



City of Olympia

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Meeting Minutes - Final Planning Commission

Monday, November 5, 2012

6:30 PM

Room 207

Regular Meeting

1. CALL TO ORDER

The meeting was called to order at 6:30 p.m.

1.A ROLL CALL

Present: 9 - Commissioner Judy Bardin, Commissioner Roger Horn, Commissioner Paul Ingman, Commissioner Agnieszka Kiswa, Vice Chair Larry Leveen, Commissioner Jerome Parker, Commissioner James Reddick, Commissioner Rob Richards, and Chair Amy Tousley

2. APPROVAL OF AGENDA

The agenda was approved.

3. APPROVAL OF MINUTES

4. PUBLIC COMMENT

T.J. Johnson (no address given): Concerned about trying to predict the issues that might arise from the keeping of animals. Cites the discussion eight years ago regarding allowing chickens in the city. Notes Code Enforcement at that time claiming an increase in complaints and cases that could be expected due to allowing chickens. Highlights the reality known in Lacey and Tumwater since adopting their urban agriculture code amendments, that there are zero code enforcement cases. Encourages a liberal discussion of code amendments. Chair Tousley recommends the Commission determine a policy for allowing comment on an issue after the public hearing during public comment periods at regular meetings. Commissioner Parker notes that if the issue is quasi-judicial, public comment on an issue on the agenda should not be allowed. Chair Tousley explains a primary difference between legislative and quasi-judicial is determined by whether or not the request is for a rezone to a specific parcel vs. a larger area. Urban agriculture applies citywide, so is legislative. T.J. Johnson: Describes various options for fencing at the request of Commissioner Bardin. Agrees with staff not to allow 6 or 8 ft. poultry wire. It tends to decline and sag over time. Commissioner Horn urges caution in allowing one side representative of an issue, such as urban agriculture, to speak to an issue when the other side doesn't have the opportunity.

Rachel Newman (no address noted): In reviewing the Comprehensive Plan has had trouble articulating what the process, design, and development has been. Shares a graphic handout from Thurston Regional Planning Council (TRPC) that helps people understand when to share constructive feedback on the Plan. Process includes a look at the vision and values, existing conditions, resulting in goals and policies. Encourages Commission to check back with the public on the vision. The vision should be informed by the public and represent what the public shared during Imagine Olympia. Encourages more

public process to reach out to the community to ensure the vision reflects the community's desires. Feels there should be another process similar to Imagine Olympia to seek community involvement and input.

Carole Richmond (no address given): What is the process for having continuing public input on the Vision? Would like to continue providing refinements to the draft vision provided by Ms. Richmond and Ms. Stewart. Commissioner discussion on when the record closes, and how long to accept comments. Recognition that the hearing record is closed. Staff reiterates that the Commission has intended to enter final deliberations, the phase of the process dedicated deliberations after having gone through initial deliberations and multiple public hearings. Chair Tousley accepts Ms. Richmond's comments into the record despite having been received after the 5:00 PM deadline.

Angela Ornerine (no address given): Consider allowing goats on properties smaller than 5,000 feet; doesn't see that comment recorded in the code.

5. ANNOUNCEMENTS

Staff distributes public comments received during the final public comment period for the Comprehensive Plan. Chair Tousley notes the December meeting will be held on December 17 (in lieu of December 10). Chair Tousley explains that Mr. Joe Hanna has filed an ethics complaint against her. Chair Tousley reiterates that she did not recuse herself as noted she should have in the complaint, and that she did not feel there was a legitimate conflict of interest. She is in contact with the City's legal staff regarding the matter. Commissioner Parker asks if there is a ruling on the complaint. Commissioner Tousley states there is nothing that she is aware of in the Olympia Municipal Code regarding ethics complaints and Commissioner behavior. Tousley will have a discussion on it with Council. Not sure currently of how this process will be addressed. Request that Commissioner Richards address the tentative November 28 CPU meeting during reports. Chair Tousley asks for any additional Commissioner comments re: Trillium prior to exiting for the Council meeting downstairs. Vice-Chair Leveen urges timely meetings, and not to create a new discussion/agenda item from Commissioner Tousley's email regarding notes on Trillium.

6. BUSINESS ITEMS

[12-0717](#) Deliberation on Urban Agriculture Code Amendments

Chair Tousley asks Commissioners if there are outstanding questions for staff (Jennifer Kenny, Associate Planner).

Ms. Kenny distributes revised code language after having received and integrated comments from Commissioners Horn and Parker. Vice-Chair Leveen's comments were received too late to be incorporated.

Ms. Kenny confirmed:

-Legal staff reviewed the draft language, notes they will review the version being forwarded to Council, and will want to review the Commission's recommendation. No concerns regarding content were noted by legal. Edits will be incorporated in the version that moves forward to Council.

-There are two instances of racing pigeons in Olympia; not aware of any issues or if there may be more in the future.

-The language does mean that no animals are allowed in areas zoned industrial. Commissioners may wish to consider this, however, there were no public comments on that restriction. It may affect Camp Quixote.

-It remains to be determined who will decide if structures attract rodents or not. Notes that codes can be

hard to enforce, but it is likely to be driven by neighbor complaints. Likely that code enforcement or Animal Services would respond on a case-by-case basis. Confirms this would be enforceable by Code Enforcement staff once adopted.

Vice-Chair Leveen comments on the vagueness of how chickens meet the requirement of confinement. Ms. Kenny notes that the code also defines "suitable sanitary enclosures," but notes language could be added to clarify that confinement can mean the property.

Commissioner Parker asks about restrictions where animals may be kept. Ms. Kenny responds there are required setbacks, but no differentiation between front or rear yards. Notes in response as well that the code is not as prescriptive as noting what materials required for rabbit hutches.

Ms. Kenny confirms Commissioners have received the new language and formatting changes. To see sections with no changes, see the Agenda Item Summary.

Ms. Kenny responds to the question why there are different setbacks for chickens versus rabbits. Ms. Kenny notes that some setbacks were based on other cities codes, and that public comment requested less distance. Staff not aware of a particular reason why there may be a difference.

Ms. Kenny responds she has reviewed Seattle's code regarding rabbits. Mostly focused on Tumwater and Lacey. Regarding goats, never saw language that required a minimum of two. Some locations were more specific about structures, some weren't, and there were differences in setbacks. No real uniform agreement, but all close. Seattle permits both goats and rabbits.

Ms. Kenny responds that an age minimum for traditional pets is noted. There was no discussion beforehand of raising baby rabbits and how many might be appropriate--hearing was the first note of this issue. Tumwater and Lacey have a lower threshold to have five rabbits, but same number of rabbits. Larger property allows more rabbits. Lacey specifically allows up to two dozen rabbits.

Staff confirms for Commissioner Parker that there is no limit to how many code amendments can be made in a year. Commissioners may return to this again if desired.

Ms. Kenny confirms the maximum setback of 10 feet is required in front yards. Commissioner Horn notes that if a fence is back further than 10 feet, it may be higher than 4 feet.

Ms. Kenny, in response to a question regarding minimum lot sizes from Commissioner Parker, confirms that fence applications are building permits, and are submitted to CP&D. The fee is a minimum of \$90.00. Ms. Kenny responds that the building engineer is currently reviewing the potential use of solar fences, and would integrate consideration into a larger review of new technologies.

Vice-Chair Leveen confirms Commissioners can recommend to Council that solar fences be allowed. Also notes they can recommend that something be addressed or changed.

Commissioner Parker requests staff try to show on the internet an example of a polypropylene mesh fence. Staff brings up images for review.

Ms. Kenny notes the code language may not want to limit or presume what materials or structures should be used, but instead leave it open.

Chair Tousley asks Commissioners if they are prepared to begin deliberations.

Commissioner Richards moved and Chair Tousley seconded to approve the language with the following revisions:

- Waive fence permit requirement or permit fee
- Require a minimum of two pygmy goats for the welfare of the animal
- Reduce the minimum lot size for rabbits and allow more rabbits for breeding purposes as lot size

increases

- Reduce the required setbacks for animal enclosures
- Ducks and turkeys on lots larger than 1 acre
- Allow solar electric fences

Chair Tousley expresses concern about waiving a fence permit for agricultural fences, but would encourage waiving for all fences.

Commissioner Parker was not in favor of an 8-foot fence in front of a house and stated a tall fence isn't welcoming to pedestrians using an adjacent sidewalk; eight-foot fences should be limited to backyards, sides of houses, and not corners.

Commissioner Ingman expressed concern with reducing front yard setbacks, structures in the front yard, and fence height taller than 6 feet.

Vice-Chair Leveen would like to be more permissive and can't support the motion currently. Would like to add female ducks as the same as chickens. Portland allows and treats ducks the same as chickens.

Commissioner Richards withdraws his motion.

Ms. Kenny confirms that an 8-foot fence was cited by members of the public as the minimum needed to keep out deer.

Chair Tousley recommends starting a review with proposed OMC 18.04.060.

Commissioner Richards recommends starting discussion with defining "confinement" for chickens. Perhaps more specific language is needed to define.

Vice-Chair Leveen brought to the meeting specific changes he'd like to describe, and can then provide precise text to staff, as opposed to a "scatter-shot" approach to the discussion. Vice-Chair Leveen proposes that OMC 1D(l) for lots one acre or less be revised to allow ducks (either sex) along with chickens. Same edit for lots greater than one acre. And (iv) Roosters, geese, and turkeys are prohibited.

(Chair Tousley departed the meeting at 8:45 p.m. Vice-Chair Leveen assumed the role as Chair.)

Commissioner Richards suggested looking for nods of agreement or concurrence before moving on to the next recommendation from Vice-Chair Leveen.

Ms. Kenny notes that ducks can just be noisy and do better in larger spaces, but some cities do allow them. Confirms that if ducks are noisy, one may file a nuisance complaint.

Vice-Chair Leveen raises how to define "confined." Chickens and ducks shall be confined to the owner's property. Commissioner Horn adds: confined to a fenced in area. Believes the yard should be fenced, or confined to a movable tractor enclosure. A tractor equals a fenced-in area.

Vice-Chair Leveen strikes "chicken" from definition of a coop, so as to include ducks. Concerned about animal welfare, so suggests "must be designed to protect fowl on all sides and prevent rodents."

Strike ducks from the list of prohibited fowl.

Commissioner Ingman is concerned about limiting setbacks with 5 foot setbacks being too small. Commissioner Richards supports the visibility of enclosures or coops. Commissioner Ingman concerned about the potential look and visibility. Commissioner Horn agrees that 20 ft. is reasonable for the front yard setback.

Ms. Kenny confirms the definition of thru-lots as a lot that fronts on two parallel streets, not a common

occurrence.

Commissioner Reddick notes that there are yards that can't accommodate 20 feet. Commissioner Richards recommends differentiating between a permanent structure and a tractor (moveable structure). If a tractor is left too long in one location in the setback, code enforcement can respond.

Commissioner Ingman is concerned about the addition of structures to front yards and how it reflects the community.

Commissioner Bardin notes that perhaps structures should be limited to one structure. Vice-Chair Leveen notes that tractors and coops are currently allowed and complaints are few or none. Commissioner Bardin suggests limiting structures to one.

Commissioner Parker notes that goats should have fencing requirements.

Vice-Chair Leveen halts discussion to confirm with the Commission whether or not to continue Urban Agriculture due to the time. Commission determines to continue discussion on Urban Agriculture.

Vice-Chair Leveen recommends that lots 1/4 acre or less are allowed up to five rabbits of breeding age, and lots greater than 1/4-acre to one-acre are allowed one rabbit per every additional 1,000 sq. feet of lot area beyond 1/4-acre, up to 10 rabbits with 10 as the maximum. Commissioners express support.

Vice-Chair Leveen notes that the Commission can enter into their report for Council a concern about lots accumulating multiple coops, tractors, etc. Commissioner Bardin notes a desire to limit the number of structures to one. Concedes to Vice-Chair Leveen's suggestion to include that concern in the report to Council.

Vice-Chair Leveen recommends that rabbit structures are protected on all sides from predators and prevent other rodents. Commissioners confirm.

Commissioner Bardin notes that she'd rather include draft language about limiting to one structure.

Vice-Chair Leveen recommends that rabbit structures can't be located within 5 ft. setbacks in rear and side yards, and 20 ft. in front yards. (Same as language for chickens). Commissioners confirm.

Commissioner Ingman confirms that the side yard does extend along the length of the property.

Vice-Chair Leveen recommends that the code doesn't need to address a minimum of two goats. It is noted in welfare literature that goats shouldn't be alone. Didn't feel a need to allow goats on a smaller area than 5,000 ft. Commissioner Richards expresses a desire to require a minimum of two goats. Commissioner Horn notes that the regulations need to be flexible and have trust in the people who wish to raise goats. Goats can also have other companions. Commissioners decide to leave language at allowing one or two goats.

Commission discusses moving language regarding goat enclosures to where the language is regarding number of goats. Commissioner Parker recommends moving Section 4 under current Section iii. Commissioner Richards notes that Section 4 applies to all animals. Commissioners agree not to move Section 4.

Commissioner Horn recommends also lessening the minimum setback from 50 ft. to 20 ft. Commissioners confirm.

Vice-Chair Leveen recommends adding goat enclosure language to mini-goat section. Commissioners confirm.

Ms. Kenny confirms that in the existing code, properties over one acre can have a horse or cow.

Vice-Chair Leveen doesn't see the reasoning behind preventing residents of Camp Quixote, in an industrial zone, from also having animals. Staff confirms it may be an unintended consequence, not a purposeful exclusion.

Vice-Chair Leveen recommends allowing this code to apply to all districts, not restricting in industrial zones and light industry. Commissioners confirm.

Commissioner Horn recommends removing the line referring to pets and other animals allowed in residential areas. Add: pets and other animals are allowed in all districts, subject to the following requirements... Commissioners confirm.

Vice-Chair Leveen brings forward again Commissioner Bardin's concern about number of structures in front yards. Commissioner Bardin recommends that only one enclosing structure for animals be allowed in a front yard, and that structure should be set back 20 ft. Vice-Chair Leveen notes that setbacks are addressed already. Revises recommendation to say: Only one enclosure structure for animals is allowed in a front yard.

Commissioner Bardin clarifies that goats or a horse could still move through the front yard. And this should apply to residential zones. "In residential areas, only one structure enclosing animals should be allowed in the front yard."

Commissioners confirm that it won't be added to the code language, but will be noted in the letter/report to Council.

**Vice-Chair Leveen requests a motion to accept the draft language as amended for 18.04.060.

Commission Richards moved, seconded by Commission Reddick to accept the draft language as amended for OMC 18.04.060. The motion passed unanimously.

Commissioners discuss that there are animals that can be kept without a conditional use permit. The cost of conditional use permit would only apply to someone who wants to exceed the maximum number of allowed animals.

Ms. Kenny confirms she hasn't seen codes that limit the height of the enclosure structures. Commissioner Ingman feels a height limit is critical.

**Commissioner Parker suggests that enclosures not exceed the height of the fence allowed in the front, side, or rear yard.

Discussion: Commissioner Richards notes he will vote against it because it is limiting and legislating aesthetics.

Commissioner Bardin asked if there is a typical height for an animal enclosure.

Commissioner Parker moved, seconded by Commissioner Ingman to add an additional amendment confining structures or animal enclosures not to exceed the height of 4 ft. in the front and side yards, and 8 ft. in the rear yard.

Vote in favor: Commissioners Ingman, Bardin, Parker

Vote against: Commissioners Leveen, Horn, Reddick, Richards

Abstain: Kisza

The motion failed.

Vice-Chair Leveen recommends noting for Council that the issue of structure height was a topic of

discussion, and of concern. Commissioner Richards prefers a general statement, as opposed to reflecting the precise vote.

Request made to staff to provide the Commission a link for where to find the building code that refers to structures (sheds).

Commissioner Horn moved, seconded by Commissioner Reddick that the Commission adopt the code language in OMC 18.02.180 as amended.

The motion passed unanimously.

Ms. Kenny confirms that animal slaughtering is not allowed.

Commissioner Reddick moved, seconded by Commissioner Horn to approve Chapter 5.24 as drafted.

The motion passed unanimously.

Commissioner Richards requests to strike section G. Ms. Kenny notes that garage sales are limited to four times a year. There would be no limit to the number of farm sales.

Friendly amendment to strike section G not accepted by Commissioner Horn.

Commissioner Parker notes that garage sales are never enforced. Doesn't see the purpose in limiting agricultural sales.

Commissioner Richards clarifies that this code language would exempt agriculture sales.

Vice-Chair Leveen moves Commissioners' attention to OMC Chapter 18.40.

Vice-Chair Leveen: Section 7(F) and (G): Should the examples of deer fencing also be included in (F)? Staff notes that legal didn't feel like the language ought to include examples of fence types. Both F and G refer to a "common deer fence type." Vice-Chair Leveen feels if the language of examples is retained, it should be included in both.

Discussion: Commissioner Parker notes that 8 ft. fences in front yards are not pedestrian-friendly.

Vice-Chair Leveen asks Commissioners could Commissioner Parker's concern be addressed if the 8 ft. fence were set back from the sidewalk? Concerned about deer still having access to yards. Vice-Chair Leveen notes that some property owners can only grow food in their front yard. Commissioner Horn notes there is a 10 ft. setback.

Ms. Kenny notes that as written any fence above four feet would need to be a "deer-type" fence, mesh fencing.

Commissioner Parker notes that the 10 ft. setback and four feet maximum at the property line sounds reasonable. Commissioner Horn notes that for Commissioner Parker to reach the point, he could strike (G) entirely. The language in question is permissive above and beyond existing code.

Commissioner Ingman adds a friendly amendment: strike (G) from consideration.

Commissioner Parker: Accepts friendly amendment.

Commissioner Bardin requests to see examples of deer fences.

Commissioner Richards will vote against it. Feels food is a positive use of the space, and it provides food for low-income residents. Doesn't feel it is our role to regulate aesthetics.

Commissioner Parker moved, seconded by Commissioner Ingman to change section (G) to read 4 feet.

Vote for: Commissioners Ingman, Reddick, Kizza, Parker

Vote against: Commissioners Bardin, Leveen, Horn, Richards

The motion failed.

Commissioner Bardin feels food security is an important issue, and that there are residents who need to protect their food sources.

Commissioners confirm for Commissioner Ingman that a 4 ft. fence could be solid, with deer fencing for any portion above 4 ft.

Vice-Chair Leveen suggests that the first sentence in (G) would end with...and shall be set back 10 feet from the front property line.

Vice-Chair Leveen moved, seconded by Commissioner Parker to amend (G) so that the sentence ends "and shall be set back 10 ft. from the property line."

Discussion: Felt this was a compromise to address concerns about aesthetics.

Commissioner Horn notes that beyond a 10 ft., homeowners can build a solid fence. Makes the motion irrelevant. Vice-Chair Leveen notes that if redundant, motion is not needed.

Commissioner Horn makes a friendly amendment that (G) would end with "and shall be set back 5 feet from the property line." Commissioner Parker accepts.

Commissioner Kizza notes that five feet is barely a difference .

Vote for: Commissioners Bardin, Horn, Leveen.

Vote against: Commissioners Ingman, Reddick, Richards, Kizza, Parker

The motion failed.

Vice-Chair Leveen suggests regarding electric fences that the section read: low-voltage, solar electric fences may be used between 6 ft. and 8 ft. high. It is unlawful to erect or maintain any other type of electric fence.

Commissioners express general support.

Vice-Chair Leveen notes second option as: sending it to Council as a suggestion with Commission support. Commissioner Horn supports; Commissioner Parker supports.

Commissioners confirm that staff can write the draft language .

Commissioner Parker suggests that permit fees be waived for agricultural fences. Vice-Chair Leveen discusses an email exchange with Mr. Tom Hill, building official, that he noted that the purpose for a limitation of height is based on weight load. Light-weight material may or may not cause loading. Mr. Hill notes that Council may wish to exempt these types of fences during a building code update.

Staff notes it would be Council's discretion to waive the fee. Commissioners agree to suggest for Council that the fee be waived.

Vice-Chair Leveen moved, seconded by Commissioner Richards to recommend approval of 18.40.060 with notes for Council as concerns with:

- *allowing higher fences in the front yards
- *solar-electric fences

The motion passed unanimously.

Commissioner Parker confirms that (G) is left in the text.

Vice-Chair Leveen will send staff his notes in addition to Ms. Kenny's notes, and the meeting minutes.

Commissioner Parker notes that Commissioners should think about how density, urban density and urban agriculture align or conflict.

The recommendation was discussed and closed.

[12-0720](#) Final Deliberations: Visions and Values

- Attachments:**
- [1. July Draft of the Comprehensive Plan](#)
 - [2. Comprehensive Plan Vision and Values. February 2011](#)
 - [3. 1994 Comprehensive Plan Vision Statement](#)

Time was not available to discuss this item.

Commissioner Bardin moved, seconded by Commissioner Kisza, to postpone this discussion until the November 19 meeting. Motion passed unanimously.

[12-0718](#) Final Deliberations Process

- Attachments:**
- [1. CPU Recommendation. Final Deliberation Process](#)
 - [2. July Draft Substantive Change List](#)

Commissioner Richards: Can discuss further at Leadership Team meeting. Also need to layout a schedule for the remaining final deliberation meetings. Confirms that it is okay to delay the process to the first item on the next agenda. Commissioner Horn agrees that it should be moved to the next agenda.

Commissioner Bardin moved, seconded by Commissioner Kisza, to postpone this discussion until the November 19 meeting. Motion passed unanimously.

7. REPORTS

Leadership team:
No report.

CPU:
Commissioner Richards notes there is a meeting scheduled for November 28. Commission confirms keeping the meeting date. Decision will be made again on November 19 whether or not there will be a November 28 CPU meeting. Confirm with Commission that November 19 agenda will tentatively include in this order: 1. Final Deliberations Process 2. Vision/Values 3. Commissioners Lists/Ranking of Topics Lists (Commissioners requested to bring lists on November 19)

Mithun Sub-Committee:
Commissioner Ingman and Commissioner Kisza meeting again with Mithun, Keith, David Kuhn to help design/learn software.

UAC:

Commissioner Bardin notes UAC has additional time. Have invited guest speakers, and will soon be working on work plan. Looking towards reviewing a new wastewater plan.

BPAC:

Vice-Chair Leveen notes nothing to report.

Commissioner Kiswa: Relayed email from Amy Buckler that staff is still working with Commerce to try and confirm a staff member attending an OPC meeting to answer questions regarding GMA requirements. Commissioner Reddick: At one time OPC met with legal staff, and they provided definitions for quasi-judicial and legislative meetings. Requests that staff redistribute this handout or definitions. Vice-Chair Leveen notes that staff and the Commission need to be more realistic about expectations for how much materials can be covered in a three-hour meeting.

8. OTHER TOPICS**9. ADJOURNMENT**

The meeting adjourned at 9:45 p.m.

Accommodations

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Advisory Committee meeting, please contact Community Planning and Development at (360) 753-8314 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.