

PHILOMATH CITY COUNCIL
MINUTES
October 10, 2016

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5
6 **1. CALL TO ORDER**

7 The City Council of the City of Philomath was called to order on Monday, October 10,
8 2016, at 7:05 p.m. in the Philomath City Hall Council Chambers by Mayor Rocky Sloan.
9

10 **2. ROLL CALL**

11 Present:

12 Mayor Rocky Sloan
13 Councilor Doug Edmonds
14 Councilor Charla Koepppe
15 Councilor Sean Manning

Excused:

Councilor Candy Koetz
Councilor Jason Leonard
Councilor Eric Niemann

16
17 Staff Present:

18 City Manager Chris Workman
19 City Attorney Jim Brewer
20 Chief of Police Ken Rueben
21 Finance Director Joan Swanson
22 Public Works Director Kevin Fear
23 Planner Jim Minard
24 City Recorder Ruth Post
25

26 **3. CONSENT AGENDA**

- 27 **3.1 City Council Minutes** – September 12, 2016
28 **3.2 Planning Commission Minutes** – August 15, August 29, and September 12,
29 2016
30 **3.3 Park Advisory Board Minutes** – September 6, 2016

31
32 **MOTION:** Councilor Edmonds moved, Councilor Manning second, to approve the
33 consent agenda and the Council agenda for October 10, 2016, as presented. Motion
34 APPROVED 4-0 (Yes: Edmonds, Koepppe, Manning, and Sloan; No: None.)
35

36 **4. ITEMS REMOVED FROM CONSENT AGENDA**

- 37 **4.1** None.
38

39 **5. VISITORS/PETITIONS**

- 40 **5.1** None.
41

42 **6. PUBLIC HEARINGS**

43 **6.1 PC16-08 – Application to amend Comprehensive Plan and Zone Map** – The
44 applicant was not in attendance. Mayor Sloan tabled this public hearing to proceed with
45 Agenda Item #6.2.
46

47 **6.2 PC16-09 – Application to amend Comprehensive Plan and Zone Map** –
48 Applicant – Cindy Taylor; Location – 1365 Houser Lane – Mayor Sloan opened the
49 public hearing at 7:09 p.m. Mr. Brewer read the statement describing the presentation of
50 testimony and evidence related to the approval criteria. Mayor Sloan requested any ex
51 parte contacts, conflicts of interest, bias or site visits. No members of the City Council
52 declared any. Mayor Sloan announced the order of testimony.

1
2 **Staff Report:** Mr. Minard presented the staff report as included in the agenda packet.
3 Staff recommended approval of the application based on the staff report dated October
4 10, 2016. Councilor Edmonds questioned the reduction in traffic expectation from Heavy
5 Industrial zoning to R3 Multi-family. Mr. Minard stated that a worst case scenario of
6 apartments would be considered to still have less impact through the residential
7 neighborhood than a heavy industrial manufacturing use.
8

9 **Applicant:** Cindy Taylor, Keizer, OR – Ms. Taylor explained that she was raised on this
10 property and it is her desire is to sell it. She believes it would be good for the community
11 not to have potential heavy industrial use there.
12

13 **Proponents:** None.
14

15 **Opponents:**

16 Nila Brekstad, Philomath, OR – Ms. Brekstad questioned Ms. Taylor’s plan to sell the
17 property and didn’t understand that it isn’t already zoned residential. She questioned the
18 addition of more traffic on Houser Lane and concerns about the maintenance of it. She
19 stated that it is quiet out there. She stated concerns about the water line location and
20 wanted assurance that the property would only be developed for one house. She
21 questioned if it is rezoned how traffic will be accommodated. She questioned if extension
22 of the water and sewer lines would raise their rates. Mayor Sloan stated it would not.
23 She stated concerns about living with potential construction traffic.
24

25 **Neutral Parties and Governmental Bodies:** None.
26

27 **Applicant Rebuttal Limited to Issues Raised by Opponents:**

28 Cindy Taylor, Keizer, OR – Ms. Taylor stated she is not applying for any developmental
29 plan, and any future use development would need to be reviewed by the City.
30

31 Mr. Minard explained that zoning was applied to properties in the 1980’s and not all
32 zones took into account the actual use. He explained the site design review process for
33 a multi-residential development and how that would involve both the fire department for
34 access and Public Works for water and sewer. He stated that some of the properties on
35 Houser Lane have signed agreements with the City for full street improvements. He
36 described issues that a development process would have to overcome due to
37 infrastructure needs outlined by the City’s engineer. He stated that the current single-
38 family dwelling and its potential replacement would not have any negative impact.
39

40 Mayor Sloan closed the public hearing at 7:38 p.m. Ms. Taylor waived the right to submit
41 final written arguments.
42

43 Councilor Edmonds questioned if a multi-family dwelling development would go through
44 the planning process. Mr. Brewer confirmed that it would, but the actual process would
45 be dependent on the development proposed.
46

47 **Discussion and Decision:**
48

49 **MOTION:** Councilor Edmonds moved, Councilor Manning second, the Findings of Fact
50 as presented in the staff report dated October 10, 2016, be adopted and the City Council
51 approve the requested Comprehensive Map amendment from Industrial to High Density
52 Residential and the Zoning Map amendment from Heavy Industrial to High Density

1 Residential as presented in File No. PC16-09. Motion APPROVED 4-0 (Yes: Edmonds,
2 Koeppe, Manning, and Sloan; No: None.)
3

4 Mayor Sloan stated this is a final decision of the City Council. Mr. Brewer provided a
5 summary of appeal rights.
6

7 **6.3 PC16-07 – Appeal of Planning Commission Decision on Conditional Use**

8 **Permit** – Applicant – MD7 LLC on behalf of Verizon Wireless; Location – 545 N 13th
9 Street – Mayor Sloan opened the public hearing at 7:42 p.m. Mr. Brewer read the
10 statement describing the presentation of testimony and evidence related to the approval
11 criteria. Mayor Sloan requested any ex parte contacts, conflicts of interest, bias or site
12 visits. No members of the City Council declared any. Mayor Sloan announced the order
13 of testimony.
14

15 **Staff Report:** Mr. Minard presented the staff report as included in the agenda packet.
16 He noted that the applicant has submitted additional evidence since the Planning
17 Commission decision showing an alternative option to camouflage the cellular pole in the
18 original proposed location.
19

20 **Applicant:**

21 **Mike Connors, Portland, OR** – Mr. Connors stated that representatives from the property
22 owner were also in attendance at this meeting. He described the planned mono-pole
23 structure and the constraints of siting the pole on the property that is used for a log yard.
24 He explained the need for the tower for cellular coverage and data capacity. He
25 described the siting process and the location in the heavy industrial area. He stated the
26 nature of the heavy industrial zoning could allow for a more intensive industrial use than
27 a tower and described the additional existing trees that provide screening. He described
28 the design of the camouflaged pole and the blending of it with the existing area trees. He
29 stated the standard does not require zero visual impact and they feel they've done
30 everything they possibly can to mitigate the visual impact. He stated the existing heavy
31 industrial use operation does constrain the possible location. He reviewed the FCC
32 standard that does not allow the local government to deny an application based on
33 health concerns. He stated this tower is substantially below FCC established limits in
34 that regard. Mr. Connors stated that property value arguments are mostly anecdotal. He
35 added that the applicant has attempted to be sensitive to proximity to residential uses
36 and they have more than met the setback requirements. He requested that the Council
37 reverse the Planning Commission decision and approve the application.
38

39 Councilor Edmonds questioned how many sites were considered for the tower location.
40 Mr. Connors stated he was not involved in that process but most of the available sites
41 would have been residential uses. He stated that they gravitated to this site because of
42 the existing heavy industrial operation and because they felt it was the most appropriate
43 site. Mayor Sloan questioned that no other heavy industrial zoned sites were considered.
44 Mr. Connors stated that other heavy industrial locations could have had similar
45 neighborhood concerns.
46

47 **Proponents:** None.
48

49 **Opponents:**

50 **Joan Extrom, Philomath, OR** – Ms. Extrom opposed the siting due to proximity to
51 residential use and urged the Council to vote no on the application.
52

1 Robert Biscoe, Philomath, OR – Mr. Biscoe stated they purchased their property based
2 on the regulations for height in the heavy industrial zone. He questioned if other carriers
3 would be able to site their equipment on the lower sections then why did Verizon require
4 a 100 foot tower. He stated that he walked an alternative location that was supposedly
5 rejected due to standing water issues and there was no water there.
6

7 Palmer Vilagi, Philomath, OR – Mr. Vilagi urged the Council to consider the health
8 effects of this tower and that should be the biggest issue. He stated that every home in
9 the area should be surveyed if they couldn't make it to this hearing. He stated that cell
10 phone service in the area is already adequate and didn't feel Verizon sufficiently
11 researched other sites. He questioned if the applicant considered adding onto an
12 existing tower. He questioned Verizon's motives.
13

14 Talia Neely, Philomath, OR – Ms. Neely stated she comes from an environmental and
15 science background. She requested the Council take into account property values and
16 stated any loss in value would be a major impact. She stated that radio waves go in
17 curves and questioned if changes would be made if the governmental standards are
18 subsequently decreased. She stated concerns about the tower being located in a high
19 wind area and that a camouflaged pole would be even heavier and more susceptible to
20 falling. She described issues with insecurity in the internet and concerns with the ground
21 stability. She recommended an environmentally efficient tower using solar power if
22 possible.
23

24 Robert Ponder, Philomath, OR – Mr. Ponder questioned what the RF output of the tower
25 would be. He described how a high output electric line can light a light bulb just by being
26 in close proximity.
27

28 Sandra Lankow, Philomath, OR – Ms. Lankow read a statement from Alison Lamplugh
29 who lives nearby and expressed health concerns for the environment, animals and
30 honey bees.
31

32 Catherine Biscoe, Philomath, OR – Ms. Biscoe stated that she is not opposed to cell
33 towers in appropriate locations. She stated that Verizon has not submitted any evidence
34 of a lack of coverage. She stated that business or financial reasons should not be a
35 basis for approval and Verizon has not investigated alternative sites. She stated that she
36 has spoken to local real estate professionals about impacts on property values. She
37 described viewing a cluster of balloons at the proposed site from a variety of locations
38 around town. She stated that she has signatures from more than 130 area homeowners
39 who oppose the proposed siting.
40

41 Stacy White, Philomath, OR – Ms. White described the siting pictures that were provided
42 by the applicant and stated they are all specifically taken with a tree blocking the view.
43 She stated the tower is going to be visible.
44

45 Sandra Lankow, Philomath, OR – Ms. Lankow stated the tower may be able to be
46 hidden behind trees but the base and generator are going to be visible. She stated this
47 affects the aesthetics.
48

49 **Neutral Parties and Governmental Bodies:** None.
50

51 **Applicant Rebuttal Limited to Issues Raised by Opponents:**

52 Mike Connors – Mr. Connors stated that the record has evidence of need for the

1 capacity from their engineers. He stated if there was no need for the capacity, why would
2 Verizon spend the money for the application. He stated there is no incentive to make the
3 application if there is no need. He stated that additional capacity for other carriers is
4 typically required by jurisdictions and this reduces the need for additional towers. He
5 reminded the Council that FFA standards do not allow the Council to consider health
6 effects as criteria. He stated there are towers everywhere and science does not bear out
7 the health concerns. He stated the concerns about soil are taken into account during the
8 building permit process with a structural engineering analysis that shows the
9 geotechnical requirements are met. With regard to noise, he stated they are required to
10 meet state and federal standards that ensure it does not disturb residential uses. With
11 regard to property values, he stated that the code does not include property values as
12 criteria. He stated that every application that a commission considers can affect
13 someone's property values because everyone would prefer to have undeveloped
14 property next to them. With regard to visual impacts, he stated that they have met the
15 requirement and, even though the Philomath code does not require it, they are willing to
16 mitigate those concerns. He stated that other sites were considered including a City-
17 owned site that has wetlands and a site on Weyerhaeuser property that isn't available.
18 He stated that a heavy industrial site is the most logical site and if you move it
19 somewhere else, someone else will object.
20

21 Mayor Sloan questioned what the RF output is. Mr. Connors stated he isn't an engineer
22 with that knowledge but stated they have to meet strict FCC licensing requirements.
23 Mayor Sloan questioned if there are any concerns about animals and bees. Mr. Connors
24 stated there is no scientific evidence to support that.
25

26 Council chose not to leave the record open. The applicant waived the right to submit
27 final written rebuttal. Mayor Sloan closed the public hearing at 8:54 p.m.
28

29 **Discussion and Decision:**

30 Councilor Edmonds questioned if the Planning Commission had received the additional
31 evidence and suggested remanding it back to them. Mr. Minard stated this is a de novo
32 decision for the Council to make.
33

34 Mayor Sloan stated that he did not believe the siting evaluation had been sufficient and
35 was disappointed that the original applicant representative was unable to be present.
36 There was discussion about alternative siting. Mr. Brewer stated that the zoning allows
37 for the tower up to 75 feet. He outlined the alternatives due to the height requested.
38

39 **MOTION:** Councilor Koeppel moved, Councilor Edmonds second, to deny the application
40 for the conditional use based on the Findings of Fact that the applicant failed to carry its
41 burden of proof that the criteria could be fully met. Motion APPROVED 4-0 (Yes:
42 Edmonds, Koeppel, Manning, and Sloan; No: None.)
43

44 Mayor Sloan stated this is a final decision of the City Council. Mr. Brewer summarized
45 the appeal rights. Mayor Sloan declared a recess at 9:01 p.m. The Council reconvened
46 at 9:09 p.m.
47

48 **6.1 PC16-08 – Application to amend Comprehensive Plan and Zone Map --**
49 Applicant – Kevin Nichols; Location – 1350 Houser Lane – Mayor Sloan opened the
50 public hearing at 9:10 p.m. Mr. Brewer read the statement describing the presentation of
51 testimony and evidence related to the approval criteria. Mayor Sloan requested any ex
52 parte contacts, conflicts of interest, bias or site visits. No members of the City Council

1 declared any. Mayor Sloan announced the order of testimony.
2

3 **Staff Report:** Mr. Minard stated that this application is identical to Ms. Taylor's
4 application in PC16-08. Staff recommended approval of the application based on the
5 staff report dated October 10, 2016. He noted that Mr. Nichols is not in attendance to be
6 able to waive the 7-day period for final comments. He stated that the Council could
7 consider the application at the October 24 City Council meeting.
8

9 **Applicant:** Not in attendance.

10 **Proponents:** None.
11

12 **Opponents:** None.
13

14 **Neutral Parties and Governmental Bodies:** None.
15

16 **Applicant Rebuttal Limited to Issues Raised by Opponents:** None.
17

18 Mayor Sloan closed the public hearing at 9:15 p.m. and announced that the Council
19 discussion and decision would take place at 7:00 p.m. at the Monday, October 24, 2016,
20 City Council meeting.
21

22
23 **7. STAFF REPORTS**

24 **7.1 City Manager** – Mr. Workman stated he would have a written report to the
25 Council via email tomorrow.
26

27 **7.2 Public Works Director** – Mr. Fear reported on a water line break two weeks ago
28 on Pioneer between 9th and 10th Streets and described the repair. He stated that the
29 conduit has been installed for the path lighting on the Newton Creek bike path and
30 described the plans for completion of the project hopefully by the end of the month. He
31 described the downward lighting that is more neighborhood friendly. Mr. Workman stated
32 this was a Priority 1 project on the Park Master Plan list.
33

34 **7.3 City Recorder** – As a citizen who uses the bike path to run in early morning
35 hours, Ms. Post expressed thanks for the lighting project that will improve safety on the
36 bike path. No other report.
37

38 **7.4 Finance Director** – Ms. Swanson reported that the property tax roll has been
39 certified and represents only the 3% growth for the City's property tax base because
40 recent construction hasn't had much impact yet. She also reported on the façade
41 improvement loan for JanniLou Creations downtown.
42

43 **7.5 Chief of Police** – No report.
44

45 **7.6 City Attorney** – Mr. Brewer reported that Dan Miller from his office has accepted
46 an offer at another firm. He reported on a temporary prosecutor who will be filling in for
47 the interim. Chief Rueben stated that Mr. Miller will be significantly missed.
48

49 **8. COUNCIL REPORTS**

50 **7.1** None.
51

1 **9. NEW BUSINESS**

2 **9.1 Planning Commission Appointment** – Mr. Workman reported on the process
3 to receive applications for the vacant Planning Commission position and the three
4 applications that were received. He stated all three applicants are in attendance to
5 answer questions.
6

7 Caleb Nelson, Philomath, OR – Mr. Nelson stated that he has lived in Benton County for
8 over 40 years and moved to Philomath 2.5 years ago. He described his background as
9 an appraiser and familiarity with zoning. He stated he didn't have any particular goals as
10 a Planning Commissioner.
11

12 Steven Eldridge, Philomath, OR – Mr. Eldridge stated he has been talking with his
13 neighbor, Jeannie Gay, about the future of the community. He stated he is retired and
14 would like to see the City grow and not stagnate. He stated he hadn't considered
15 volunteering before but looked forward to it.
16

17 Jeff Cohen, Philomath, OR – Mr. Cohen stated he has been in his current house since
18 2009 and is on the Board of Directors for the Neabeack Hill Homeowners Association.
19 He described his employment background and stated he likes to look at evidence and
20 perform due diligence to sustain the quality of life that the community enjoys.
21

22 The Council voted by signed ballots. Ms. Post reported that Mr. Eldridge had a majority
23 vote.
24

25 **MOTION:** Councilor Edmonds moved, Councilor Manning second, the City Council
26 waive the two week waiting period and appoint Steve Eldridge to the Philomath Planning
27 Commission for the remainder of the current four-year term set to expire December 31,
28 2016. Motion APPROVED 4-0 (Yes: Edmonds, Koeppe, Manning, and Sloan; No:
29 None.)
30

31 **9.2 Proposed amendment to PMC 9.10.060 Drinking Alcoholic Beverage in**
32 **Public Place** – Mr. Workman summarized the history of the proposed amendment for
33 the serving of alcohol in public that would allow applicants to have outdoor seating.
34 Councilor Manning questioned how long the permit would be good for. Mr. Workman
35 responded that the permit would be a one-time application but would be subject to
36 annual review at the same time that OLCC renewals are reviewed. The ordinance to
37 amend the code will be presented at a subsequent meeting for final consideration.
38

39 **10. RESOLUTIONS/ORDINANCES**

40 **10.1 Resolution 16-14 authorizing financing of Urban Renewal projects and**
41 **refinancing of existing borrowing** – Ms. Swanson reviewed the resolution as the City
42 Council's action to follow-up on the resolution that was approved at the Urban Renewal
43 Agency meeting.
44

45 **MOTION:** Councilor Edmonds moved, Councilor Manning second, the City Council
46 approve Resolution 16-14 authorizing financing of Urban Renewal projects and
47 refinancing of existing borrowing. Motion APPROVED 4-0 (Yes: Edmonds, Koeppe,
48 Manning, and Sloan; No: None.)
49

50 **10.2 Resolution 16-15 accepting a State Parks Grant for the new North 11th**
51 **Street Park** – Mr. Workman stated this is the official agreement for the grant awarded by
52 the State Park and Recreation Department to construct a new park on North 11th Street.

1 He summarized the construction timeline with primary construction occurring in 2018.

2
3 Catherine Biscoe, Philomath, OR – Ms. Biscoe questioned what the park plan is.

4
5 Mr. Workman explained the site for the park is owned by the City at the location of the
6 North 11th Street well. He reviewed the work by the Park Advisory Board and described
7 the natural playscape design plans. He stated it will be a small neighborhood park.

8
9 **MOTION:** Councilor Koeppe moved, Councilor Edmonds second, the City Council
10 approve Resolution 16-15 Accepting a Local Government Grant from the Oregon Parks
11 and Recreation Department for development of a neighborhood park on North 11th
12 Street and delegating authority to the city manager to sign the Grant Program
13 Agreement. Motion APPROVED 4-0 (Yes: Edmonds, Koeppe, Manning, and Sloan; No:
14 None.)

15
16 **11. INFORMATION & CORRESPONDENCE**

17 **11.1 City Website Statistics for September 2016** – No comments.

18 **11.2 Philomath Connection ridership for September 2016** – No comments.

19 **11.3 Memo from Public Works Director regarding annual update of Public Works
20 Design Standards** – No comments.

21
22 **12. ADJOURNMENT**

23 **12.1 Adjournment** – Seeing no further business, Mayor Sloan adjourned the meeting
24 at 9:43 p.m.

25
26 SIGNED:
27 Rocky Sloan, Mayor

ATTEST:
Ruth Post, MMC, City Recorder