

DEPARTMENT OF COMMUNITY SERVICES
LAND USE PLANNING DIVISION
MULTNOMAH COUNTY PLANNING COMMISSION

MINUTES OF March 6, 2023
Virtual Meeting/Zoom

This is not a full transcript. Time indicators reference the meeting recording, which is accessible at the following Dropbox link:
<https://www.dropbox.com/sh/2rfbi7o9qokg3ms/AAAOWamGeLTnTpbOBHp3JtzDa?dl=0&preview=March+6+2023+Planning+Commission+Zoom+Recording.mp4>

1. Call to Order

(00:00:01) Chair John Ingle calls the meeting to order at 6:35 p.m. on March 6, 2023.

2. Roll Call

(00:00:30) Chair Ingle conducts a role call and declares a quorum present.

- Present –John Ingle, Chris Foster, Bill Kabeiseman, Stephanie Nystrom, Victoria Purvine, Barbara Alexander. Kari Egger
- Absent – Alicia Denny, Tim Wood

3. Approval of Meeting Minutes

(00:01:10) Minutes from the February 6, 2023 meeting are presented for adoption.

(00:01:30) A motion to approve is made by Commissioner Kabeiseman.

(00:01:30) The motion is seconded by Commissioner Foster.

(00:02:08) A roll call vote is held. The motion to approve minutes is passed unanimously.

4. Opportunity for Public Comment on Non-Agenda Items

(00:02:26) Chair Ingle invites public comment on non-agenda items.

(00:03:00) Scott Robison, Recording Secretary, informs the commission there isn't any public member wishing to comment on non-agenda items at this time.

5. Continued Hearing – (Case # T4-2017-9166 / T3-2017-9165 / EP-2017-6780)

(00:3:15) Chair Ingle explains how the continued hearing will proceed, and reads off the applicable land use codes associated with the case. He asks if Commissioner Egger had a chance to review the record since she was absent the last meeting.

(00:11:07) Commissioner Egger says yes, she has reviewed the record.

(00:11:45) Chair Ingle opens the floor to the public in case anyone wants to challenge the impartiality of the planning commission members.

(00:12:08) Scott Robison asks the members of the public to raise their hand if they want to challenge the impartiality of the members. No one raises their hand.

(00:12:20) Chair Ingle moves forward in the meeting and asks if there are any comments from Staff.

(00:12:35) Kevin Cook, Senior Planner, informs the group that new exhibits are posted in the documents library. In the staff report on page 349, the adoption of Metro's master plan is not proposed, nor is staff recommending the adoption of the plan. The staff has not analyzed the master plan with respect to adopting it, and Kevin is happy to elaborate if anyone has questions.

(00:14:55) Chair Ingle says it's now time for public testimony, and explains the 3 minute time limit for those who'd like to testify.

(00:18:32) Jarvis Eck is a 14 year old who supports the project and finds his mental and physical health is improved with more access to nature.

(00:19:19) Seth Saby is a 15 year old who supports the project and loves to mountain bike. He's excited by having access to more trails to ride on that are closer to his home.

(00:20:17) Daniel Stuart is the Secretary for Northwest Trail Alliance and supports the project. He believes this project will allow for more trails closer to home, so people don't to travel long distances to mountain bike.

(00:21:56) Clark Vowels is 18 years old and supports the project. He too believes having a trail system closer to home would make it much easier to mountain bike and enjoy nature.

(00:24:19) Joe Bevan is 14 years old and supports the project. He believes there are great benefits to his mental and physical health to enjoy nature, and it's vital to have access to nature closer to home.

(00:25:13) Chair Ingle says the next part of the meeting will be for Planning Commissioner's questions related to the applicable approval criteria for members of the public who provided testimony. No questions were asked, and then Chair Ingle asks if Planning Commissioners have questions relating to the applicable approval criterial or procedural questions.

(00:27:00) Commissioner Kabeiseman wants to confirm his decision tree is similar to what the staff is using as well.

(00:28:42) Kevin Cook, Senior Planner, confirms that everything will ride on the quasi-judicial plan amendment for the comp plan. If the park isn't approved, the following permits cannot be approved. The type 3 community service permit is really the vehicle for the improvements to Burlington Creek. The type 2 permits are on equal footing, but rolled in with the type 3 permit. If any one of those fails, it's difficult to approve the project as proposed.

(00:30:28) Chair Ingle asked if there will be any issues with typos he's located in the Staff report.

(00:30:28) Kevin Cook, Senior Planner, apologizes for any errors, and confirms all documentation is in the document library on the website.

(00:32:57) Commissioner Kabeiseman asks for the Metro applicant to confirm if they agree with the decision tree put forward by Staff.

(00:33:18) Gary Shepherd of Metro agrees that the comprehensive plan is a paper request, so to speak. It's a step in the door. The only use application is the Burlington Creek Forest, no other uses are brought forward this evening. If we build a regional trail connection through Ennis Creek, we would have to come back through community service use. The application has type 2 decisional elements about siting in a forest zone.

(00:35:59) Chair Ingle asked if there is one final document in the Metro application that gives a blessing or disagreement from ODFW.

(00:36:55) Gary Shepherd of Metro explains that documentation has been submitted with the opinion of scientists at Metro and believes the standards to approve have been satisfied, even as others may disagree.

(00:39:21) Commission Egger wonders why there is no updated response from ODFW other than from 2018.

(00:40:14) Gary Shepherd of Metro says ODFW had input on the Metro Grant proposal and to review it in 2017, and then later again in fall of 2017. They haven't been heard later in the process as they are not really involved at this level.

(00:41:55) Chair Ingle asked Metro about the parking lot, and if there will be an app that people can use to tell them if it's full or not.

(00:42:36) Gary Shepherd of Metro says they don't have a parking app, but that may be possible in the future. He says they don't generally have parking issues at their sites, and if a lot is full then the person can move on to another site, like in the Gorge.

(00:44:35) Commission Nystrom is concerned about parking as well. She gives an example of the Gorge, when people will park on the sides of roads if lots are filled, and this causes a safety issue.

(00:45:11) Gary Shepherd of Metro says there shouldn't be parking in ROW areas, and there will be signs to discourage it. If the parking lots are filled, then people will need to move on to another site where appropriate parking may be found.

(00:47:07) Commission Purvine asks if there will be additional law enforcement to ticket those in no parking areas.

(00:47:31) Gary Shepherd of Metro says the current park staff will be the ones to help monitor parking issues, and that they will find solutions if parking issues become a problem.

(00:48:22) Chair Ingle offers a last call for questions, and then asks if Metro would like to make a final statement.

(00:48:51) Gary Shepherd of Metro says that there may be a difference of opinion as to the potential adverse effects of this proposal, but that doesn't mean the standards aren't complied with. Metro's habitat reserves and our nature parks are compatible with our natural resources. Metro's proposal is consistent with all the applicable standards when considered in its totality.

(00:52:40) Chair Ingle does a final call for any questions before the record is closed. No one responds, and the record is closed. He asks if Metro wants to submit a final written argument.

(00:54:03) Gary Shepherd of Metro says there is already a thousand pages of information in the record, and knows it's a lot for the commission to review. He believes their submission of last Friday on March 3rd would include a lot of what would be in a final argument, and waives having a final written argument.

(00:55:13) Chair Ingle closes the record, and informs the commission that they can begin final deliberation.

(00:56:18) Commissioner Foster believes it best to organize the deliberation around a specific decision tree, and vote on each section at a time.

(00:57:21) David Blankfeld, attorney for Multnomah County, says that the commission can deliberate in any way they choose. He gives the example of a jury in a jury room.

(00:58:20) Commissioner Kabeiseman believes the commission should discuss policies about protecting wildlife, and policies encouraging recreation. This is the heart of case for him.

(01:00:47) Commissioner Foster believes a motion should be made to adopt the staff report with regard to the plan amendment, and then open that segment for any other discussion or comments, and then vote on it. From there, the next motion could be community service and it will be opened up for discussion. The type 2 decisions could be packaged together in a final vote.

(01:02:01) Commissioner Foster makes a motion on the staff report on the comprehensive plan amendment.

(01:02:22) Commissioner Nystrom makes a second on the motion.

(01:02:39) Commissioner Kabeiseman notes the sections covering the balancing protection of significant streams with flexibility of use by property owners. It's a park, and it's going to be used for something else forest related, and it's a question of balance. He's in favor of approving this.

(01:04:52) Commissioner Foster agrees that the site would be used for timber harvest, if not approved for a park. It's pretty clear to him that it meets the requirements of designating the 4 park units.

(01:05:46) Commissioner Egger asks Kevin Cook the difference between Forest Park and a local park.

(01:07:30) Kevin Cook, Senior Planner, responds by saying this is a local park designation in the forest zone. In order to designate park uses, you have to amend the comprehensive plan, so that's required by our code and state law.

(01:08:10) Commissioner Nystrom believes the applicant has met the criteria for the comprehensive plan portion. The reason that this is controversial at all is because there are conflicting uses and trying to balance those uses is what we have to decide.

(01:10:13) Commissioner Purvine feels the applicant has met the criteria for the comprehensive plan portion as well.

(01:11:00) Chair Ingle feels the same way, that the applicant did a good job of addressing the issues for the plan, and puts forth a roll call vote on the issue.

(01:15:56) Scott Robison, Recording Secretary, takes a roll call vote for the motion, and the motion passed unanimously by all commissioners.

(01:18:32) Commissioner Alexander makes a motion for the second proposal for a public nature park on a portion of Burlington Creek.

(01:18:34) Commissioner Kabeiseman seconds the motion.

(01:18:53) Commissioner Foster believes the narrative from Metro is muddled as they talk about all the benefits of the park, but not in Burlington. He makes the point that they didn't follow any recommendations from the Oregon Fish and Wildlife Department (ODFW) for that parcel. He's having trouble with two-thirds of the site being used for trail development. He also believes there will be hazardous conditions created with trails as narrow as 24 inches that are shared between walkers and bikers. When the trails get muddy, there will significant erosion due to the bikers. He's not sure how Metro can mitigate this, and doesn't think a promise by them is enough. He's after proof and verification and doesn't think you can get the bikes off the trails. He thinks reducing the scale of the project or having seasonal closures is better and the Metro should work closely with ODFW on a solution. He would vote no as of now.

(01:30:46) Commissioner Alexander echoes Commissioner Foster's sentiments and believes Metro was uninterested and non-compliant with any of the recommendations from ODFW. There hasn't been any real input from ODFW since 2017, and there might be new studies and data on the effects of mountain biking on muddy trails. She's a no as of now.

(01:32:59) Commissioner Kabeiseman takes a different track that Commissioner Foster and Alexander. He sees the concerns they have, but there will always be impacts on land and there has been strong support by Metro staff scientists when looking at this project. He's a yes at this point in the discussion.

(01:36:18) Chair Ingle is leaning towards Commissioner Kabeiseman's way of thinking on this although he would have liked a final comment from ODFW.

(01:39:31) Commissioner Purvine says it's not really about how much we trust somebody, but whether a certain criteria is reached. At his point, she's a yes.

(01:50:41) Commissioner Egger has been struggling with this decision given the points on both sides of the argument. She had a question of whether Metro does a follow up on repairs and maintenance of roads and properties.

(01:52:40) Adam Barber, Interim Planning Director, interjects that the staff has a list of conditions of approval that Metro will have to follow if approval is granted.

(01:55:27) Commissioner Foster likes the conditions of approval, but feels there aren't enough of them. He'd like input from the ODFW, and other experts to weigh in on additional conditions about reducing parking or the trails available, etc.

(01:58:39) David Blankfeld, attorney for Multnomah County, says a vote can be taken on the staff report with their approval criteria, and it doesn't have to be unanimous, it's the majority of commissioners present. Another possibility is having a vote on different approval modifications that could be had as well. The commission can continue to a date certain next month, but there must be guidance on what staff will accomplish by the next meeting.

(02:06:54) Chair Ingle found it a little confusing that Metro says there will be monitoring, but the staff report says the county lacks the authority in regards to enforcement.

(02:07:41) Kevin Cook, Senior Planner, clarifies that the lack of enforcement is tied to imposing ongoing conditions with no end date.

(02:09:59) Commissioner Nystrom agrees there are three pathways forward, approve, deny, or approve with additional conditions. But, she is not sure there is enough time, and isn't sure the commissioners should do the work of the applicant in a situation like this. She's not willing to design a project that she'll approve.

(02:11:22) Chair Ingle asks for the commissioners to vote on the motion before them with a roll call vote.

(02:13:22) Commissioner Alexander denies the motion.

(02:13:50) Commissioner Egger approves the motion.

(02:14:06) Commissioner Foster denies the motion.

(02:15:54) Commissioner Kabeiseman approves the motion.

(02:16:03) Commissioner Nystrom denies the motion.

(02:16:09) Commissioner Purvine approves the motion.

(02:16:16) Chair Ingle approves the motion. That gives a majority for approval of the motion. Chair Ingle indicates it has been a difficult vote with great points on each side.

(02:17:08) Commissioner Kabeiseman does think a lot of the concerns discussed are legitimate and wanted to know if we could follow up with a report saying that there are concerns from the commission, and here are some areas that could be beefed up condition-wise. He's not sure of the mechanics of how this would work, but wanted to see if it was possible.

(02:18:22) Kevin Cook, Senior Planner, says this is feasible to where the planning commission adopts the staff report findings, but include these additional findings as well in the Planning Commission's order.

We could come back next month and vote on the Planning Commission order with the additional findings included.

(02:29:40) Commissioner Foster thinks Kevin has enough to go on to create a report capturing some of the major issues that the Commissioners had concerns about. Then, he can bring back this report to us next month for final approval. He thinks there could be good consensus with this report included.

(02:31:45) David Blankfeld, attorney for Multnomah County, clarifies that the record is closed, and this is being continued to April for the purpose of finalizing the order to the board. He also notes that all emails from commissioners to Kevin should be direct, and not include other members of the commission. That could create a quorum by mistake.

(02:39:57) Kevin Cooks, Senior Planner, confirms that the hearing will be continued to April for the purposes of considering the final order. This next meeting will take place on April 3rd at 6:30pm.

7. Director's Comments

(02:40:30) Adam Barber, Interim Planning Director, announces the hire of Scot Siegel, the new planning director.

(02:42:55) The meeting is adjourned at 9:20 p.m.

Recording Secretary,

Scott Robison