

The Junction City Planning Commission met in regular session on Wednesday, May 19, 2021 at 6:30 p.m. in the Council Chambers at the Community Center, 175 w 7th Avenue, Junction City Oregon and remotely via internet and phone.

Present were: Planning Commissioners, Jeff Haag (Vice-Chair), Doug Easterday, James Hukill, and Cindy Montgomery; Public Works Director, Gary Kaping; City Attorney, Carrie Connelly; and Planning Secretary/Technician, Tere Andrews

Absent: Planning Commissioners, Jim Creech, and Jack Sumner

1. OPEN MEETING

Vice-Chair Haag opened the meeting at 6:32pm and ledge the Pledge of Allegiance.

2. CHANGES TO THE AGENDA

Secretary Andrews announced that Commissioner Brian Wells submitted his resignation on May 17, 2021. Noticing for the newly created vacancy would begin next week with a 60-day advertising period per Resolution 1013.

3. PUBLIC COMMENT (FOR ITEMS NOT ALREADY ON THE AGENDA)

none

4. APPROVAL OF MINUTES

- **January 20, 2021**
- **March 17, 2021**

Motion: Commissioner Hukill made a motion to approve the January 20, 2021, and March 17, 2021 Planning Commission minutes as written. Commissioner Montgomery seconded the motion.

Vote: Passed by a vote of 4:0:0. Vice-Chair Haag, Commissioners, Hukill, Easterday, and Montgomery voted in favor.

5. PLANNING COMMISSION TRAINING

City Attorney, Carrie Connelly, presented the Planning Commission training which covered State regulations, Statewide Planning Goals, local regulations and Land Use Procedures.

Attorney Connelly began with an overview of Public Meetings Laws. The Planning Commission was subject to Oregon Public Meetings Laws. A Quorum is required to make decisions. In addition to meeting in person during a Planning Commission meeting, if four or more members of the Commission meet outside the Planning Commission meetings or have an email string, these may constitute an unlawful public meeting.

In regard to virtual meetings, if there was a public hearing, Commissioners should be alone in the room, and wear headphones to avoid ex-parte contacts should other household members comment on the proceedings.

Land Use in Oregon is heavily regulated by State statutes and local laws that guide how land can be used, and procedures such as public hearings. Land Use in Oregon was guided by the following state statutes: Chapter 92, Land Divisions, Chapter 195, Local Government Planning Coordination, Chapter 197, Comprehensive Land Use Planning; Chapter 222 Annexations; and Chapter 227, City Planning and Zoning.

At the State level, the Oregon Land Conservation and Development Commission (LCDC) adopts administrative rules (OAR's), process by which State Statutes are implemented. Local Comprehensive Plan updates are reviewed for compliance with State statute and adopted by LCDC. The 19 Oregon Statewide Planning Goals outline Land Use processes, the first of which was citizen participation.

Oregon Department of Land Conservation and Development (DLCD) has local representative that works with the city Planner.

Land Use Board of Appeals (LUBA) appeals of Council level Land Use decisions can be appealed to LUBA by an applicant should they disagree with the local decision.

The Comprehensive Plan sets policies for a 20-year horizon. The Plan may be updated, if needed, prior to the end of the 20-year horizon. The Functional Plans are detailed plans based on the policies of the Comprehensive Plan, for example the Transportation System Plan. The Zoning Code implements the policies of the Comprehensive Plan; Junction City Municipal Code, Title 16 (Subdivisions), and Title 17 (Development).

Land Use Decisions supported by Findings of Fact. Findings of Fact were based on the Municipal Code and information contained in the applicant's submittal package.

There were four types of land use decisions:

Type IV – Legislative: Required two public hearings (Planning Commission/City Council). Decisions affect segments of city (i.e. an amendment to the development code)

Type I – Administrative: Staff level – fact-based – met Code or not (no public hearing)

Type II - Limited Land Use: Planning Commission decision. An example given was land divisions. No public hearing under Type II land use actions, however one may be requested. If requested, the public hearing is before the Planning Commission (see Type III).

Type III - Quasi-Judicial: At a quasi-judicial public hearing, Planning Commissioners apply legislatively adopted criteria to a specific application.

- Quasi-judicial hearings are constitutionally guided.
- The decision-makers must be fair and unbiased.
- Court proceedings must be impartial, fair
- Only information on record considered
- A public hearing script is provided to the Commission Chair to be sure procedural point are covered during the public hearing.
- Notices mailed prior to the public hearing (per code minimum 20 days).
- All materials, including notes made, during the public hearing are public record.
- Have a 120-day deadline.
 - decision, including appeals, must be concluded within 120-days of the application being deemed complete.
 - Deadline passes, applicant can file in circuit court, Judge can issue approval.
 - An applicant can choose to waive the 120-days if need arises.

<p><u>Bias</u></p> <ul style="list-style-type: none"> • fair & impartial • Bias must be declared. • Knowledge of an applicant is not a bias but should be acknowledged. • Rehabilitate – declare bias and ability to render unbiased decision. • Unable to render unbiased decision (or evidence of bias presented) must disclose & leave meeting. 	<p><u>Ex-parte Contacts</u></p> <ul style="list-style-type: none"> • All information all Commissioners have, contained in public hearing record. • Commissioners do not collect information on their own. • Ex-parte contacts exists after application submitted. • Ex-parte contacts must be disclosed at the public hearing (Newspaper, site visits, etc.). • Can be submitted in writing (ex. clip newspaper article & submit during meeting). 	<p><u>Conflicts of Interest</u></p> <ul style="list-style-type: none"> • Decision results in monetary or other types of gain or loss for Commissioner or family member. • Family member has broad application. • Person Liability. • Declare and leave the meeting.
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When in doubt, shout it out.

Public hearing continued: Commissioners must disclose any new contacts.

*Staff contact not considered ex-parte.
 Public hearing record kept open, the above would apply
 Public hearing records re-opened the above would apply.*

Oregon Government Ethics Commission

- Complaint-driven
- Investigate complaints received.
- Ethics violation found to exist fines can be assessed.
- *“But-For” rule – Commissioner(s) receives benefit not otherwise available except for connection with City.*
- Gift Rule: (gifts limited to an aggregate value of \$50 from a single source in each calendar year [ORS 244.025])

Order of Public Hearings

Open public hearing – statutory notifications

Staff report

Testimony: Proponents; Neutral Parties; Opponents; Applicant Rebuttal

Close Testimony

Close Record (Record left open = continued public hearing)

Close Public Hearing

Deliberations (take place *after* record & Public Hearing closed)

Note: New evidence cannot be offered during deliberation

Decision

(Formality assists with clarity of process, particularly with virtual public hearingsa)

Appeals

Administrative/Staff Decision – appealed to Planning Commission

Planning Commission Decision – appealed to City Council

City Council Decision – appealed to LUBA

6. PLANNING COMMISSION ALTERNATE APPLICATION REVIEW

Motion: Commissioner Easterday made a motion to recommend to the Mayor, Jesse Newman be appointed to fill an unexpired Commission Alternate term. Commissioner Hukill seconded the motion.

Vote: Passed by a vote of 4:0:0. Vice-Chair Haag, Commissioners, Hukill, Easterday, and Montgomery voted in favor.

7. PLANNING COMMISSION PURPOSE STATEMENT

After review and discussion of Article II of the Planning Commission By-Laws which contain the purpose statement for the Commission, the consensus of the Commission was to take no further action.

8. PLANNING COMMISSION OFFICER ELECTIONS

Consensus: The consensus of the Commission was to hold the agenda item to the June Planning Commission meeting.

9. CODE AMENDMENT DISCUSSION: MOBILE FOOD UNITS (AMD-20-19)

Technician Andrews stated the information in the packet was based on the discussion at the March 17, 2021, meeting. The Lane County Health Department Mobile Food Cart application address the health and safety issues discussed by the Commission at previous meetings. The understanding of staff was that the Commission felt local regulation should center on the placement of the Mobile Food Unit and the physical surroundings rather than the inner workings of the cart itself. The Commission had also directed applications for Mobile Food Units should be reviewed as Temporary Use Permits. Which was how both the cities of Veneta and Cottage Grove process mobile food cart permit application.

The Commission reviewed sample changes to Zoning Code which included:

1. Addition of a Mobile Food Unit definition

JCMC 17.135 Temporary Use Permit criteria which was take from OAR 330.150.000

“Mobile Food Unit is any vehicle that is self-propelled, or can be pulled or pushed down a street, or highway. Food may be prepared or processed on this vehicle, and the vehicle is used to sell and dispense food to the ultimate consumer. Mobile food units must be secured and protected from contamination when not in operation.”

2. Addition of criteria regulating mobile food units

JCMC 17.135.020 Application.

*“Applications shall be filed with City Hall on the form prescribed by the city administrator at least three weeks prior to the planning commission’s public hearing **for all temporary uses other than mobile food units**. The application shall be accompanied by the fee set forth in the city’s fee schedule.”*

There were currently two ways for a mobile food unit to gain permission to operate within city limits; as part of a special event such as the Scandinavian Festival or Function 4 Junction, or with a Temporary Business License good for a period of 30 days.

Commissioner Montgomery asked about the provision which allowed businesses within the city limits to invite a mobile food unit onto their property for an event.

Technician Andrews agreed.

Commissioner Montgomery responded that would not fall under examples one or two (Special Event, or Temporary Business License).

Technician Andrews concurred and added the business owner would be responsible for the mobile food unit on their property.

Commissioner Easterday asked about a softball tournament or other similar very short-term event.

Technician Andrews responded if the tournament were a school district related activity it would fall under that same code which permitted business owners within the city limits to invite a mobile food unit onto their property for a limited duration event.

Commissioner Easterday asked how that related to a sporting tournament at Dutch's Field.

Technician Andrews replied if the entity putting on the event were from outside the area (no permanent address within city limits), the mobile food units would need a temporary business license.

JCMC 17.135.030 Criteria.

C. the mobile food unit meets the following criteria:

- 1. The applicant has proof of the commercial property owner's permission to place the mobile food unit on their property.*
- 2. The mobile food unit shall be located within the specific property line setbacks of the parcel of land on which it is located.*
- 3. Ingress and egress are safe and adequate when combined with other uses on the property, as required by chapter 17.90, Off-Street Parking and Loading*
- 4. No parking will be utilized by customers and employees of the mobile food unit that is needed by the property owner to meet their minimum parking requirements under Section 17.90.010.*
- 5. The mobile food unit will pose no impediment or hazard to pedestrians in the area of the use.*
- 6. The mobile food unit does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, flare or lights that affect an adjoining use in a manner which other uses allowed outright in the zoning district do not affect the adjoining use.*

7. The mobile food unit complies with applicable Oregon Health Authority Mobile Food Unit license requirements, as enforced by the Lane County Health Department.

8. The mobile food unit complies with applicable building code requirements.

9. Signage other than on the food cart shall comply with Chapter 17.115, Signs.

10. The mobile food unit can be adequately served by City water and sewer services, if applicable (the applicant shall be responsible for obtaining any related permits)

11. The length of time the mobile food unit will be used does not exceed 12 months. When a mobile food unit exceeds this timeframe, the applicant shall be required to renew their temporary permit or remove the mobile food unit from the site.

Technician Andrews noted for illustration, the sample criteria was included in an application example which was part of the Planning Commission packet (page 93).

Commissioner Montgomery commented, the mobile food carts at the Beer Station were there at the invitation of the business owner. As a Junction City business owner, say she invited a food cart onto her property for a one-day event. The Commissioner then asked, where was the line, at what point was a permit necessary?

Technician Andrews responded

A discussion took place which centered around the questions, at what point was a permit necessary. What triggered the need to get a permit?

Consensus: Consensus of the Commissioner was to move forward with public hearings.

10. PLANNING COMMISSION AGENDA FORECASTER

The Planning Commission reviewed the agenda forecaster.

11. COMMISSIONER COMMENTS

None

9. ADJOURNMENT

Motion: Commissioner ** made a motion to adjourn the meeting. Commissioner ** seconded the motion.

Vote: Passed by a vote of 4:0:0. Vice-Chair Haag, Commissioners, Hukill, Easterday, and Montgomery voted in favor.

The meeting adjourned at 9:20 p.m.

The next Standing Planning Commission meeting was scheduled for Wednesday June 16, 2021 at 6:30 p.m.

Respectfully Submitted,

Tere Andrews, Planning Commission Secretary

Jeff Haag, Planning Commission Vice-Chair