbrow questioned Gowell and Morgan of their experience with the possible outcome of the case with LUBA. Gowell reported that the City of Yamhill has never had a LUBA appeal and he has handled one case in his career. Morgan indicated that his experience shows that approximately 10% of LUBA cases are upheld, 10% are reversed and 80% are remanded back for further findings.

Council's consensus is to direct Gowell to proceed with a pro forma brief to join with the School District and participate in the oral arguments.

Howard questioned Gowell on the process for approving any building permits received from the School District during the LUBA process. Gowell stated in Land Use Case approvals, unless the petitioner asks for a "stay", or if LUBA issued a "stay", the permits can still be issued. The School District could choose to take the risk of moving forward with the building during the LUBA Case, with the knowledge that it is their decision and their risk with the responsibility to remove the building if the case is reversed and no building height variance is allowed.

Council recommended that a letter from Gowell be provided with the building permit application that clarifies the School District would be proceeding at their own risk and the City recommends waiting until the LUBA Case for the variance has been resolved and to consult with their own attorney.

- B. Consider adopting Resolution No. R-744, a resolution by the City Council of Yamhill Declaring City Property (a certain Police Vehicle) to be surplus and authorizing City Staff to donate said property.

Motion by Echaury, seconded by Disbrow, to adopt Resolution No. R-744 declaring City property to be surplus and authorizing City Staff to donate said property.

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

The motion carried.

RESOLUTION NO. R-744
A RESOLUTION BY THE CITY COUNCIL OF YAMHILL DECLARING CITY
PROPERTY (a certain Police Vehicle) TO BE SURPLUS AND AUTHORIZING CITY
STAFF TO DISPOSE OF SAID PROPERTY.

- C. Consider application for use of a Recreational Vehicle as temporary residence.

A recreational vehicle use permit was received and approved on May 30, 2017 which allows for an RV to be placed on an individual lot and used as a temporary residence during construction of a home for a period of one-month, Yamhill Municipal Code, Chapter 10.84.030. The code also specifies that an RV Permit must be obtained for each succeeding 30-day period with notification to the City Council before issuance of a second permit. On July 27, 2017, a permit application was received to request another 30-day period of using the RV for a temporary residence. The application stated that the owner had to be gone out of state for a couple of months, and is still doing repairs to

residence at E. Second Street. Councilor Echauri reported that very little work has been done on the residence over the last few months, and work is not being done while the owners are at the property.

Motion by Echauri, seconded by Disbrow, to deny the Recreational Vehicle Use Permit request based on lack of satisfactory progress as stated in Title 10.84.030 (B) (3).

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

The motion carried.

Councilor Disbrow commented that if the applicant can comply and show satisfactory progress in the opinion of a building official, re-applying is recommended.

- D. Discuss entering into an agreement to have Yamhill Police Department enforce Fire Lane Codes at the Yamhill-Carlton High School and Intermediate School - Chief Brian Jensen

Fire Chief Jensen is currently working with the School District to move forward with their construction project and certain requirements will need to be met. Jensen and Howard are working with the School District regarding the required fire lanes and working to accommodate a solution. Jensen reported that currently the School District does not enforce the no parking zone in the designated fire lanes, and at times it has hindered the Fire Departments response to calls. Jensen has not asked the School District prior to tonight, but would like to ask the City first if they would be interested in entering into a formal agreement with the School District for the Yamhill Police Department to have authority to enforce the code for no parking in the fire lanes and to cite the offenders. If the City agrees, Jensen would like to list the enforcement as a requirement for the School District to meet the fire code. Jensen stated that it would be the School Districts responsibility to come before the City Council to request that enforcement and agreement.

Consensus is the Council would be willing to discuss an intergovernmental cooperation agreement with the School District if received.

- E. Discuss the City overseeing a "Performance Bond" for the School District Building project – Chief Brian Jensen

Jensen reported that the State Fire Marshall and the Yamhill Fire District have a concern for the lack of fire water flow for the current School Campus and for the projected development. According to Fire Code, for the District to move forward with the project, the larger water lines would need to be installed and able to meet the 1,500 gallons per minute fire flow code before any building materials are brought onto the building site or any construction is started. The requirement could prevent construction until possibly next summer, and the District would like to move forward with the pouring of foundation forms as soon as September, 2017. The Fire District and the State Fire

Marshall have offered to work with the School District under specific conditions, and would like to require that the School District post a Performance Bond for the completion of the water line system. The amount of the Bond would be 1½ times the estimated cost of the water line project, to guarantee that the line is installed before the newly constructed buildings are occupied.

Another condition would be that the School District will not have control over the Bond, and will not be able to release the Bond. If the School District chooses to move forward and post the Performance Bond, Jensen would like to ask if the City of Yamhill would agree to have control over the Bond and only release once the water lines are installed and are operational. Gowell stated that it would be considered a Cash Performance Bond Agreement between the City and the School District that would provide performance standards and authorize the City to maintain that cash in an account, until the School District completed the performance requirement. Typically, if the performance was not completed within a certain period, the City could hire to contract the work to be completed, using the cash from the Bond.

Council had no objections and consensus is to agree to control the Cash Performance Bond Agreement if the School District agrees, as it is a reasonable solution to being able to move forward with building project.

8. CONSENT AGENDA:

- A. Approve Council Minutes
(1) Regular Session – July 12, 2017
- B. Financial Statements
- C. Approve the following Purchase Order:
None received.

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

Roll call: Ayes: Potter, Disbrow, Terp, Echauri 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 July and provided a report of July calls.

Graven noted that the annual Derby Days Parade was a success this July, and recently had a “National Night Out Event” on August 1, 2017 that was also a success and had a good turnout.

Graven has requested that Clerk Kim Steele assist the Police Department in their yearly audit of evidence and has previously discussed it with Recorder Gilmore and Councilors Echauri and Disbrow. It was noted that it isn’t an official position, but wanted to notify council of the request. No objections were received.

B. Public Works Review – Superintendent Howard – Memo in packets
Superintendent Howard read his staff report included in packets.
Howard reported that there have been no issues with water shortages with all the hot weather and anticipates no water rationing. Howard also reported that he is currently working with the City Engineers for layouts in Beulah Park to re-route water and sewer lines around park instead of through the park, and working with PGE to re-route power lines. Re-routing will help enable work and upgrades in the park without damage to lines.

C. Mayor/Administration Review-

- (1) Consider request to sign a proclamation to proclaim the week of September 25, 2017 through October 1, 2017 “Diaper Need Awareness Week.”

Terp was in receipt of a request to sign a proclamation to proclaim the week of September 25, 2017 through October 1, 2017 “Diaper Need Awareness Week”. Council consensus was to approve the Mayor signing the proclamation.

Terp reminded Council of the August 21, 2017 “Eclipse Party” and asked for volunteers to help. The popcorn machine will be borrowed from the Intermediate School and ice cream will be supplied by T & E. Council approved closing City Hall until noon on Monday, August 21, 2017.

Mayor Terp reported that recently a property owner in town on N. Maple Street had a car drive through their house and residents are now displaced and living in a tent on their property. Terp noted that the insurance company will be supplying a RV or trailer to the resident and would like to recommend approving the placement of a RV or trailer and waiving any fees associated with a permit to do so. Council’s consensus is to allow the placement and waive fees and approve a credit on their water account for any costs above their average monthly water billing, due to a water line break during car crash.

C. Council Review

None Received.

D. Emergency Preparedness Review

Disbrow reminded staff that there will be an Emergency Workgroup meeting on Friday, August 18, 2017 @ 10:30am.

Disbrow reported attending an EPG meeting at Yamhill County this month, and there was information regarding fuel supplies during the Eclipse and discussed fuel supplies during an earthquake event.

Disbrow stated that he has asked the Yamhill County Emergency Manager to speak at an upcoming Emergency Workgroup meeting regarding Everbridge Emergency Notification System. The County is considering using the Everbridge notification system and are looking for other agencies to join the system.

10. INFORMATION/ANNOUNCEMENTS:

- A. Yamhill County Local Government dinner- Thursday, August 17,2017 @ Chehalem Cultural Center Grand Ballroom, Newberg.

- B. Yamhill's Eclipse Party – Beulah Park – Monday, August 21, 2017.
- C. City offices will be closed Monday, September 4th to observe the Holiday.
- D. Letter of Appreciation – Yamhill Community Action Partnership.

11. ADJOURNMENT: 8:45 PM

Motion by Echaury that the meeting adjourn at 8:45PM.
The motion carried by unanimous vote.

Respectfully submitted,

Paula Terp
Mayor, City of Yamhill

ATTEST:
Lori Gilmore, City Recorder