

BOARDMAN CITY COUNCIL SPECIAL MEETING – JUNE 28, 2022

Mayor Keefer called the meeting to order at 6:08 p.m. and led the Pledge of Allegiance. Roll call for attendance was taken.

Councilors Present: Brenda Profitt, Leslie Pierson, and Paul Keefer (In Person), and Katy Norton, Isaac Williams, and Roy Drago Jr. (Via Zoom)

Councilors Absent: Paul Beagle

Staff: Karen Pettigrew, City Manager; Rick Stokoe, Police Chief/Assistant City Manager; Carla McLane, Planning Official; and Jenn Rollins, City Recorder/HR (In Person)

Audience: Jonathan Tallman (In Person) Chris Crean, Joe Taylor, Sarah Mitchell, and Torrie Griggs (Via Zoom)

Mayor Keefer recessed the special meeting at 6:10 p.m.

Mayor Keefer opened the public hearing at 6:10 p.m.

ATTENDANCE

Roll Call: Council President Profitt – Yes; Councilor Pierson – Yes; Mayor Keefer – Yes; Councilor Norton – Yes; Councilor Williams – Yes; Councilor Drago – Yes.

Councilor Beagle was noted as absent for tonight's meeting.

HEARING

Appeal to City Council regarding Planning Commission Decision on Zoning Permit ZP21-066

Mayor Keefer opened the public hearing and announce the purpose of the hearing was regarding Appeal AP22-003 with the City of Boardman as the holder of right-of-way. 1st John 2:17 and Jonathan Tallman are the appellant. The property is described as right of way adjacent to tax lots 3100, 3204, 3209, 3206, and 3201 of Assessor's map 4N2510 and tax lots 400 and 403 of Assessor's Map 4N2511. The area is zoned Service Center and is in the Southeast quadrant of the Port of Morrow Interchange. The appeal is against Zoning Permit ZP21-068 which approves the construction of road within right-of-way dedicated for road and related purposes. Criteria for the appeal are found in the BDC Chapter 4.1 Types of Applications and Review Procedures.

Mayor Keefer then read into the record the outline of how the hearing would be conducted.

Disclosure

Mayor Keefer asked if any of the councilors had any ex-parte contact to report, or if any councilors wished to abstain from the meeting. No contact was reported, and no councilors wished to abstain from discussion and the vote in this matter.

Impartiality

- Mayor Keefer asked if anyone in the audience wished to challenge any City Councilor's impartiality.
- Jonathan Tallman asked to speak and stated Mayor Keefer stated "he could care less about the county side and the other side of the Loop Road construction" and so Mr. Tallman stated he believes Mayor Keefer doesn't care about property owners on that side of the road and has an obvious bias. Mr. Tallman continued by stating that Mayor Keefer had sent him an email stating he didn't mean that, but when Mr. Tallman asked to have a meeting to discuss this decision the

Mayor declined and Mr. Tallman believes that the Mayor's actions speak louder than his words in this situation. Mr. Tallman continued by saying Councilor Pierson that she is paid by Karen's boss and the BCDA and anything that has to do with that has to be shown. Mr. Tallman stated he felt the same about Brenda Profitt and the business she works for. Mr. Tallman finished by asking if Katy Norton even lives in Boardman anymore. Mr. Tallman stated this needs to be addressed because everyone works for everyone else and they have conflicts and don't care or are getting paid to make the decisions they make.

Staff Report

Planning Official Carla McLane read the staff report into the record, and asked the councilors if there were any questions regarding the report. Once Planning Official McLane completed the delivery of her report, she asked if Mr. Crean, the city's land use attorney, wished to add any information to the staff report; Mr. Crean replied he did not and suggested the council proceed with their meeting.

Correspondence

Nothing received outside of what was posted/included in the packet.

Public Testimony

ZP21-066 Applicant – City of Boardman

Planning Official McLane explained to the City Council that her staff report stood in place of testimony for the applicant, as the City of Boardman is the applicant in this matter.

Testimony in Support of the Application for ZP21-066

No testimony of this type was given.

Testimony Opposing the Application for ZP21-066

Sarah Mitchell – Kellington Law Group

- Sarah Mitchell from the Kellington Law Group presented testimony against the application on behalf of her client Jonathan Tallman CEO of 1st John 2:17. Ms. Mitchell stated she had not received proper notice in a timely manner regarding this appeal. Ms. Mitchell continued to state that the zoning permit that is being appealed by her client is not consistent or compliant with design standards, city code, or the TSP.
- Ms. Mitchell asked to make clear to the City Council that this zoning does not approve any construction on Mr. Tallman's properties. Ms. Mitchell also stated that the design does not comply with city collector standards, and the city has not specified which type of collector road this loop road is. Ms. Mitchell explained that even if this road is considered a neighborhood collectors require a minimum road width of 38 feet which the Loop Road does not meet and this design will not keep up with increased traffic in the area; she feels this road is too small and the city council should deny this permit.
- Ms. Mitchell also stated that the TSP code requires development to go under site design review and Loop Road is subject to standards and they are not being met. Ms. Mitchell told the council that the city can't pass off required development down the road to other people, and for these reasons this application should be denied.

Jonathan Tallman – 1st John 3.14 LLC

Mr. Tallman stated procedures and protocol are not being followed and previous meetings with the late Community Development Director Barry Beyeler stated the road would be 75 feet wide, and not 60 feet wide. Mr. Tallman also asked why this decision changed from a Type I decision to a Type II decision and approval is not final until 21 days after the decision. Mr. Tallman continued to state he is confused and feels that none of this makes sense and he doesn't understand why they can't sit down and talk about this.

Neutral Testimony

No neutral testimony was given.

Rebuttal Evidence

Chris Crean – Land Use Attorney for the City of Boardman

- Mr. Crean replied that if anyone doesn't get appropriate notice for a land use hearing, the city will look into that and he promised Mr. Tallman and his attorney Ms. Mitchell that he would look into why that was overlooked. Mr. Crean explained that the process is being followed, the reason for tonight's meeting is because the city is following the process for a Type II decision; Mr. Crean continued to explain this permit does not require it, but Mr. Tallman objected and Mr. Crean explained that a Type II decision requires more public participation and the City did not see a problem with that expansion although it was not required. Mr. Crean explained that he does not understand why the argument is still being made that the City of Boardman is not following the proper process, as they are following exactly the process that Mr. Tallman and his attorney demanded.
- Mr. Crean then moved to explain that he looked at and presented proposed findings and the width standard and that when you include the road bed with the width the 68 feet of road width is met.
- Mr. Crean then explained that sidewalks cannot be installed without knowing what will be developed in the future and that is why it is the burden of future developers to install sidewalks, and streetlights because to do so preemptively may not meet future needs.
- Mr. Crean then moved to explain the application filed last year by the late Community Development Director Barry Beyeler mistakenly included Tallman properties and he wanted the record to be clear that the East Loop Road project does not include those tax lots.
- Mr. Crean also explained that there is no reason to believe that if a West Loop Road is developed, it will have to meet the standards set by the council on East side of the Loop Road project as the West Loop may have different needs when it is developed.

Mayor Keefer closed the public hearing at 6:59 p.m.

Mayor Keefer resumed the regular meeting at 6:59 p.m.

Discussion

Councilor Pierson asked for clarification on the Notice procedures that have been claimed to not have been met. Planning Official McLane explained the following timeline: On June 7th the notice was sent to the Tallman's and the city only has an obligation to send notice out, they are not responsible for ensuring that it has been delivered and received. The notice was mailed out to 24 people, and state law only requires notice to be mailed to land owners and so by completing this mailing, the city has met its legal requirements in providing notice about this hearing.

Councilor Pierson asked what the difference of road width of 35 feet versus 32 feet meant for semi-truck traffic. Planning Official McLane replied that traffic studies have shown this will be wide enough for trucks to pass through.

Planning Official McLane explained that staff is in agreement that the City of Boardman is in compliance with the IAMP standards

Councilor Pierson asked if she needed to address the issues of conflict of interest that were presented by Mr. Tallman in the beginning of the meeting. Mr. Crean explained councilors had no obligation to respond to accusations, but they may respond if they wish. Mr. Crean further explained to the council members who had their impartiality questioned, that state law prohibits ex parte communications, and Mr. Tallman has already testified that Mayor Keefer did not have any ex parte conversations about this

project, and that was the reason that the Mayor is not able to meet with Mr. Tallman to discuss this project as it has been appealed and is considered under litigation.

Deliberation

There was no deliberation.

Action Items

Resolution 12-2022 – A Resolution to Deny Appeal AP22-004 and Approve ZP21-068

Council President Profitt made a motion to deny appeal AP22-004 and to approve Zoning Permit ZP21-068. Councilor Pierson seconded the motion.

Roll Call Vote: Council President Profitt – Yes; Councilor Pierson – Yes; Mayor Keefer – Yes; Councilor Norton – Yes; Councilor Williams – Yes; Councilor Drago – Yes.

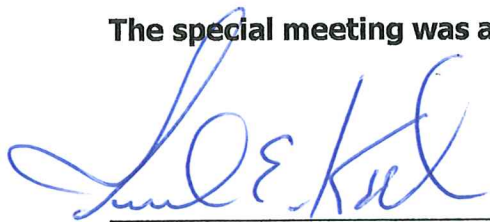
The motion passed 6-0 with one absence.

Executive Session

At this point the council members moved to meet in executive session regarding ORS 192.660(2)(e) – to conduct deliberations with persons designated by the governing body to negotiate real property transactions, and ORS 192.660(2)(i) – to review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee, or staff member.

The city council came out of executive session at 9:22 and announced that no decisions were made at this time.

The special meeting was adjourned at 9:23 p.m.



Paul Keefer – Mayor



Jenn Rollins – City Recorder