

TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 1

CONVENE: 7:01 p.m.

PRESENT: Mayor Pete Kmet, Councilmembers Joan Cathey, Eileen Swarhout, Ed Hildreth, Nicole Hill, Debbie Sullivan, Tom Oliva, and Neil McClanahan.

Staff: City Administrator John Doan, City Attorney Karen Kirkpatrick, Parks and Recreation Director Chuck Denney, Community Development Director Michael Matlock, Senior Planner David Ginther, Public Works Director Jay Eaton, Recreation Manager Todd Anderson, Assistant City Administrator Heidi Behrends-Cerniwey, Recreation Coordinator Kathryn Baria, and Recording Secretary Valerie Gow.

ADDITIONS TO AGENDA: The public hearing on Ordinance No. O2015-006, Puget Sound Energy Franchise Agreement, was pulled from the agenda and moved for consideration during the September 1 Council meeting.

Mayor Kmet issued a statement on the circumstances surrounding the recent shooting involving the Tumwater Police Department at the Jack in the Box restaurant off Trosper Road. The suspect who was shot was involved in a robbery and holding a knife to an employee at the back of the restaurant. Police officers provided immediate medical aid to the suspect, who was then airlifted to Harborview Medical Center in Seattle.

SPECIAL ITEMS:

AWARD PRESENTATION TO THE TENINO HIGH SCHOOL BAND: Recreation Coordinator Baria described how Twin Star Credit Union offered to financially sponsor a band participating in the Tumwater 4th of July Parade. This year, the Tenino High School Band participated in the parade. The band won the award.

Matt Devlin, Twin Star Credit Union, presented a \$1,500 check to Andrew Bowerly, Tenino High School Band Director. Mr. Bowerly commented on how the award will assist the school band in its expansion efforts.

Manager Anderson reported on the results of the first annual Tri-City Golf Tournament between the cities of Lacey, Olympia, and Tumwater at the Tumwater Valley Municipal Golf Course on August 1. Councilmember Hill's team won this year. He displayed the trophy depicting the City of Tumwater's name as the first winner of the Tri-City Golf Tournament. He encouraged City employees and

**TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 2**

the Council to participate in the tournament next year.

**PUBLIC
COMMENT:**

Pamela Hanson commented on the Jack in the Box shooting in Tumwater. She spoke of her prior service as a municipal enforcement officer and acknowledged the trauma to both the police who responded and those affected by the shooting.

**CONSENT
CALENDAR:**

- a. Approval of Minutes: Regular Meeting, July 21, 2015; Worksession, July 14, 2015
- b. Payment of Vouchers
- c. Resolution No. R2015-011, City of Tumwater General Sewer Plan

MOTION:

Councilmember McClanahan moved, seconded by Councilmember Hill, to approve the consent calendar as published. Motion carried.

Mayor Kmet reviewed the items approved on the consent calendar.

**COUNCIL
CONSIDERATIONS:**

**ORDINANCE NO.
O2014-022,
NEIGHBORHOOD
COMMERCIAL
ZONE
AMENDMENTS:**

Planner Ginther reported the proposed amendments have been in process for approximately 18 months. The original request pertained to a text amendment to increase building size for larger uses and removal of the cap of 10,000 square feet of building per site. He cited another development within a Neighborhood Commercial (NC) zone located off 70th Avenue comprised of eight buildings under 3,000 square feet in size for a total of 24,000 square feet in buildings. That style of development is consistent with the intent of the proposed request encompassing small pedestrian-scale development. The proponent of the request encountered a unique situation with NC zoned property on Tumwater Hill because the site is one of the largest NC zoned parcels in the City. The proponent has indicated that the zoning might not be effective for the property as the area is not a high traffic area and has limited visibility.

Over the last year, the ordinance evolved after several meetings of the Council, the General Government Committee, and the Planning Commission. The proposal allows for a single 10,000 square foot building on a lot in addition to conditional use requirements that further restrict the ability to construct larger buildings on the site. Additional conditions were included for noise, dust, site lighting, and

**TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 3**

a maximum building height of 35 feet.

Planner Ginther corrected one minor error in the ordinance in Table 18.18.

A property owner of one of the properties located on Tumwater Hill met with staff earlier and is in the process of potentially purchasing the other vacant properties on Tumwater Hill located within the NC zoning district. The height limit is of concern to the property owner, as well as the 10,000 square foot building limitation.

Mayor Kmet invited public comments.

**CITIZEN
COMMENTS:**

Tim Abbey reported he's owned a piece of property zoned NC since 2003 located at the corner of Barnes and Ridgeview. He hasn't been able to develop plans for a viable use of the property. He recently made an offer on 8.5 acres adjoining the property that extends down to Crosby Boulevard. The property is currently owned by Timberland Bank. He visited the City earlier in the day to learn about potential development options for the property and whether regulations had changed over the last 12 years for NC zones.

Mr. Abbey said he is considering a mixed use professional office and residential development on the 8.5 acre site. The 8.5 acre site is 390,000 square feet in size. A 10,000 square foot building at two stories in height would require a 5,000 square-foot footprint or 1.29% of the entire parcel. The other 99% of the property would not be utilized. The City's current proposal is not sensible. He was under the impression that a mistake might have occurred when he learned that the 10,000 square-foot building would be the only building allowed on the lot. The urban growth movement is to avoid development sprawl. The 8.5 acre site is located in the hub of the City at a great location with regulations that limit development of the site to 1%-2% of the entire site with the remaining 99% undeveloped. He understands that most other NC zoning districts are smaller and that the proposed rules and regulations make sense for those smaller properties. However, the 8.5 acre site should be rezoned to allow a viable use, as it's not feasible to develop only 2% of the land with 98% of the parcel undeveloped. Mr. Abbey said he believes the proposal is an oversight and agreed with the increase to allow a 10,000 square-foot building on parcels over five acres with the next step not limiting the total square footage if the property is over five acres to only one 10,000 square-foot building. He asked the Council to change the amendment because of the five and ten foot setbacks

**TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 4**

that would allow no viable use of the site. He recommended not including a limit on the square footage of building but rather limiting the development based on the square footage of the property. Currently, regulations allow development of up to 85% of a property.

Additionally, the regulations speak to height limitations and shadowing requirements. The site would be very conducive for upscale condos. Mr. Abbey said he would like to add another story for a three-story building. The proposal would not impact adjacent properties because of its location.

Mr. Abbey said he understands the concerns when NC zones are adjacent to single-family residential. However, the 8.5 acre site is an isolated parcel. He described surrounding uses to include an elementary school, commercial uses, and multifamily uses.

Mayor Kmet asked whether the proposed ordinance would prohibit subdivision of the property into smaller lots. Planner Ginther replied that the property owner would be able to pursue a binding site agreement, but it would prohibit anything over a 3,000 square foot building. Mayor Kmet asked whether the owner could subdivide the land for condos or other smaller commercial uses to achieve the size threshold. Planner Ginther replied that it would be possible if the buildings were less than 3,000 square feet in size as a single use.

Mr. Abbey asked whether mixed use consisting of condos above and building office below would be allowed as a condominium is one building owned by different property owners. Mayor Kmet said the NC zone was never intended for condominium development.

Councilmember Hill asked whether other NC zones included requests by other property owners for similar adjustments. Planner Ginther replied that the City received no other requests other than for this specific area. Additionally, the City previously received a NC rezone request approximately 12 years ago for the same site involving multiple properties. The rezone was denied.

Councilmember Hill acknowledged Mr. Abbey's concerns. During her review of the ordinance, it appears some areas of the City are more restrictive than other areas. It appears the proposed changes would not benefit Mr. Abbey. Since a proponent is present specific to the proposed changes that don't appear to meet the owner's expectations, she recommended tabling or revisiting the proposal for additional consideration.

**TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 5**

Mayor Kmet pointed out that Mr. Abbey's proposal would constitute a comprehensive plan and zoning change for the property, which is not pertinent to the specific proposal. He recommended either moving forward with the proposal or denying the request and beginning the process as part of the general comprehensive plan update scheduled over the next several years. The current proposal entailed over a dozen meetings and over 200 hours of staff time, as well as Council time. Some of the changes have merit. The Council could consider some reasonable adjustments to the ordinance while acknowledging that most NC zone districts are adjacent to residential or future residential areas.

Councilmember Hildreth requested clarification on the claim that only 1.29% of the property could be developed under the current proposal. Planner Ginther said an owner could develop one 10,000 square foot building or several 3,000 square foot buildings. A binding site plan would allow multiple 3,000 square foot buildings on the site. Councilmember Hildreth pointed out the goals for infill within the City and the issue of leaving a large segment of the property underdeveloped. He agreed with Councilmember Hill's recommendation for additional discussions on the proposal.

Councilmember Cathey reported the General Government Committee reviewed the proposal several times and she's not supportive of dismissing the proposal but would support another Council worksession to discuss the issue of proposing changes not solely based on one site, as most NC sites are much smaller. Additionally, the City is working on updating design standards. She questioned whether the design standards would apply to NC zone districts. She recommended referring the proposed ordinance to a Council worksession. She cited the following quote from the minutes of the August 11 Planning Commission meeting as a reason warranting additional discussion of the proposal, *"Commissioner Kirkpatrick recalled the previous discussions about the potential misplacement in terms of the location of NC zoning districts within the City. He asked whether the long-range plan includes a work item to review the issue. Planner Ginther affirmed there have been some considerations in conjunction with the Sustainable Thurston Plan. The plan includes some good guidance on the proper location for neighborhood centers. Some code and comprehensive plan changes may be drafted because of the review in conjunction with the update of the land use plan as required by the state."*

**TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 6**

Mayor Kmet noted that the property located across the street is zoned NC and includes multiple 3,000-square foot office buildings covering nearly the entire parcel. The subject property is much steeper, would be very difficult to develop, and likely couldn't achieve 85% lot coverage because of the steepness of the property. The intent of the NC zone was to create a zone where development was compatible with residential uses. NC zones are located throughout the City to create smaller neighborhood service centers for residents. The proposal was forwarded for a specific proposal, which staff has tried to accommodate through numerous meetings. All meeting notices were publicized for the multiple meetings. Staff has invested much effort in the proposed ordinance. It's possible to refer the ordinance to a worksession but his concern is the schedule and lack of staff resources. Mr. Abbey's request is a change in use requiring a comprehensive plan amendment and zoning change, which is not specific to this request.

Councilmember Cathy cited her reasons for deferring the matter to a worksession.

Councilmember Hill suggested ending further discussion on the proposal and deferring the issue to an appropriate time to entail a comprehensive conversation about all NC zones within the City.

City Administrator Doan clarified the options available to the Council of either rendering a motion to disapprove the ordinance or not acting on the proposal.

Councilmember Sullivan acknowledged that some information might come forward at the last moment that's not specific to the prior review and work on the proposed ordinance, which can derail the process. However, the General Government Committee considered all NC zones and how the proposal would apply to those districts. It's difficult for a uniform set of rules to apply to each NC zone as each zoning district is different which is why staff reviewed specific regulations to ensure conformity across all the districts. Many neighborhoods need day care centers and other services. If the City's goal is to encourage walkable neighborhoods, it's important to have businesses available for those residents to utilize. Her preference is moving the ordinance forward and addressing larger sites separately.

MOTION:

Councilmember Sullivan moved, seconded by Councilmember McClanahan, to approve Ordinance No. O2014-022, Neighborhood Commercial Zone Amendments.

TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 7

Planner Ginther addressed questions and provided additional clarification on the proposed ordinance. The ordinance would limit a building to 10,000 square feet on sites five acres or larger or allow several smaller buildings. It would require a binding site plan to avoid constructing more than 10,000 square feet in building space on any lot.

Councilmember McClanahan asked about the potential of modifying the language. Mayor Kmet said the intent of the motion is to approve the ordinance as presented.

City Attorney Kirkpatrick advised the Council to provide direction to staff on specific language to draft.

Councilmember McClanahan commented that if the original intent of the proposal were to increase building size, it would appear logical for staff to draft language addressing the original intent of the proponent's proposal, as the issue has become confused.

Councilmember Cathey spoke against the motion because the discussion points to the continued confusion regarding the proposal and how it would impact NC zones in the City. The proposal is specific to one NC zone, which would apply to all NC zones.

MOTION:

Motion failed. Councilmembers Cathey, Swarthout, Hildreth, Hill, Oliva, and McClanahan opposed.

Mayor Kmet outlined options to consider.

McClanahan said the proposal appears not to meet the intent of the proponent's proposal. He recommended deferring the ordinance to staff for revision to meet the intent of the proposal and to clarify the confusion.

City Attorney Kirkpatrick asked for clarification in terms of the direction to staff on the revision. Councilmember McClanahan recommended that the description shouldn't limit only one 10,000 square foot building on lots larger than five acres but allow up to one 10,000 square foot building, as well as multiple 3,000 square foot buildings that can be accommodated on lots larger than five acres.

**TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 8**

MOTION: Councilmember McClanahan moved, seconded by Councilmember Sullivan, to refer the ordinance to staff with direction to revise the ordinance to allow up to one 10,000 square foot building, as well as multiple 3,000 square foot buildings that can be accommodated on lots larger than five acres.

Councilmember Swarthout requested a drawing depicting a potential development of one, 10,000 square foot building, and multiple 3,000 square foot building on a site because of the difficulty in conceptualizing the proposal.

Mayor Kmet reminded the Council that the request is usually included within a comprehensive plan process while the proposal pertains to a specific text amendment. A conceptual design provided by staff would not entail a binding site plan.

Councilmember Cathey spoke against the motion as it only focuses on a 10,000 square foot building. The amendment includes other elements as well. The discussion is too narrow in focus and should address how commercial development should be handled within all neighborhoods.

Councilmember Sullivan recommended having staff provide a map of all NC zones in the City.

Councilmember Oliva supported the motion but questioned the process for considering other input by the Council.

Mayor Kmet said the proposal was considered by the General Government Committee several times in addition to reviews by the Council and the Planning Commission. It's troubling that the Council wants to revisit the amendment. At some point, it's necessary to ensure the intent of the language is clear and adheres to the intent of the prior process. He suggested that if the Council prefers to revisit the issue, it should be moved to next year's work program.

Councilmember Oliva asked about any opportunity to submit comments to staff while the draft is revised. Mayor Kmet encouraged the Council to provide direction to staff at this time.

Councilmember Hill preferred to move the issue forward as part of a work plan. The design standards are important and will help inform future discussions. For those reasons, she's not supportive of the motion.

**TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 9**

MOTION: **Motion failed. Councilmembers Oliva, Hill, Swarthout, and Cathey opposed.**

Planner Ginther provided information on the timing of the comprehensive plan update. The process includes opportunities for the Council to provide direction to staff and the Planning Commission as sustainability issues will include discussions on NC zone districts. The draft design guidelines should be presented to the Council in the next several months and the adoption of the guidelines should coincide with the discussion on the comprehensive plan amendments and update.

Mayor Kmet encouraged a joint Council and Planning Commission meeting to include identification of some of the issues to afford direction to staff on next steps. NC zones were implemented within the comprehensive plan in the 1990s with a particular vision that might not align well in today's environment.

MOTION: **Councilmember Hill moved, seconded by Councilmember Cathey, to move the NC Zone Amendments to next year's work program and integrate NC zoning within the comprehensive plan update. Motion carried unanimously.**

**COMMITTEE
REPORTS:**

PUBLIC SAFETY: There was no meeting and no report. Three items are scheduled for review at the September 8 meeting at 9 a.m.

**GENERAL
GOVERNMENT:** The committee met on July 28 and discussed the City's local HSRC program. The committee initiated preliminary discussions on the cottage housing ordinance. The next meeting is scheduled on September 1 at 11 a.m.

PUBLIC WORKS: The committee reviewed the General Sewer Plan. The next meeting has been cancelled.

**BUDGET AND
FINANCE:** The next committee meeting includes a review of HSRC funding applications and budget items.

**TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 10**

**MAYOR/CITY
ADMINISTRATOR'S
REPORT:**

The Tumwater Artesian Brewfest is scheduled on Saturday, August 22 at the golf course. The brewfest is attended by local brewers, distillers, winery representatives, and the community and features food, games, and spirits. Attendance last year was approximately 2,500 people.

The recent thunder and lightning storm led to the cancellation of the 'Screen on the Green' movie. The last two movies of the season are scheduled on August 21 and 28.

City Administrator Doan reviewed letters the City received acknowledging the efforts of several City employees and recognition from the Washington Finance Officers Association to Dale Summerl and Kristy Wolf as finance professionals.

Mayor Kmet commented on the importance of the Council providing feedback to staff on pending ordinances as well as taking time through the Council committee process to thoroughly vet issues prior to forwarding to the Council for consideration.

**COUNCILMEMBER
REPORTS:**

Ed Hildreth:

The Olympia-Lacey-Tumwater Visitor and Convention Bureau (VCB) received over 50 applications for the vacant executive director position. The list was narrowed to four candidates. Candidates have been invited to the City of Tumwater on August 26 for interviews. A meet and greet at 5:30 p.m. at the River's Edge Restaurant has been scheduled with the candidates to meet the community and elected officials. A final selection will be forwarded to the VCB Board of Directors on Friday, August 28 for formal action.

The TCOMM Board is beginning the process for replacement of the general manager position. The Budget Committee is meeting next month on the budget.

Eileen Swarthout:

There were no meetings.

Mayor Kmet commented on the importance of the upcoming Medic One meeting in terms of the discussions surrounding the status of budget and the agency's reserve.

Joan Cathey:

Councilmember Cathey reported on her attendance to two meetings

**TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 11**

related to Thurston Thrives. Thurston Thrives is seeking a Tumwater representative.

Nicole Hill:

Councilmember Hill reported she participated in the selection of a new executive director for the animal shelter. There were many good candidates and the selection was difficult.

Debbie Sullivan:

On July 22, the Community Action Council received presentations on energy and housing and weatherization programs.

The Intercity Transit Authority received a briefing from its Washington, D.C. consultant on the status of federal funding and regaining funding losses caused by the passage of MAP 21 for transit systems. Most transit systems are no longer receiving federal funds for buses and other needs. The Authority conducted a public hearing on the draft Annual Report and Transit Development Plan. The new bus route to the ARC has been initiated. The Authority has scheduled a retreat on Friday, August 28.

Tom Oliva:

The LOTT Board approved a LOTT rate increase of 3% for wastewater service charges for a monthly cost of \$37.14. The Board plans to conduct its first televised meeting later in the year.

Councilmember Oliva recently attended the Thurston Chamber of Commerce meeting featuring information on South Puget Sound Community College (SPSCC) and the Thurston Economic Development Council (EDC) joint venture on a New Center for Business and Innovation. The center consolidates different services provided by the EDC and SPSCC and includes a new program on micro lending for new business.

Neil McClanahan:

The Thurston County Housing Task Force is considering consolidation with the HOME Consortium. HOME Consortium is planning an October retreat with several meetings scheduled for development of the retreat agenda and consolidation efforts between Thurston Thrives, HOME Consortium, and the Community Investment Partnership (CIP) into one entity to manage \$5 million annually in funding allocations. The retreat is scheduled on Oct. 14 to discuss the concept at the Thurston County Emergency Operations Center off Tilley Road.

**RECESS TO
EXECUTIVE**

Mayor Kmet recessed the meeting to an executive session at 8:39 p.m. for 30 minutes to discuss potential litigation pursuant to

**TUMWATER CITY COUNCIL MEETING
MINUTES OF MEETING
August 18, 2015 Page 12**

SESSION: RCW 42.30.110(1)(I) and real estate acquisition pursuant to RCW 42.30.110(1)(b).

EXTENSION OF EXECUTIVE SESSION: At 9:14 p.m., Mayor Kmet extended the executive session for another 15 minutes. At 9:33 p.m., Mayor Kmet extended the executive session for another 10 minutes.

RECONVENE & ADJOURNMENT: Mayor Kmet reconvened and adjourned the meeting at 9:48 p.m.

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net