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SPECIAL CITY COUNCIL MEETING MINUTES

Monday, August 24, 2020

Zoom Conference at 5:00 P.M.

I. PLEDGE OF ALLEGIANCE

II. CONVENING OF MEETING

Mayor Judy Riggs called to order the Special City Council meeting at 5:07 p.m. Present were Council members Melissa Elmore, Tim Hall, Amanda Cavitt, Whitey Forsman and Judy Riggs. City staff present were City Manager Geoff Wullschlager, Assistant City Manager Lori Longfellow and Administrative Assistant 2 Laura Schmidt. Citizens present: Sandy Tyrer, Laurie Wandell, Linda Shattuck, Myra McCormick, Judith Parker; other unknown citizens were present electronically.

III. PUBLIC HEARING – NONE

IV. CONSENT CALENDAR - NONE

V. PUBLIC COMMENT

- A. Sandy Tyrer - 108 8th Street - street spoke in regard to the Planning Commission. She noted she was representing herself as a citizen of Garibaldi and not as an elected official or representative of the Neah-kah-nie board of directors. She expressed her concern of her son-in-law Nathan Findling's removal from the Planning Commission as well as noting the conflict of interest of appointing Paul Daniels to the vacant Planning Commission position.
- B. Laurie Wandell expressed her concern with appointing Paul Daniels to the vacant Planning Commission position.
- C. Linda Shattuck also expressed her concern with appointing Paul Daniels to the vacant Planning Commission position and asked that Mayor Riggs recuse herself from the vote on the apartments.
- D. Myra McCormick also expressed her concern with appointing Paul Daniels to the vacant Planning Commission position.
- E. Cn. Hall informs he had received a text from the fire chief Jay Marugg about the technical difficulties he was having trying to raise his hand to speak during public comment. After instruction on ways to make it work, he was able to utilize a separate computer in City Hall to express his concerns regarding safety and management.

- F. Judith Parker made a statement as a public citizen expressing her concern of appointing Paul Daniels to the vacant Planning Commission position and as a member of the commission feels she will be extremely uncomfortable and put in a hostile environment.

VI. PRESENTATIONS - NONE

VII. CORRESPONDENCE

A. Planning Commission Application – Paul Daniels

VIII. COMMUNITY REPORT – NONE

IX. OLD BUSINESS

A. CU-2020-01 Appeal Vote

Mayor Riggs begins discussion regarding the appeal vote and informs that the Garibaldi Municipal Code does not authorize an abstention, the vote has to be a yes or a no vote. She asks the council before going into voting or discussion if anyone had any conflict of interest that would prevent them from making the vote. Councilman Hall stated he had no conflict of interest. Councilwoman Cavitt stated that as a business owner in the Port of Garibaldi, she recognized the many conflicting views on the issue before the Council. She stated she did not know if this constituted a conflict of interest, but out of respect for all the interested parties, she felt very uncomfortable levying a decision on the matter. Councilman Forsman stated that he did not have a conflict of interest. Councilwoman Elmore also stated that she did not have any conflict of interest. Mayor Riggs stated that in light of Ms. Linda Shattuck's comments regarding Mayor Riggs letter of support for Paul Daniels, she wrote the letter so that the public could look at both sides of the situation. She went on to state that she had heard a lot of misinformation, and she wanted to present the other side of the story so that people could make their own determination with respect to the recall vote of Mr. Daniels. She went on to state that the backlash she had received in reflection of the letter was horrendous, and so she understood that the decision before the Council was a particularly difficult one.

Councilwoman Elmore interjected and asked acting City Recorder Laura Schmidt to screen share the directive document with respect to the options before the City for the vote.

Mayor Riggs went over the three options and the quorum rules regarding the vote.

Councilman Hall called for a point of order to ensure that discussion would take place before the vote.

City Attorney Wolf interjected and stated that the Mayor needed to ask the Councilmembers if they had any ex-parte contact.

Councilwoman Elmore stated she had not, nor did Councilman Hall, Councilman Forsman, Councilwoman Cavitt, and Mayor Riggs.

Councilman Hall stated that he firmly believed that the people of Garibaldi hold an expectation that process in Garibaldi will be fair and unbiased. He stated that he did not think this was so with respect to CU -2020-01 and stated this is reflected in the minutes. He went on to state that the process had been tainted and that City Manager Wullschlager acted as an agent for the applicant.

Mayor Riggs called a point of order and stated that the Council would not be discussing this accusation.

Councilman Hall interjected and affirmed that he understood this but asked if he could finish his comments.

Mayor Riggs interjected and stated that she had just asked Councilman Hall to stop to which he replied that he just wanted to finish his comments.

Councilman Hall went on to state that he reviewed some documents and that the information provided to the Planning Commission was misinformation, and other information was manipulated with respect to the independent traffic study and independent geo-technical report. He went on to state that he found the process by the Planning Commission was a difficult task given the information they were provided, and that they came to a decision that reflected that the information was tainted. He also stated that it was not about the code, and that there is criteria, and the comprehensive plan, and there are county and state laws that need to be followed. He also stated that to say that the Commission only acted on what the code was is incorrect. He went on to state that where the code was applied, it was applied incorrectly, or in many cases manipulated.

Mayor Riggs asked Councilman Hall to articulate where the code was applied incorrectly.

Assistant City Manager Longfellow asked to make a comment. She started by stating this was why we asked for no comment on the business before the Council, referring to no new testimony being offered on the matter. She went on to state that the City Manager and City Engineer sent the application out to an independent third-party planner for review and assessment of code compliance and staff report drafting for the very reasons that Councilman Hall was raising.

Councilman Hall replied that he understood that the Planning Commission met for over 9-10 hours and that the third part planner was only twice before the commission for ninety minutes for two times.

Councilman Forsman addressed the Mayor and asked if Councilman Hall had any specifics and went on to state that all he was hearing was unfounded

inuendo.

Councilman Hall stated that he would provide this to the Council and although he kept getting cut off, he was not going to waste his time. He went on to state that the planner (referring to the third-party planner) basically said that the City of Garibaldi had to comply with the state's goal ten and went on to say that the City's population had to be 2,500. He went on to state that the City of Garibaldi has a population of 879, and therefore the state law does not apply to the City of Garibaldi. He stated that this was an example of information that was provided to the Planning Commission that was false. He also stated he would be happy to provide Councilman Forsman with an extensive list that would go through the document but that he was not prepared to do that currently as it would take a considerable amount of time which he stated he was sure the Mayor would not allow.

Mayor Riggs stated that the whole purpose for holding the conversation was that as Councilman Hall stated there were all these things....

Councilman Hall interjected and stated that another example, that in March of 2020 ODOT asked the applicant to provide, they raised a number of issues and concerns they had, and the applicant and the City were to provide this to ODOT. He went on to state that nowhere in the report did it show that this was met. He further stated that the plan to ODOT, that the access to the apartments, would be a street, and not a driveway. He went on to classify this as another example of misinformation that was provided that was not accurate.

Mayor Riggs asked Councilman Hall to articulate which page of the application this was on as she had only seen a one-way access being designated in the plans.

Councilman Hall replied by stating he was saying that he could provide the Council with the email from ODOT where ODOT stated that the plans they received showed that it was coming from a street and that the street identified was Martin Smith Ln. which goes through the neighboring property owned by Ms. Carolee North. He reiterated that he would be happy to provide the Council with this information, that the process was tainted, and that the Council should not have been asked to vote on the matter

Mayor Riggs asked Councilman Hall if he received information from ODOT when he contacted a regional manager.

Councilman Hall responded by stating that yes he did, and that the Mayor would recall the conversation as the information that was provided by the City Manager to the Commission was incomplete. He went on to state in contacting regional managers from ODOT that he understood that the application needed to be re-submitted, and that he had not seen that it had been re-submitted.

Mayor Riggs stated that if Councilman Hall would recall, she had asked him to recuse himself at the last appeal hearing due to ex-parte contact with ODOT.

Councilman Hall stated that there was no ex-parte contact. He went on to state that the Mayor had said that Councilmembers could ask questions, and therefore he asked questions as the information presented to the Planning Commission, in his opinion, was incomplete. He further stated that he had the authority and responsibility to ask questions. He then stated that if the Mayor was telling him as a City Councilor that he could not ask questions when a very important decision was being made, and the information being provided to the Planning Commission was incomplete, he therefore had a responsibility after reviewing the minutes as the Mayor and City Manager had asked him to do. He went on to state that he made a call and found out the information he had received was incomplete.

Councilwoman Elmore stated she had a quick question and asked that if she recalled correctly, that in the order of application processes, and in the event of an application approval of Paul Daniels apartments, wasn't it a fact that ODOT would then look at the application and state whether or not they had an issue with the application, and if so, they the applicant would need to address their objections? She went on to state that she thought ODOT was waiting on a Final Order on the project before involving themselves.

Acting City Recorder Laura Schmidt asked for a point of order and stated that Mr. Paul Daniels had his hand raised. She then asked if we were allowed to allow the applicant to speak.

Assistant City Manager Longfellow referenced the City Manager's notes on meeting process and stated that no testimony was supposed to be received.

Mayor Riggs asked if there was any more discussion.

Mayor Riggs stated that she wanted to go on record and went on to say Councilman Hall did contact ODOT and asked questions after the Council had voted to hear the appeal solely on the record as established with no new information or criteria applying to the application. She went on to state that she had the record of this conversation by email.

Councilman Hall replied that yes, while this took place, it was in reference to existing documents. He went on to state that it was his right as a Councilor as he wanted to confirm something that he thought not to be true.

Mayor Riggs countered by stating that Councilmember Hall had documents before the rest of the Council.

Councilman Hall denied this.

Mayor Riggs stated that Councilman Hall had told her he had listened to, or looked at.....

Councilman Hall interjected and stated that those documents were on the City website. He went on to say that they were the Planning Commission meeting minutes. He also stated that the City Council should be reading the minutes of the Planning Commission meetings because they are going to come to the City Council anyways. He then asked a clarifying question of the Mayor, stating that if he understood her correctly, she was instructing the Council not to read the Planning Commission minutes?

Mayor Riggs stated that this was correct, or at least until the issue comes before the City Council.

Councilman Hall stated that Paul Wrabeck, the Planning Commission chair for years, told him that this was okay. He stated he would be happy to show the Mayor this document.

Mayor Riggs stated this was true, but that he only showed her the middle page of the documents. She went on to state that when she first got on Council, she was told that Councilors should not attend Planning Commission hearings.

Councilman Hall stated that he was sorry, but he was not told this.

Mayor Riggs stated that this was because it may be appealed to the Council at a later time.

Councilman Hall reiterated that he was not told this by anyone since he began serving on the Council. He went on to state that he had heard that this was something advisable but that it is not a strict rule for City Council members to not review the minutes of any other commission or body of the City prior to a Council meeting. He went on to say that this would be absurd, and not good for governance.

Mayor Riggs asked if there was any further discussion.

Councilman Forsman asked to clarify the options before the Council.

Mayor Riggs confirmed them.

Councilman Forsman made a motion to overturn the Planning Commission's decision as he did not see any criteria in the application documents that Mr. Daniels has not met through the GMC or the Comprehensive Plan.

**Cn. Forsman made a MOTION to approve the application of Paul Daniels.
Cn. Elmore seconded.**

AYES: Elmore, Riggs, Forsman NAYS: Hall, Cavitt; MOTION PASSED 3-2.

X. NEW BUSINESS

A. Proclamation 2020-01 Declaring September 2020 Preparedness Month

Cn. Elmore made a MOTION to accept Proclamation 2020-01 a proclamation recognizing September 2020 as National Preparedness Month. Cn. Cavitt seconded.

AYES: Elmore, Riggs, Forsman, Hall, and Cavitt NAYS: None; MOTION PASSED UNANIMOUSLY.

B. Planning Commission Vacancy - Paul Daniels

Cn. Elmore made a MOTION to table the appointment to the planning vacancy until a later date. Cn. Hall seconded.

AYES: Elmore, Riggs, Forsman, Hall, and Cavitt NAYS: None; MOTION PASSED UNANIMOUSLY.

XI. STAFF REPORTS

XII. COUNCIL REPORTS

Mayor Riggs closed the special council meeting at 6:10 p.m.

XIII. EXECUTIVE SESSION: PURSUANT TO ORS 192.660 (f)

Mayor Riggs opened the executive session at 6:10 p.m. and adjourned the executive session at 6:35 p.m.

Mayor Riggs reopened the special council meeting at 6:36 p.m.

Cn. Elmore made a MOTION to deny the grievance and authorize the mayor to work with legal counsel to draft a written response. Cn. Forsman seconded.

AYES: Elmore, Riggs, Forsman, Hall, and Cavitt NAYS: None; MOTION PASSED UNANIMOUSLY.

XIV. ADJOURNMENT

Mayor Riggs adjourned the regular council meeting at 6:39 p.m.



Judy Riggs, Mayor

ATTEST:



Geoff Wullschlager, City Manager

