

BOARDMAN PLANNING COMMISSION MINUTES - REGULAR MEETING-OCTOBER 19, 2022

Commission Chair Jacob Cain called the meeting to order at 7:00 p.m. He led the flag salute and asked for roll call:

Commissioners
in Attendance: Ethan Salata, Ragna TenEyck, Karla Jimenez, Sam Irons, Jennifer Leighton, Zack Barresse and Jacob Cain

Staff: Carla McLane-Planning Official, Jackie McCauley-Acting Recorder, Karen Pettigrew-City Manager, and Rick Stokoe-Chief of Police

Audience: Tim Atkenson, Xochitl Ramos, Jake Coleman, Jonathan Tallman, Kelly Doherty, Randy Baker, Joel Edwards, and Mark Keith (all in person) Luis Campos and Citizen (via Zoom)

APPROVAL OF MINUTES

August 17, 2022

Commissioner TenEyck pointed out the need to add the title to Rolf Prag's name in the minutes. Commissioner Salata made a motion to approved the minutes as corrected. Commissioner Barresse seconded the motion. Commissioner TenEyck abstained from voting as she did not attend this meeting. The motion passed 6-0 with 1 abstention.

September 28, 2022

Commissioner TenEyck found a capitalization error and suggested adding Planning Official McLane's title in sections of the minutes. She also wanted clarification of the term "five Goal 1" noted in the staff report section of the minutes. It was decided to remove the words "Goal 1". Commissioner TenEyck also noted a typo of the word "is" instead of "it". Commissioner Salata made a motion to approve the minutes as corrected. Commissioner Jimenez seconded the motion. The motion passed 7-0.

Commission Chair Cain asked Commissioner TenEyck, if it is not content-based, to send her notes to the recorder prior to the meeting for the recorder to make those modifications to avoid using meeting time to do so.

PUBLIC HEARINGS

Amendment to the Boardman Development Code – Chapter 4.1

Commission Chair Cain said the hearing was for A-BDC22-002, Boardman Development Code (BDC) Amendments. He and other commissioners had missed the last hearing and he apologized for missing that hearing. He asked Planning Official McLane on the status and to give an update before the hearing so they had a firm understanding of where the hearing was at.

Planning Official McLane read the motion which was made during the last hearing. It stated "Commissioner TenEyck made a motion to continue the discussion of the Boardman Development Code Amendments to the October 19, 2022 meeting. Commissioner Jimenez seconded the motion. The motion passed 4-0 with 3 absent." Planning Official McLane said they had asked for it to be very clear the motion meant that the public testimony was closed and it was the conclusion for those who were there. Tonight is for updates from the planning official based upon the recommendations from the commissioners about the document. There were a few changes to the staff report and also another item to make the commission aware of, which may be added to the public record. There will be no testimony tonight. She reminded the commission the motion will be a recommendation to the city council for them to make the decision.

Jonathan Tallman said he was concerned he was not able to communicate to the entire commission as three commissioners were not present at the last meeting. He believed he would have another chance at this meeting to testify. He said that is why the vote was to continue the discussion. Commission Chair Cain

explained the difference between continuing with public comment and continuing with deliberations, which would leave the record open. Mr. Tallman said at the last meeting the police were called because he interrupted the planning official who was interrupting Commissioner TenEyck while she made her motion to continue the discussion. He is concerned the commissioners are not updated to the testimony of his attorney and himself. Commission Chair Cain explained all of the commissioners have been provided meeting minutes as well as the video of the last meeting.

Mr. Tallman said he wanted to bring up the issue of Commission Chair Cain not living in the city limits and Commission Chair Cain has a history of recusing himself in actions involving entity and powerline domain issues. Commission Chair Cain explained the Boardman Municipal Code allows one rural resident at large to serve on the planning commission. Commission Chair Cain said the only abstentions, or recusals he had done are related to potential conflicts of interest because of where he works or other potential conflicts of interest; he has no conflict of interest with power companies or conflict of interest as how it relates to the Boardman Development Code, so he would not abstain in this case.

Mr. Tallman wanted to know why the city is changing the code. He again asked for the opportunity to communicate the issue he and his attorney brought up. Commission Chair Cain asked him how does his issues relate to the matter at hand. Mr. Tallman said the motion at the last meeting meant he could not speak anymore. Mr. Tallman said Commissioner TenEyck's motion was meant to close the meeting and not continue to this month. He said the planning official wanted to keep the meeting open until this month. Commission Chair Cain asked for the motion to be read again. Commission Chair Cain then asked Commissioner TenEyck what was her intention in the motion. She said it was her understanding they were closing the hearing and moving the discussion forward to tonight's meeting. Commission Chair Cain asked the other commissioners present at the last meeting if that was their understanding and Commissioners' Salata, Jimenez and Iron all agreed.

Kelly Doherty questioned whether the record was ever officially closed. Commission Chair Cain said the meeting was continued, and the public record was not closed so written public testimony can be submitted for the record. Ms. Doherty wanted to know where the policy is on that. Commission Chair Cain offered to send her follow up information on it. Ms. Doherty asked if there was a motion to close the hearing. Commissioner Barresse explained a motion is not required to close a hearing. Ms. Doherty asked, on a legislative action, if there was a requirement to have two open meetings. Commission Chair Cain explained the second hearing would be at the city council level; the planning commission will make the recommendation and the city council will make the decision. Planning Official McLane said the second hearing is tentatively scheduled for November 8, 2022. Commission Chair Cain said there was a consensus of the commission as to the meaning of the motion so he will re-open the hearing.

Commission Chair Cain re-opened hearing A-BDC22-002 at 7:21pm.

PUBLIC HEARING – A-BDC22-002

Purpose - Commission Chair Cain stated the purpose of the hearing was to consider the proposed amendment to the Boardman Development Code (BDC) Chapter 4.1, Types of Applications and Review Procedures to change appeal timelines, add a category of owner, and accomplish other minor housekeeping changes. The applicable criteria for changes to the BDC are found in Chapter 4.1.600 Type IV Procedure.

Staff Report - Planning Official McLane said she tried to capture all of the changes proposed at the last meeting. She included in the planning commission packet examples of other city and county jurisdiction's code language as it pertains to property owner signature section of the code. The only other change to mention is the city council meeting was moved from November 1, 2022 to November 8, 2022.

Planning Official McLane gave the planning commission the LUBA appeal decision. The Tallmans claimed three instances where the city did not do the planning process correctly. In all three instances, the city did it correctly. The city prevailed in this appeal. The planning commission should feel comfortable changing the code, assigning someone other than the owner to sign applications. She said utilities do not want to do

condemnations. It is a last resort. She would like the commission to consider adding the LUBA Appeal into the official record. Commissioner Irons made a motion to add the Final Order Opinion #2022-029 to the official record. Commissioner Leighton seconded the motion. The motion passed 7-0.

Planning Official McLane recommends a do-adopt recommendation for the code changes.

Deliberation – Commissioner Salata does not like the proposed language in Chapter 4.1.700 (D) stating “power of eminent domain”. He feels there should be another level entities have to go through to be able to sign instead of the property owner. Commission Chair Cain suggested refining the language. Both commissioners’ TenEyck and Jimenez like the example language from Jefferson County. Commission Chair Cain said he is a strong property rights advocate and an extra step is a good thing.

Commissioner Salata asked if the language changes were for what the city has already done or what they will do in the future. Planning Official McLane said both. Commissioner Salata said he would like to see a document of need required.

Planning Official McLane suggested perhaps taking wording from both Washington County and Jefferson County and combining them.

Commissioner Barresse said the list of who can initiate an application stands alone. Each type of applicant should be listed separately. Planning Official McLane suggested making six types; to move “contract purchaser” to number five and make a number six for the new type.

Commission Chair Cain questioned why is there a need to change the wording “City Manager or their designee” to “Planning Official”. Planning Official McLane said the city has a full time planner who has been doing the job. Commission Chair Cain said he does not want to step on anyone’s toes. He asked City Manager Pettigrew her preference. She said she would like it to remain “City Manager or their designee” as this is the language used throughout all city documents. Commission Chair Cain said the wording should be “City Manager or their designee”. Commissioner Salata suggested waiting until a new city council is on board to propose the language changes.

Commission Chair Cain closed the hearing at 8:08pm

Motion and Decision

Commissioner TenEyck questioned the closing of the hearing. Commission Chair Cain said they re-opened the hearing to add additional items to the record. Commissioner TenEyck said she could see how people would be confused by this.

Commissioner Salata made a motion to recommend changes to the Boardman Development Code to the city council to include modifications to wherever it says “Planning Official” to change it to “City Manager or their designee”; to modify section 4.1.700 (D)(1)(a) to remove from #4 the wording “Contract purchaser” and make it #5 and to add a #6 to read “Public agencies or private entities that have statutory rights of eminent domain for projects they have the authority to construct and has been granted immediate possession by a court of competent jurisdiction.” Commissioner Barresse seconded the motion. A roll call vote was taken: Commissioner Leighton-yes; Commissioner Jimenez-yes; Commissioner TenEyck-no; Commissioner Barresse-yes; Commissioner Irons-yes; Commissioner Salata-yes; Commission Chair Cain-yes. The motion passed 6-1.

Commission Chair Cain said in the previous process for code modification, the planning commission would hold a work session prior to the public hearing. He suggested they do it that way in the future. Planning Official McLane said normally she would have, but because of the application going to LUBA, she felt the city should start the process. Chapter 4.1 is a good chapter to start with because it is about how the city does things. There were several things that came to light because of the appeal process that needed to be changed. This is the process chapter.

DISCUSSION ITEMS

Planning Officials Report

Planning Official McLane reports:

- She will have been working for the city nine months in the middle of November.
- The second LUBA appeal opinion should come by the end of the month.
- The development team at city hall meets weekly and may move to two times a month.
- She has cleaned up the planning office.
- She has been working on creating new applications.
- She has issued over 90 zoning approvals this calendar year.
- There are new developers coming to town. Amazon's security company is looking to provide housing in three or four communities in our area for not only their employees, but for everyone.
- There are proposed commercial projects on the South Main Street property.
- Chaparral Subdivision and Tidewater Master Planned Community are going on.
- There has been a lot of discussion around city hall regarding paved parking.
- Staff is looking into food pod requirements.
- There have been two applicants for the planning positions at city hall, but neither had skills.
- She will be working on trying to fill the open planning positions at city hall

Training Topic

Planning Official McLane gave the commissioners more state-wide planning goals for their binders. Next she wants to move into information on development goals.

There was discussion about the November and December meetings. If there is not action before the commission in November, they will work on training. If there is action required in December, the meeting date can be moved to December 14, 2022. There was consensus to move the December meeting to December 14, 2022.

Public Comment

None

Commission Comments

None

Meeting was adjourned at 8:54pm