



**Minutes of the Molalla City Council Meeting
Molalla Adult Center
315 Kennel Ave., Molalla, OR 97038
Wednesday, September 12, 2018**

CALL TO ORDER OF THE MOLALLA CITY COUNCIL MEETING; the regular meeting of September 12, 2018 was called to order by Mayor Jimmy Thompson at 7:00 P.M.

COUNCIL ATTENDANCE:

Mayor Jimmy Thompson – Present
Councilor Elizabeth Klein – Absent
Councilor Leota Childress – Present
Councilor DeLise Palumbo – Absent
Councilor Glen Boreth – Present
Councilor Jody Newland – Present
Councilor Keith Swigart – Present

STAFF IN ATTENDANCE

Dan Huff, City Manager – Present
Gerald Fisher, Public Works Director – Present
Chaunee Seifried, Finance Director – Present
Rod Lucich, Police Chief – Absent
Kelly Richardson, City Recorder – Present
Diana Hadley, Library Director – Absent
Chad Jacobs, City Attorney – Absent

PUBLIC COMMENT/COMMUNICATIONS AND PRESENTATIONS

Connie Farrens, 22630 S. Upper Highland Rd, Beaver Creek, President of Molalla Chamber, addressed the Council regarding the recent discussion of the need for Economic Growth and Development. The Chamber agreed with needing a plan for growth and development. Farrens felt the code was not business friendly and would need amended to attract potential new businesses. Some of the examples were;

- That the code did not allow for another grocery store or big box store.
- Conditional Uses.

Farrens referred to a follow up email from CM Huff that she stated allowed grocery stores under the conditional use section. Farrens felt three pages was a lot of information and restrictions placed on conditional uses.

The following is the email referenced,

On Wed, Sep 12, 2018 at 4:54 PM, Dan Huff <dhuff@cityofmolalla.com> wrote:

Connie – Thank you for your letter. I just want to be clear with you that our new Development Code **clearly allows** for additional grocery or other big box stores within the city limits. We had this discussion when the code was adopted. Please review Table 17-2.2.030 – Commercial Retail is the descriptive term for large retail development including grocery or other commercial uses. I am not sure where this is coming from because it is just not true.

Dan Huff, City Manager



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From: Connie Farrens <connie@pepcodesigns.com>

Sent: Wednesday, September 12, 2018 5:04 PM

To: Dan Huff <dhuff@cityofmolalla.com>

Subject: Re: FW: Letter from Chamber

This coming from concerned business owners that are looking at black and white descriptions. This was a concern prior to the passing of the codes, was it is all sort of grey. I am tired. I bet you are too. The new codes are not friendly.

From: Dan Huff

Sent: Wednesday, September 12, 2018 5:09 PM

To: 'Connie Farrens' <connie@pepcodesigns.com>

Subject: RE: FW: Letter from Chamber

Well Connie, I disagree. But that is an opinion you can share. However, if you stand in front of Council and make a statement that the code does not allow another grocery store or a big box development you will be making an accusation that is flat untrue. What might be helpful is to understand what specifically is unfair? What is trying to develop here but cannot?

To: Molalla City Council

From: Molalla Area Chamber of Commerce

Date: September 12, 2018

Subject: Questions Regarding Economic Growth and Development



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I am writing this letter to follow-up on the City Manager, Dan Huff's, request for council to address Economic Growth and Development for our City. He addressed the Council at a prior council meeting as *well as it being published in the Molalla Pioneer August 29, 2018.*

The Chamber membership is total agreement with needing a plan for growth and development. However, we have concerns with our newly adopted codes which we feel inhibits this from being possible. Furthermore, we believe the new codes keep us from competing for or attracting potential new businesses.

Examples of this are with the all the 107 uses that fall in the 4 classes from C1 to M2 classification there are only 39 Permitted uses, 69 Non Permitted(not allowed), 29 Conditional Uses and 10 Special use(not explained that we could find). These new codes do not allow for another grocery store or big box type store in the City Limits.

C1 to M2 Class	Total Uses	Permitted	Non Permitted	Conditional Use	Special
Molalla	107	39	68	29	10

If we are truly looking to be "Business Ready" the new codes need amendments.

I am attaching a copy of the current new Codes and the Conditional Use Permits 17-4.4

This letter has been written on behalf of the Chamber membership.

Submitted by,

Connie Farrens

Connie Farrens,
President of MACC

Tracy Cox, 14411 S. Buckner Creek Rd Mulino, addressed Council regarding her concerns with the Municipal Code and the restrictions Cox felt applied to her properties and others. Cox was mostly concerned with the conditional use process as she felt it pertained to property development. Cox stated in comparison to Canby at 26 Molalla only allowed 7 outright permitted uses in the light industrial zone. Cox stated at which point the applicant would then need to reapply and pay more fees to possibly receive approval. Cox didn't feel this to be business friendly.

Cox went on to explain because of what she felt to be a lot of restrictions, she decided not to complete the process to expand her business. Cox then gave another example of another business who has stated to her they



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can't develop with the codes as they are. Cox then went through a series of trickle down because this other property couldn't develop as they wanted to. Cox also stated she recalls when the code was adopted Council stated let's just get it passed and Council will fix it later. Cox wants to know when the discussions will begin. Cox then insinuated staff would approve or not approve based on who you were the good old boy way. Cox thought every type of business should be written down with a clear yes or no.

Jim Taylor, 29480 S. Hult Rd Colton, Taylor addressed Council and felt CM Huff instructing Council to direct their attention to Economic Development was good thing. Taylor stated in his opinion the code was not conducive to doing business in Molalla. Taylor went on to give statistics based on his opinion and how that related to the code. Taylor appealed to Council to read the conditional use code as Taylor feels it is too restrictive for Molalla to be business ready. Taylor then went on to explain how he feels Molalla needs living wage jobs. Taylor explained that this is a document that Council jammed along and needs to address its issues.

Taylor stated there is absolutely no code language regarding home occupations no one would be allowed to open a home occupation. Taylor pleaded with Mayor Thompson that this is not a funny issue but a serious issue. Mayor Thompson replied to Taylor and informed Taylor that there is a home occupation section of the code (17-2.3.120) so, it is a non-issue. Taylor continued to appeal to Council to investigate the fact that there is no language for home occupations in the code. Taylor went on to say in the M-1 zone a cabinet shop would be a conditional use then that person would be required to go through the process in his opinion this is not necessary. Taylor stated he and the Chamber are asking for Council to review the code. Taylor went on to state that Urban Renewal money comes from commercial and industrial not residential. Mayor Thompson informed Taylor Urban Renewal dollars in fact do come from residential area and asked Mr. Taylor to wrap it up. Taylor again stated that the code needs fixed, please take it seriously.

Councilor Childress addressed those who spoke regarding the over 18 months to 2 years that it took to review the code and none of the speakers came to those meetings to provide feedback until the last minute. If Council were to open the discussion would they attend every meeting and listen to both sides. Childress stated she took personal offense that if it says conditional use, that any staff member would pick and choose on the bases of like or dislike. "This is not how the City operates it may have years ago but it does not now."

1. Oath of Office for Newly Appointed Councilor Jody Newland, Councilor Newland took oath of office administered by Mayor Thompson. Newland was joined by family and friends.
2. Discussion regarding ODOT coordination.

John Makler, AICP Oregon Department of Transportation stated the following in a statement addressed to Mayor Thompson and Members of City Council;

Wednesday, September 12, 2018

Good evening Mayor Thompson and Members of City Council,



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Thank you for the opportunity to join you this evening. I've prepared a brief opening statement but my expectation in visiting with you is to provide an opportunity to answer a question you may have about ODOT's recent actions in response to your land use decision-making.

Oregon's system of land use planning was established to protect critical resources and to keep our systems, including our infrastructure, in balance. The ideal is for communities like yours to establish clear plans that guide decisions, especially those made by public agencies. When exceptions are needed, such as when a jurisdiction decides to amend one of its plans, the onus is on that jurisdiction to ensure that the balance can be maintained.

In the most recent instance, the City of Molalla accepted a proposal to convert acreage fronting Highway 213 from light industrial to commercial. It is not the State of Oregon's job to agree or disagree with your decision but to ensure that the balance can be maintained. In this regard, we are collectively guided by a tiny part of the Oregon Administrative Rules called the Transportation Planning Rule. In the simplest terms, the TRP requires you, as the jurisdiction amending its comprehensive plan, to make sure that the long-term balance is in place. As I say so often to my seven-year-old son, "if you break it, you buy it."

When your planning commission reviews a staff report, the report must clearly communicate a finding of fact. Will the performance of the future transportation system be adequate at the end of the planning horizon? In this instance, the staff report did not offer a finding that meets common standards for such documents.

That is not a sufficient basis for an appeal, however. My problem was that the flaws of the staff report made the foundation of your decision vulnerable. That vulnerability presents a risk to the State and that risk is on that, in my judgment, we could not accept.

Fortunately, this is easy to remedy. My staff and I are working with your staff – Mr. Huff, Mr. Fisher and Mr. Rodriguez – to correct the flaws in the staff report and make it possible for you to adopt a decision that eliminates the risk that concerns me.

The thing that makes this visit worth it to me is to remind you to keep the state's planning framework in mind when you consider these decisions. Keep in mind that if you choose to change your adopted plan, you have an obligation to maintain the balance. Your planning documents must address the tradeoffs in a clear and objective manner.

In this instance, the facts of the case are that the changing in zoning will push the future ratio of volume to capacity from 2.83 to 6.19 while the standard is 0.9. Because the "no build" performance (2.83) is already worse than the standard



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(0.9), the criterion is that there be sufficient mitigation to avoid "future degradation." That is, reduce the v/c down to at least 2. X but not necessary 0.9. As it turns out, the solution we agree on produces 0.83.

If you don't see a paragraph in the findings section of the staff report that spells this out, it is not possible for the planning commission to make a valid recommendation or for you to make a valid decision.

Secondly, it's not enough to identify the mitigation. The TPR requires that is "reasonably likely" that the mitigation is in place within the planning horizon, which is this case is 20 years. Like many communities around Oregon, the City of Molalla does not have the financial resources, in excess of its existing obligations and commitments, to pay for this mitigation, even over 20 years. In many cases, the jurisdiction puts the onus on the applicant. If they want to build here, they are going to have to pay for the mitigation.

This is why our land use decisions are designed to be so deliberative. The City is facing a choice. When commercial development comes knocking, the opportunity is very appealing, in Molalla and a hundred other cities. If the city has sufficient leverage, the applicant will sign a development agreement to pay for the mitigation. If the city lacks that leverage, it must devise a different financial solution (or face the possibility of missing out on this opportunity). In this case, the city must examine the opportunity cost of committing its resources to mitigating this development. What the city cannot do is approve the land use change if it cannot meet the "reasonably likely" test.

Hence the necessity of ODOT's appeal. Given the characteristics of the staff report, the planning commission's recommendation and the council's decision, it is the State's conclusion that the transportation planning criterion is not met. You must insist that the critical questions – whether they are traffic or money – are dealt with explicitly.

I want to end where I started: these decisions are local. ODOT does not get to decide whether you should use your land for this or that. But if your process lacks validity or obscures the truth, the State will be obligated to file appeals.

Thank you for your time, I would be pleased to answer any questions.

Submitted for the record by:

Jon Makler, AICP
Oregon Department of Transportation
123 NW Flanders
Portland, OR 97209



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Following the statement by Jon Makler Councilors briefly discussed staff's need to go back and make the changes as needed and bring the issue before them to approve the necessary changes. Council thanked Mr. Makler for coming and explaining the situation.

(Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder. The City Council does not generically engage in dialog with those making comments but may refer the issue to the City Manager. Complaints shall first be addressed at the department level prior to addressing the City Council.)

ADOPTION OF AGENDA

Motion made by Councilor Boreth to adopt the agenda as presented, Seconded by Councilor Newland.
Voting Yea: Mayor Thompson, Councilor Boreth, Councilor Childress, Councilor Swigart, Councilor Newland.

CONSENT AGENDA

Motion made by Councilor Boreth to approve the consent agenda as presented, Seconded by Councilor Newland
Voting Yea: Mayor Thompson, Councilor Swigart, Councilor Boreth, Councilor Childress, Councilor Newland.

3. Molalla City Council Meeting Minutes August 22, 2018

PUBLIC HEARING

4. Wastewater Facility and Collection System Master Plan (WWFCSMP)

Public Works Director Gerald Fisher explained that staff is currently working with DEQ and would request Council to postpone the hearing until the October 24 meeting.

Motion made by Councilor Swigart to postpone the hearing until the October 24 meeting, Seconded by Councilor Boreth. Voting Yea: Mayor Thompson, Councilor Boreth, Councilor Childress, Councilor Swigart, Councilor Newland.

5. Supplemental Budget Fiscal Year 2018-2019

Motion made by Councilor Swigart to open the public hearing at 8:26 pm for Supplemental budget FY 2018-2019, Seconded by Councilor Boreth. Voting Yea: Mayor Thompson, Councilor Boreth, Councilor Childress, Councilor Swigart, Councilor Newland.

Mayor Thompson called for any comments hearing none Thompson called for a motion to close the Public Hearing.

Motion made by Councilor Swigart to close the public hearing at 8:27 pm for Supplemental budget FY 2018-2019, Seconded by Councilor Childress. Voting Yea: Mayor Thompson, Councilor Boreth, Councilor Childress, Councilor Swigart, Councilor Newland.

Motion made by Councilor Boreth to adopt the Supplemental Budget FY 2018/2019 as presented, Seconded by Councilor Swigart

Voting Yea: Mayor Thompson, Councilor Boreth, Councilor Childress, Councilor Swigart, Councilor Newland.



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6. Resolution 2018-16 Supplemental Budget

Motion made by Councilor Boreth to approve resolution 2018-16 the Supplemental Budget as presented, Seconded by Councilor Newland. Voting Yea: Mayor Thompson, Councilor Boreth, Councilor Childress, Councilor Swigart, Councilor Newland.

ORDINANCES, RESOLUTIONS, PROCLAMATIONS

NEW BUSINESS

7. County Wide Housing Needs Assessment

CM Huff explained to Council the necessity and requirements for the housing needs assessment. To have Molalla participate in the County wide assessment only requires staff time. The County will pay for the assessment to be completed.

Motion made by Councilor Childress to participate in the County wide assessment, Seconded by Councilor Swigart. Voting Yea: Mayor Thompson, Councilor Boreth, Councilor Childress, Councilor Swigart, Councilor Newland.

8. Future Topics

Mayor Thompson took the opportunity to explain why this item is on the agenda for newly appointed Councilor Newland.

OLD BUSINESS

9. PAL Building/Warming Center

Following a brief discussion regarding the various uses of the PAL Building, Council decide to approve the request for it to be used once again as a local warming center this winter. Mayor Thompson stated that before we get to this point next year there should be a serious discussion about the future use of the building.

Motion made by Mayor Thompson to approve the PAL Building to be used as a warming center, Seconded by Councilor Swigart. Voting Yea: Mayor Thompson, Councilor Boreth, Councilor Swigart, Councilor Newland. Voting Abstaining: Councilor Childress as she has made the request.

Councilor Childress made a statement that this would be there sixth year running the warming center and last year there was an increase of over 200%. There were homelessness and hard to see situations all around. It tugs at your heart strings.

REPORTS AND ANNOUNCEMENTS

- Finance Director Seifried had nothing more to report.



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- Public Works Director Fisher informed the Council he had attended an online webinar regarding the drinking water program. They had brought in folks from Ohio State. Topic was cyanotoxins, the issue referencing the topic that came up with the City of Salem. This problem prompted the head of the Drinking Water Association to investigate what type of measures there are State wide to prevent cyanotoxins from entering our drinking water. All the agencies that had a potential of cyanotoxins were asked to participate. So next time renewal takes place, there will be additional requirements for all agencies. The testing will be difficult and expensive, so we have begun adding those to the budget. Fisher stated he asked as to why Molalla and Canby had been selected and it has to do with the rock formations upstream. It's not just Detroit Lake. It's all over and they will begin a sampling routine and until then it's unsure of how this will return.

Councilor Swigart asked why now, PWD Fisher stated the toxins have always been around. They are just now being discovered because of the issue that occurred in a city the size of Salem it increases the level of awareness. Councilor Childress asked the definition, and PWD Fisher stated it's an accumulation of bacteria that produces the toxins.

Fenton Avenue will begin around the September 24 and end towards the end of October.

PWD Fisher wanted to call to attention of the Council that people are trying to drive through the construction zone and it needs to stop. It is unsafe for the crews on site and citizens.

Recycle Water Use Plan is moving along well DEQ came back with three comments, two of which were clarification.

Met with ODOT on the Highway 211 project. The preliminary design set was submitted. The various and potential issues was the focus of the meeting. Working on these before the final design is submitted. They are working on the changes for the IGA since Molalla received the \$750,000 for the pedestrian design portion of the project. Mayor Thompson directed staff to place something on the website that shows the project and the progress and status.

Councilor Childress asked about the crosswalk and PWD Fisher stated it is in the project. However, there will not be flashing lights. Conduits will be ran but not supplied. Hopefully, we can find some Safe Routes to School dollars to help fund the lights later.

- City Recorder Richardson had nothing to report.
- CM Huff explained the information provided by the library district and the reason why changes to the IGA are needed. This really won't affect Molalla. This is something that has to do with City Gladstone and the Oak Lodge Library. This is for your review. A new IGA will be coming to a future meeting. The issue is whether capital dollars should be used for facility upgrades or not. CM Huff praised our public safety staff for their exemplary job they did at the 911 tribute. Don't forget they're ready and willing to respond for our safety.
- Councilor Boreth thanked Councilor Newland for joining Council along with the family for lending her to us.
- Councilor Childress updated Council on the progress of the Celebrate Molalla event coming up on Saturday, September 22. There will be a party on South Molalla Avenue. Hopefully the community will enjoy their celebration. We are looking for volunteers for the day.

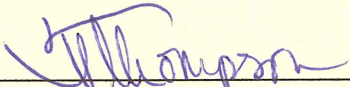


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Mayor Thompson welcomed Councilor Newland and thanked Councilors Childress and Klein for running for office in the upcoming election.

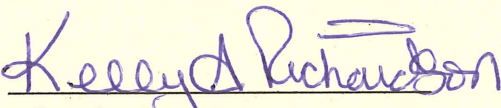
ADJOURN

Motion made by Councilor Swigart to adjourn the September 12, 2018 Council meeting at 9:05 pm, Seconded by Councilor Childress. Voting Yea: Mayor Thompson, Councilor Boreth, Councilor Childress, Councilor Swigart, Councilor Newland.



Mayor, Jimmy Thompson

Date September 26, 2018

ATTEST: 

Kelly Richardson, CMC
City Recorder