

GOVERNMENTAL SERVICES STANDING COMMITTEE

Regular Meeting
City Hall Conference Room
February 9, 2010

ATTENDANCE

The meeting began at 8:00 a.m. with the following in attendance: Jim Campbell, Rick Alberg, Jim Palmer, Mayor Slowik, Paul Schmidt (8:30 arrival) and Scott Dudley.

Staff present: Steve Powers, Cac Kamak, Eric Johnston, Mike McIntyre and Mack Funk.

PUBLIC COMMENT

None present for comment.

APPROVAL OF DECEMBER 14, 2009 AND JANUARY 11, 2010 MEETING NOTES

Approved.

PLANNING

2010 Comprehensive Plan Amendment Docket

Mr. Kamak reported:

The 2010 Comprehensive Plan Amendment cycle was initiated in October of 2009 by publishing a notice published on October 31, 2009 and on November 21, 2009 in the newspaper calling for applications. No applications were received.

Though no sponsored amendment applications were received, there are a few Comprehensive Plan Amendments to consider in 2010. The proposed amendments for 2010 include two mandatory amendments (Capital Improvements Plan and the UGA capacity analysis) and three city-initiated land use changes. The three city-initiated land use change requests are for properties the City owns and are listed below:

- R13210-527-3480 – Scenic Heights Trailhead site - Land use change from Low Density Residential to Public Facilities. This property was acquired using conservation futures funds with the intent to develop it into a trailhead site for the Freund Marsh and Waterfront Trail. Since the property is designated for Low Density Residential, the trailhead would be considered a conditional use on the property. It would be beneficial to change the designation to reflect its long term use.
- R14437-231-3630 – Water Reservoir Site near Gun Club Road – Land use change from Planned Business Park to Public Facilities. This 5 acre tract is located north and east of Gun Club Road and is the proposed site for a water reservoir. The property is currently designated as Planned Business Park. It would be beneficial to change the land use designation to Public Facilities to reflect the intended use.
- R13325-500-2250 – SE corner of SR 20 and Fakkema Road – Land use change from Auto/Industrial Commercial to Open Space. This tract was referred to as the Boyer Tract. The land was jointly purchased by the City, County and Navy a few years ago. The intent was to limit the development potential of this land since it was located in the Accident Potential Zone for aircrafts operating out of Ault Field. The Park, Recreation and Open Space plan adopted in 2009 recommends developing this tract into an Oak Grove. Changing the land use designation to Open Space will pave the way for implementation of a natural area on this tract.

Capital Improvements Plan

This is an annual update to the Capital Improvements Plan. Sections of the Plan are updated to reflect the most recent and accurate information available. This normally includes updates to reflect consistency with the Transportation Improvements Plan (TIP), updated revenues and expenditure provided by the Finance Department, and any changes to schedules or cost.

UGA Capacity Analysis

The preliminary docket also includes the initial task of determining the capacity of the current UGA boundary. This is a precursor to any recommendations for changes to the UGA boundary. Therefore, the analysis proposed as part of the 2010 docket will not result in an amendment to the Comprehensive Plan but will set the stage to explore options for consideration in 2011 and eventual changes (if needed) in 2012.

Committee Discussion

Committee members noted that the soil conditions on the Boyer tract may not be suitable for Gerry Oaks because it is rock hard and gravelly. Members also raised the idea of using the tract as an aquifer recharge area. Mr. Powers noted that another reason for changing the land use designation is so that the land use map won't show this area as commercially available to developers and so that the UGA capacity analysis doesn't include this as commercial land use.

C-3 Zoning Code Amendment

Mr. Kamak reported:

Issues regarding residential uses and its potential slow encroachment northward toward NAS Whidbey were raised in conjunction with the 2008 Comprehensive Plan Amendments that included a request for Community Commercial along the Goldie Road. Since the Community Commercial designation allows dwelling units above the ground floor, the request for change was eventually approved with conditions to restrict any residential components from being included in the development of the property.

If approved, this text amendment will restrict any dwelling units from being developed in the C-3, Community Commercial District located north of a line commensurate with NE 16th Avenue extended westward and eastward to the City limits. The proposed restriction on dwelling units in the C-3, Community Commercial District is area specific; therefore the proposed amendment will continue to permit dwelling units above the ground floor on C-3, Community Commercial property south of NE 16th Avenue. Any existing dwelling units located on the ground floor on these properties are currently non-conforming and will continue to remain non-conforming. Therefore their status will not be impacted by the proposed amendment. If a trend develops to convert industrial land into commercial land due to a slow rate of consumption for industrial uses or any other reason, the proposed text amendment will ensure that dwelling units will not be part of any development plans.

Byrne-Goldie Road Annexation

Mr. Powers reported:

The Byrne annexation was initiated in 2008 in conjunction with his Comprehensive Plan amendment for the properties on Goldie Road. Staff reviewed the application and recommended that the Council extend the boundaries to include the row of properties on Easy Street. After a public hearing on the matter Council accepted staff recommendation and authorize the annexation to proceed. For a variety of timing reasons the annexation had not moved forward. At staff's request, Mr. Byrne submitted a new petition for annexation only good for six months. The petition has been sent to the County for a determination of sufficiency which is required under state law. Once we receive the determination of sufficiency from the County then it is likely that the annexation will be scheduled for Council consideration within the next couple of months. Parallel to this we are continuing discussions with Mr. Byrne about development of the property to help him understand the limitations and infrastructure expectations are in that area.

2005 UGA Expansion Proposal – Letter to County

Mr. Powers reported:

The City and the County were required under the Growth Management Act to review and if necessary update our Comprehensive Plans by November 1, 2005. The City completed that effort and the Council adopted the amendment to the Plan in November 2005. Included in the amendments was a recommendation to the County that our urban growth area be expanded. Under state law the County has the authority to set the urban growth area for cities. The Council recommended to the County that the urban growth area be expanded in number of locations. The most well known area was a portion of the Fakkema Farm. Chronology of events follows:

- November 2005 - The City submitted its recommendations to the County. The recommendation sat with the County for a while and eventually they began their work on it.
- December 2006 - The Island County Planning Commission recommended that the County Commissioners approve the City's recommendation.
- May 2007 - The County conducted their environmental analysis on the non-project action and issued a mitigated determination of non-significance, which means that they felt that there were conditions necessary on the SEPA in order for there to be no environmental impact.
- The City and three others appealed that decision. The City geared up for a hearing and the County asked that we continue the hearing so that we could have discussions with them. We agreed and we entered into a period of discussion/negotiations for almost a year with the County, unfortunately to no avail. We weren't able to reconcile our differences.
- May of 2008 - Based on some briefs that the City filed, the County SEPA official withdrew the SEPA decision and indicated their intention to change their SEPA decision to a Determination of Significance which means that there were significant environmental impacts and that additional environmental review would be necessary.
- The County never formally changed their SEPA decision to a Determination of Significance.
- As of last week Mr. Powers sent a letter to the County Planning Director to request that the County provide a schedule as to when the County Commissions will take action on City's 2005 recommendation to expand the City's UGA. The letter also indicates that the City would find it unacceptable to delay the decision until the 2012 update because we have waited more than four years for their decision and the 2005 work should be completed before moving on to 2012.

Committee Discussion

Committee members discussed what the City could do if the UGA expansion was denied by the County. Mr. Powers said if they take action on the SEPA and we find it not to our liking we can appeal the decision. If the County were to issue a SEPA determination that we could live with and then the Comprehensive Plan recommendation to expand the City's UGA expansion goes to the County Commissioners for action. If the County Commissioners approve it we know that others will probably appeal that decision. If the Commissioners don't approve the expansion the City would appeal it. What the City is trying to do through the letter is to get past the point of the County's delaying of making an action.

Committee members asked if there were any tools to counteract the parties that don't want UGA expansion in the direction of the Fakkema Farms. Mr. Powers indicated that the City fundamentally disagrees with their environmental assessment which is centered on stormwater. The premise of the original environmental decision is that the vary nature of urbanization will cause stormwater impacts not inside of the UGA but downstream outside of the UGA in the County near Swantown Lake. The City thinks that there are three strong counters; 1) we already use a higher standard of stormwater management than the County does; 2) the City is a Phase II permit city which means that our standards will get even more stringent as time goes on and the County is not a Phase II jurisdiction; 3) we believe that any stormwater impacts can and should be addressed at

Governmental Services Standing Committee

February 9, 2010

Page 3 of 5

the time of project review and not at the time that you are reviewing a Comprehensive Plan. The simple act of adopting a Comprehensive Plan in and of itself does not create any environmental impact.

Committee members asked what the foundation was for issuing a Determination of Significance. Mr. Powers said that the City's position is that the determination of significance is not supported by the environmental record that has been created to date by the County. The County said that in the absence of the mitigation measures (we pointed out that the County didn't have the authority under state law to impose mitigation on the City) they can't mitigate what they thought was the environmental impacts and in their mind, that left them believing that they had to issue a threshold determination of significance; which would mean going to an environmental impact statement and study it in much more detail. The County's mitigation measures were to have the City impose a stormwater impact fee on the developer at the time a development occurred inside the city limits to be used for stormwater monitoring in the County. The County believed that it was going to be necessary to do additional stormwater controls inside the city limits. The City believes that this runs afoul of one of the RCW's that talk about taxes. There were other mitigation measures that relate to the interface between urban and rural development buffering and lighting and updating the interlocal agreement but it was the stormwater monitoring that the City could not live with particularly since the City has a higher standard than the County does.

Mr. Kamak added that the property involved in 2005 recommended UGA expansion will not be included in the current UGA capacity analysis.

MARINA

Boat Auctions

Mr. Funk reported that there are three agenda bills that will be coming to the Council March 2nd for auctioning boats that have been abandoned at the marina.

Marina Redevelopment Phase 1 – Status Update

Mr. Funk reported that the new gangway is in place. The electrical and waterline connections will start soon. The final piece of the Phase 1 construction is C-Dock rewiring which is scheduled to begin March 4th and will be complete if things go well in early April.

Committee Discussion

Committee members asked if the outstanding moorage fees would be recovered from the auction. Mr. Funk said no but a good portion would be recovered on one of the boats. Members asked if the sail boat could be donated to the Youth Sailing group. Mr. Funk indicated that the City can only sell the boats to recover costs but the Youth Sailing group could bid on the sail boat at auction or a citizen could bid and donate it.

ADMINISTRATION

City Sustainability Committee

Mr. Powers the inter-departmental team had their first meeting which is composed of Cathy Rosen, Maribeth, Hank and Sandra, Karen, Renee and Steve Powers. The team will be working on an inventory of our existing sustainability measures and timelines as to how this project will unfold.

DEVELOPMENT SERVICES DIRECTOR COMMENTS

Next Thursday, February 18th at 6:00pm at the Fire Station there will be a joint meeting of the City Council and Marina Advisory Committee.

Wastewater Treatment Plant

Mr. Johnston provided a handout containing the request for proposal for engineering services for wastewater treatment plant preliminary engineering and facility plan. The hand out also included the results of the selection process. This is the first step in developing the planning and process

that is used in construction of the new wastewater treatment facility. The target date for having a wastewater treatment plant built is 2017.

Mr. Johnston stated that the goal is to obtain the highest level of water quality practical while recognizing the limitations of the rate payers. Another primary goal is the continued protection of the water quality of the waters in and around Oak Harbor to meet the goals outlined in the Puget Sound Action Plan developed by Puget Sound Partnership. The goal is to set targets high enough even though they are beyond what the permit limits are currently so that 20 or 30 years from now we still have a plant that can easily be compliant with wastewater permits as the expectations become higher.

Mr. Johnston said that the request for proposal garnered about twelve firms. Staff narrowed those down to four firms that were most qualified. Of those four firms Corollo was the firm that ranked highest. On March 2nd the City Council will be asked to authorize staff to enter into scope negotiations with Corollo. Assuming authorization is granted, the consultant will prepare a scope of work and once we are in agreement on the scope we will ask for a fee structure based on the scope of work and get the fee in line with what we can afford and what we need, then it will be presented to Council for consideration.

Committee Discussion

Committee members asked Mr. Johnston to describe the current conditions and issues relative to the high tide. Mr. Johnston stated that the RBC plant is on its last legs and if it were to go down we wouldn't be able to treat the wastewater. There is a risk to the lagoon plant that is being driven by the flooding of the marsh area by the Navy in an effort to make the fresh water marsh a salt water marsh. The lagoon is at high risk for being inundated with salt water on a weekly if not daily basis. Our permit regulators have notified us that is a major concern for them.

Discussion moved on to the Channel 10 interview between the Mayor and Steve Powers. Committee members thought it was very informative and suggested adding a segment that informs residents how important it is not to dump harmful products into the storm drains and what products are less damaging to the environment.

NEXT MEETING: March 9, 2010

**MEETING ADJOURNED
9:00 a.m.**