

**CITY OF UMATILLA  
SPECIAL COUNCIL MEETING  
MAY 29, 2014**

**CALLED TO ORDER:** Council Vice President Smith called the meeting to order at 7:01 p.m.

**ROLL CALL:**

**PRESENT:** Council Vice President Smith , Councilors Dedrick, Farnsworth, Ray and TenEyck

**ABSENT:** Council President Fenton

**STAFF PRESENT:** Recorder Hughes, City Manager Ward, Planner Searles, Public Works Director Pelleberg and Chief Huxel.

**PUBLIC COMMENT:** Vice Chair Smith stated that since this is a special meeting the Council would dispense with the usual public comment as there will be opportunity for the public to comment during the review of this appeal.

The public hearing was called to order at 7:03 p.m.

There are three appeals; AP-1-2014, AP-2-2014 and AP-3-2014 that will be considered.

The City's attorney, Carrie Richter, stated that this is a quasi-judicial hearing and proceeded to read the rules.

Ms. Richter asked if there had been any ex-parte contact or conflicts of interest or bias to be declared by a council member.

Councilor Ray declared a conflict of interest and recused himself from any discussion or decision making in regards to this appeal.

Vice Chair Smith drove by the site to make sure he was clear on the property that was being discussed.

Ms. Richter explained that the Port's attorney, Ms. Kellington, requested in the written appeal application that the record be reopened to allow evidence and testimony that was rejected by the Planning Commission. In response, Ms. Richter drafted a memo dated May 19<sup>th</sup> to the Council that explored this issue. She explained that the City's zoning code prescribes that an appeal is a record review; however, she believed it was within the Council's authority to re-open the record if it so desired. Ms. Richter shared that, since her memo, the Port's attorney had submitted written arguments dated May 28<sup>th</sup> and another letter from appellant J.P. Hammer Properties' attorney, Bill Kloos, was also submitted. Each of the appellants has the opportunity to summarize their letters during the comment time.

Ms. Richter explained the Council needs to decide whether it wants to allow the April 4<sup>th</sup> material that was submitted by the Port, but rejected by the Planning Commission. Council asked Ms. Kellington to articulate her position on this procedural issue. The first issue that Ms. Kellington raised was that the City had gotten its responses to the Port so late that there had not been meaningful opportunity to respond. Second, she stated that the memo from Ms. Richter is dated May 19<sup>th</sup>; however, the staff didn't get it to the Port until May 22<sup>nd</sup> which was right before the big holiday weekend.

Councilors agreed that they did not want to re-open the record to allow in any additional information.

**STAFF REPORT:** Planner Searles briefly went over the four maps that were in the council chambers and explained the ordinances that adopted them and how things had progressed over time and also explained the city's take on the zoning of proposed property. Chair Smith asked if there were any further questions for Ms. Richter or Mr. Searles and there were none.

**APPELLANT TESTEMONY:** Kim Puzey, Port of Umatilla Director, spoke as one of the appellants. Mr. Puzey reiterated that the map that is on the city website is where someone would go to determine the zoning of a piece of property and that the said map is the official city map. The official map on the city website is what needs to be used to determine the zoning of the property.

Wendy Kellington, the attorney for the Port of Umatilla, came to the podium to speak. Council Vice-Chair Smith asked approximately how long Ms. Kellington thought she would take as this might be a good opportunity for a break.

Meeting was recessed at 8:16 p.m.  
Meeting reconvened at 8:23 p.m.

Ms. Kellington representing Mr. Puzey and the Port of Umatilla, started by saying she agreed that ordinances are the official enactment of the city and must be adhered to. Ms. Kellington spoke about Ordinance #779 and that it was adopted along with the current map, and an industrial buildable lands inventory. Ordinance #779 was then read aloud by Ms. Kellington and her interpretation was given. Ms. Kellington also stated that she didn't feel that the planning commission had all of the information that they needed at its continued hearing to make a decision.

Mr. Puzey spoke again and reminded the Council that J.R. Cook, the former City Administrator, and Tamara Mabbott, County Planning Director, also spoke at the planning commission hearing and tried to explain to why they thought the most current map is the official map.

**PROPOSERS FOR THE APPEALS:** None

**OPPONENTS OF THE APPEALS:** Kathy Hosek, co-owner of the golf course of Umatilla. Ms. Hosek stated that when they were investigating the golf course property before they bought it she came to city hall to ask questions. Ms. Hosek stated that the map they were given at that time showed the subject property as residential which played a major part in their decision to go ahead with the purchase of the golf course property.

Ron Hosek, co-owner of the golf course, was not able to attend the previous meetings due to health issues. Mr. Hosek reiterated what his wife Kathy had stated about doing their due diligence prior to their purchase. Mr. Hosek noted that Sue Daggett was the previous Port Manager in 1989 and she recognized that the proposed property was planned residential and this was recorded in council minutes at that time. He finished by stating that there is no evidence showing that the property had ever been changed from residential to industrial in any of the ordinances.

Roger Bounds is a resident of Hermiston but has a great appreciation for Umatilla as he grew up here. Mr. Bounds' father helped to build the golf course and had been involved with many procedures like this one. Mr. Bounds stated that when a company wants to purchase a piece of land they do detailed research to make sure that they are able to build what they want on that land prior to purchasing the land; he did not think this was the case with the Port. The Port did not do this type of research for the subject property before it purchased it. He also noted that the proposed development is a "field of dreams" as there is no planned tenant or use for the warehouse.

Karen Bounds said she clearly heard the city staff say that Ordinance #689 was enacted and that Ordinance #779 didn't change very much of #689. Ms. Bounds asked if there is a difference between what the county claims and the city by the maps and how they are adopted, which takes precedence? Ms. Richter stated that she did not want to get into discussion during testimony time. Ms. Bounds just said that her question might be something to consider.

Others who signed the sheet to testify were: V. Harris, C. Harris, J. Cavens, Jack McWhinnie and Larry Nelson; however, none of them gave any verbal testimony.

**APPELLANT REBUTTAL:** Mr. Puzey stated that the rule of law needs to determine what the use of anyone's property is. The Port has been forced to come here because under the assumptions that they had with the respect to that matter, they sold properties to third parties who built and intend to build. Now if the property is zoned other than industrial there are huge legal ramifications for the Port. The Port is looking for a definitive answer to the zoning of the property that they own.

Ms. Kellington stated the only official enactment is the map hanging on the wall that was adopted with an ordinance that included an industrial land use inventory.

Vice Chair Smith closed the public hearing at 9:22 p.m.

Councilor Dedrick moved to uphold the planning commission's decision. Councilor Farnsworth seconded the motion. Roll Call: Councilor Dedrick – Aye, Councilor Farnsworth – Aye, Councilor TenEyck – Nay, Councilor Smith – Nay. Motion tied 2-2.

Councilor TenEyck moved to overturn the planning commission's decision. Councilor Smith seconded the motion. Roll Call: Councilor Dedrick- Nay, Councilor Farnsworth – Nay, Councilor Smith – Aye, Councilor TenEyck – Aye. Motion tied 2-2.

Councilor Farnsworth moved to continue the hearing to June 17<sup>th</sup> at 7 p.m. with the record to be closed and the purpose of the meeting to be for deliberation only to try to reach a decision. Councilor Smith seconded the motion. Roll Call: Councilor Dedrick – Aye, Councilor Farnsworth – Aye, Councilor TenEyck – Aye, Councilor Smith – Aye. Motion carried unanimously.

The Council meeting was adjourned at 9:50 p.m.

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George Fenton – Council President

ATTEST:

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Angela Hughes – City Recorder