

**CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes
January 4, 2010**

1. CALL TO ORDER

Vice President Walsh called the meeting to order at 7:01 pm. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

2. ROLL CALL

Present: Commissioners Anderson (came in slightly later than roll call), Caffall, Doherty, Fishel, Gaschke, Hasman, Muldoon, Vermilyea, and Walsh; Alternate Commissioners Schmidt & Shavey

Absent: None

Staff Present: Ron Bunch, Community Development Director; Dick Bewersdorff, Planning Manager; Gary Pagenstecher, Associate Planner; John Floyd, Associate Planner; Doreen Laughlin, Sr. Administrative Specialist

3. COMMUNICATIONS

Dick Bewersdorff, Planning Manager, introduced the new planning commissioner and alternates, Tim Gaschke, Don Schmidt, and Richard Shavey.

4. CONSIDER MEETING MINUTES

12-07-09 Meeting Minutes: Vice President Walsh asked if there were any additions, deletions, or corrections to the minutes - taking into account a small correction that had been phoned in earlier correcting the date on page 2, second sentence, to 1-4-10. Walsh then declared the minutes approved.

Walsh moved on to the work session and elections.

5. WORK SESSION - ELECTIONS

Walsh opened up the floor to nominations. [The former president of the Commission left in December after serving 8 years as a Commissioner. This left the balance of that position (1 year – to end 1-1-11) open]. Commissioner Vermilyea moved to nominate Commissioner David Walsh as President. The motion was seconded by Commissioner Hasman. There were

no other nominations. There was a verbal vote, and Commissioner Walsh was elected to the office of Planning Commission President.

Commissioner Hasman moved to nominate Commissioner Vermilyea for the office of Vice President. The motion was seconded by Commissioner Caffall. Commissioner Walsh nominated Commissioner Muldoon. There was no second. There was a secret ballot with Commissioner Vermilyea getting the majority of votes and thus being elected.

President Walsh opened up the public hearing.

6. PUBLIC HEARING

6.1 DEVELOPMENT CODE AMENDMENT (DCA) 2009-00004. SEASONAL OUTDOOR SALES CODE AMENDMENT – Cont'd from 12-07-09

STAFF REPORT

Gary Pagenstecher, Associate Planner, gave the staff report on behalf of Staff. [Staff reports are available one week before each scheduled meeting.] Pagenstecher noted that this matter had been continued from 10-19-09, to 11-2-09, to 12-7-09, to this date. He gave a brief background on what had been said at the previous meetings. He acknowledged the presence of a gentleman from the Tigard Grange named Phil Yount who had participated in the meeting on 10/19. Pagenstecher said that at previous meetings Phil Yount (representing the Tigard Grange) and Stan Baumhofer (representing the Tigard Area Farmer's Market) had raised several issues in response to the proposed code amendments. In addition, Commissioners had raised several issues in response to the proposed amendments, including qualifying the type of organization, duration of the seasonal use, less onerous and more user-friendly approval criteria, and a call out for hours of operation. These issues were addressed in the staff analysis portion of the memorandum Pagenstecher wrote to the Planning Commission dated 12-28-09, and reflected in the revised Development Code Amendment. Pagenstecher went over the code sections that had been revised (18.785.020 – "Types of Temporary Uses"; and 18.785.040 "Approval Criteria") and noted that the other sections addressed in the October 9, 2009 staff report remained unchanged.

After reviewing the changes noted on the memorandum, Pagenstecher said staff is asking the Planning Commission to recommend this Development Code Amendment to the City Council.

At this point, Pagenstecher asked if the commissioners had any questions of staff.

QUESTIONS FROM COMMISSIONERS OF STAFF

I have a concern regarding the time references – there are multiple references where it says less than one year as opposed to 7 months – and other places where time references aren't universally applicable. Did you review this for consistency for time references? *The chapter "temporary uses" covers a number of uses. We have clarified and added "Seasonal Market" section here and the duration relates specifically to that use.*

I understand your definition of "seasonal" is 30 days? *Well, the seasonal market is one type of season.*

I suggest we change the language of 18.785.040 A.1. to say "except as provided in paragraph 6.

Commissioner Vermilyea said "it appears the intent of the language is to be very flexible for the applicant – in that there is no definition of what "documentation" is in 6b. Also in saying you must provide some form of market rules and policies that contain at least these items. My suggestion would be to put A in the body of 6, making it a mandatory requirement and change it to say something like "The applicant shall provide... etc." This last sentence says the City may consider the following additional approval criteria for seasonal markets. I think, in my mind, there are pretty significant differences between those rules and policies and what other issues may arise depending on a given market. I think there needs to be kind of a structural adjustment. One way to do it would be to move A up – make it #6, and make everything else #7 – another way would be to move the body of A up and put it in as the 2nd sentence in #6 and then have B become A, and C become B, etc. etc. But one of those two things I think we ought to do because we need to distinguish between A and the rest in this list.

There were more ideas discussed about how to go about changing the verbiage; and then the questions continued.

My question revolves around two terms that are used. One in 17.785.020 sub A2 "chartered public service/non-profit organization etc." - the word "charter" – that word makes me uncomfortable because it's not really defined anywhere. I deal with non-profits and am not aware of what a "charter non-profit" is. If we're going to use that word, I'd like to see it defined. Secondly, the word in 18.785.040 6.B, C, & D - "documentation" - what kind of documentation does staff intend when you use that term rather than the specific kinds of reports that you're talking about. What sorts of documentation would a party use to satisfy these criteria? Could you please speak to these? Pagenstecher answered *"Possibly some mitigation plan, a sketch, fairly simple, a written plan, in some situations these could be sufficient. It all depends on the circumstances – the simpler the circumstance, the simpler the documentation can be."*

Pagenstecher went on to speak about the definition of charter – *“a document outlining the principals functions and organizations of the corporate body” - a constitution, again, just a very basic thing. It is a simple statement of the purpose of the group.*” So you’re not intending that an organization be... for example... licensed with the state as corporate entity as a state charter/ non-profit necessarily? They could be a Girl Scout troop, or some other organization that may not have all the formal documents in place. Yes – that’s right. Conceivably getting a tax filing status costs money and effort that the group wouldn’t want to front and typically it’s a hurdle to get that although groups like it because it can fundraise if they do get that but in this case, it’s theoretical. We don’t really know who’s going to “come out of the woodwork” to want a market. Right now we’re just throwing out an “all comers welcome” – “try this out if you can meet these standards” and we can’t presume who those groups are going to be. It’s as wide as possible.” One of the commissioners summarized “So, for example, what you’re looking for is an organization that has a constitution, a charter, but they are not be through the “State of Oregon.” So you’re looking at groups that would be organized, have a charter, have a purpose, that kind of thing. Is that the purpose behind the language?” Yes.

PUBLIC TESTIMONY – IN FAVOR:

Phil Yount, 11222 SW Cottonwood Lane, Tigard, manager for Tigard Grange had what he said was a really basic question. “It seems as if the Tigard Grange is exempted from all this in 18.785.010 C “Exemptions” – the first one says “seasonal and special events conducted by and totally for the benefit of a Tigard-based nonprofit organization.” If we’re exempted... does any of this apply to us? The word “totally” makes the grange non-exempt. Pagenstecher: Can you clarify how this would work? Yount: “The Tigard Grange would ask members (or non-members) to rent a little space from us and we’d get a share of their profits from whatever stuff they sell. We’d use that as a fundraiser. Pagenstecher: So, in that case, I’m thinking you would not be exempt. You would have vendors who would profit also. Yount: “Oh – because of the word “totally”... “totally for the benefit of...” that would explain it.

Some of the commissioners thought this language might be a bit confusing to others as well and thought it would be best in 18.785.010 C to drop the word “totally” out and add the words “exclusively by and for.”

PUBLIC TESTIMONY – OPPOSED: None.

PUBLIC TESTIMONY CLOSED

DELIBERATIONS

There were no further questions or deliberations and the following motion was made by Commissioner Muldoon, seconded by Commissioner Caffall:

“I move to forward a recommendation of approval to City Council of application DCA 2009-00004 continued from Dec 7th 2009, and adoption of the findings and conditions of approval contained in the staff report and the deliberations tonight and based on the testimony tonight.”

“Do I need to itemize the differences?” Planning Commission Secretary Laughlin answered, “Yes, please.”

[The differences follow:]

Under “18.785.010 – under Part C, “Exemptions,” it would read “events conducted exclusively by and for,” rather than the prior language.

Under 18.785.040 – at the end of sentence A.1, it would have “except as provided in paragraph 6”; and under the same section “Part 6” we would move sub-par A up to the part of the main paragraph, second sentence, where it would say “the applicant shall provide” and then otherwise the remainder of the language in par-A would be the same and an additional sentence would say “The City may also consider the following criteria: and then B, C, D, & E would be labeled A thru D.”

The motion CARRIED on a recorded vote, the Commission voted as follows:

AYES:	Commissioner Anderson, Commissioner Caffall, Commissioner Doherty, Commissioner Fishel, Commissioner Gaschke, Commissioner Hasman, Commissioner Muldoon, Commissioner Vermilyea, and Commissioner Walsh (9)
NAYS:	None (0)
ABSTAINERS:	None (0)
ABSENT:	None (0)

Walsh stated that this would go to Council on February 9th.

7. STUDY SESSION Re Joint Meeting with Council Regarding Trees

STAFF REPORT

John Floyd, Associate Planner, introduced himself and gave the staff report on behalf of the City. [Staff reports are available to the public upon request one week in advance of any meeting.] Floyd said the purpose of this session is to help them prepare for the upcoming joint Council/Planning Commission meeting scheduled for January 19th. Walsh asked him to walk them through the memo (dated 12-28-09) that he’d prepared for the commissioners. Floyd briefly went through the various topics that had been identified (**Exhibit A**).

QUESTIONS OF STAFF BY COMMISSIONERS:

There were some general questions clarifying what the Council wanted, specifically in #5 referring to “discussing alternative outreach approaches” – Floyd said it was pretty much ‘open ended’. They would like to see more public engagement in this process.”

There was a basic discussion as to what kind of evaluative methods they might have when looking at mitigation.

Floyd said the Planning Commission would make a recommendation to Council. Ultimately they have the final word, the idea being to get the two bodies closer together in terms of being on the same page.

Ron Bunch, Community Development Director, spoke about amendments to the Tree Code. He said that, due to the changing nature of the community – infill and the like – a line by line review should probably be done of the Tree Code - make sure it meets these goals as well as the goals in the Comprehensive Plan. Walsh noted that the Urban Forestry Master Plan 1.1 basically calls for a complete comprehensive review of the Tree Code, followed by a comprehensive review of the landscaping code.

8. OTHER BUSINESS

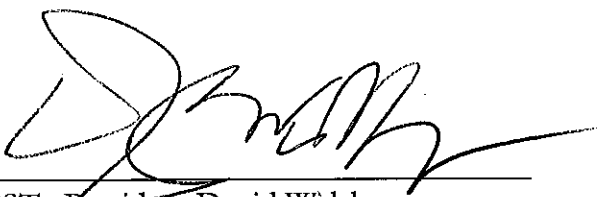
Walsh suggested that in the future, after a public hearing that they do a “process check” – did the Planning Commission handle it well? How do we work as a Planning Commission? The commissioners agreed and said that would be at the president’s discretion. Walsh encouraged the Commissioners to email staff if they want to give them expectations.

Vermilyea asked if they could have a “map” of some sort as to how the coming year will look. He would like some sort of plan of action. Ron Bunch spoke briefly about the fact that they’d put together a strategic action plan; actually, a bit more tactical in nature – a number of projects that are lined up for the next 18 months or so. Everything from adoption of the Transportation System Plan, to periodic review of the Comprehensive Plan; to the Land Use Program study for the Hwy 99W corridor and Downtown issues; public facility plans; and so forth. Staff will assemble it into one document and bring it before the commission. It’s mapped out according to topic and also in a rough chronology. Vermilyea would like to have the list take into account the goals of the Planning Commission for the past few years. Since they went to the trouble of laying out the goals and spending the time prioritizing – he’d like to focus on the things the Planning Commission set as priorities. Bunch said those are on the list. The list is probably 14 or 15 pages.

9. ADJOURNMENT

President adjourned the meeting at 8:50 pm.


Doreen Laughlin, Planning Commission Secretary


ATTEST: President David Walsh



MEMORANDUM

TO: Tigard Planning Commission

FROM: John Floyd, Associate Planner

RE: Study Session for Joint Meeting with Council on Tree Code Update Project

DATE: December 28, 2009

On January 19, 2010 the City Council and Planning Commission will participate in a joint meeting to discuss the development of new urban forestry regulations. The intent of this meeting is to provide an early forum to discuss guiding principles and desired project outcomes, which can help staff and the Planning Commission in formulating a recommendation to Council over the coming year. To facilitate this dialogue, staff has prepared a list of suggested topics (see below), which incorporates feedback provided by Council on November 17, 2009 and by the Planning Commission on December 7, 2009.

At the meeting on January 4, 2010, the Planning Commission will prepare for the joint meeting in order to determine shared points of concern and those of divergence or disagreement. The goal of the discussion is to assure a productive meeting with the Council on January 19th.

Topics for Joint Council and Commission Discussion

- 1. Council members and the Planning Commissioners identified the following issues to help identify the degree of consistency and divergence with regard to the development of new urban forestry regulations.**
 - a. The appropriate balance of Mitigation versus Preservation; and
 - b. How far the City should go in respecting “property rights” versus limiting an owner’s ability to develop property in order to save or plant trees.
- 2. Council members expressed interest in communicating guiding principles, specific requests, or desired outcomes to the Planning Commission with regard to:**
 - a. Simplicity in the new code – avoid complexity; and
 - b. A two-tier approach with both an objective and discretionary approval path.
- 3. The Planning Commission expressed interest in specific advice or guidance from the Council regarding the following aspects of the tree code amendments:**

- a. To what extent does the Council desire flexibility to accommodate desired project density?
- b. To what degree should the Tree Grove Protection Program emphasize incentives, regulatory protections, or a combination of the two?

4. The Planning Commission suggested using the goals of the Urban Forestry Master Plan to help focus the joint discussion on the kinds of outcomes that are desired and achievable through the Tree Code Update project. Staff suggests focusing on the following specific goals and sub-goals as they are expected to produce the greatest amount of deliberation and public comment during the course of the project.

Goal 1: Revise Tigard's Tree Code

Sub-Goal 1.1: Revise Tree Code to allow for more flexibility and ensure a qualitative approach to tree preservation.

Sub-Goal 1.2: Revise tree code so that standards do not solely impact those property owners with trees.

Goal 2: Revise Tigard's Landscaping Code

Goal 3: Develop a Tree Grove Preservation Program

Sub-Goal 3.1: Focus on preserving large groves of native trees.

Sub-Goal 3.2: Develop a flexible and incentive based grove preservation program that meets the needs of affected property owners.

Goal 4: Develop a Hazard Tree Identification and abatement program

Sub-Goal 4.1: Establish a City storm and hazard tree response program.

Sub-Goal 4.2: Establish a City program to facilitate tree hazard identification and abatement on private property.

Goal 6: Develop an urban forestry stewardship program

Sub-Goal 6.1: Prevent pre-development clearing of lots.

5. The Council expressed interest in discussing alternative outreach approaches beyond the "typical" efforts for development of the tree code amendments.