

**CITY OF OLYMPIA  
LAND USE AND ENVIRONMENT  
COMMITTEE  
MINUTES  
September 21, 2009**

**Members Present:** Councilmember Messmer, Councilmember Strub

**Staff Present:** Steve Hall, Sophie Stimson, Keith Stahley, Jan Weydemeyer, Amy Buckler, Todd Stamm, Andy Haub, Randy Wesselman, Darren Nienaber, David Riker

**Guests Present:** Paul Oczkewicz, Glen Rossi, Pam Brechwald, John Kelcher, Niquette Kelcher, Peter Guttchen, Jerry Parker, Mike Reed

The September 21, 2009 meeting of the Land Use and Environment Committee was called to order at 5:00 p.m.

Councilmember Machlis has been excused from the meeting this evening.

**1. Approval of August 17, 2009 Land Use and Environment Committee Minutes**

Item deferred until the next LUEC meeting.

**2. Parking Code Amendments (*Amy Buckler, CP&D*)**

Ms. Buckler described the changes to the Parking Code. The main issue is changing downtown parking exemptions. This was looked at about 20 years ago and then again in 2001-2002. Recently, the department discovered that 30% of downtown parking is surface parking - is this the best use of our downtown land? Expanding exemptions today may get us closer to our downtown goals. The purpose of the discussion tonight is to get input from the LUEC before Public Hearing on October 5. After the Hearing, it will come to the Council for action.

**Comments and Questions:**

Downtown Zoning

- Councilmember Strub supports all changes except for expanding the downtown area. She is concerned that we are moving a zone that is designed for commercial into a residential neighborhood. She would like to have that excluded from the Public Hearing.
- Councilmember Messmer agreed with Councilmember Strub about how this may impact the neighborhood. She recommended exploring the option about not moving the line. She said it would be helpful for the proposal to show where the zoning is and what kind of development would occur in this expanded zone, perhaps one that is scaled to show downtown and nearby areas without the entire city. She doesn't want to create incentives to turn residential into commercial.
- Mr. Stahley said they can provide a map like that. Ms. Buckler said they are working with IT to create a map that has the zoning layer and downtown exempt parking layers together.

Bicycle Parking

- Councilmember Messmer would like to add specifications for bike racks (distance from wall and exact spacing) if it is not already in the code. A guidebook is available from Association for Pedestrian and Bicycle Professionals - APBP.
- She would like a notice sent about the Hearing to the Olympia Safe Street group and the Capital Bicycling Club.

- Mr. Reed said it would be a good idea to start exploring any plans and illustrations for long-term bicycle parking.
- Councilmember Messmer said that long term bicycle parking is employee parking: covered, dry, indoors, lockable; bike lockers often used. This text is in there.

#### Other Concerns

Councilmember Machlis emailed two concerns:

- Low income housing projects that may take up all the parking places. In response, Mr. Stahley said that the changes considered would not change the current rules for residential housing parking.
- The exempt areas including south capital. Mr. Stahley said that our parking regulations don't affect what on the capital campus, only our building code.

**Councilmember Messmer said that people should send their comments to the Planning Commission, who will send a recommendation to Council.**

### **3. Prioritization of Pathways (Sidewalks) Project List (*David Riker, Public Works*)**

Ms. Stimson said she is bringing this issue to LUEC mainly to see if there any reason to reprioritize the list of 33 projects. This list came from an overarching list of 200. They had been shared with Olympia voters when the funding measure came up. She said they generally stick to priorities, but there have been exceptions. Sometimes easy projects were moved up in order to have quick progress. She has heard some requests from individuals and neighborhoods for certain projects to be pulled forward. Staff would prefer not to do an extensive reprioritization process. The criteria used are reasonable, logical, and working well.

Ms. Stimson clarified that the asterisks next to a project means that it is under consideration for moving to a different location in the list or to be combined with another project for efficiency of construction and stormwater.

#### **Comments and Questions:**

- Is the walking destination criteria designed to determine popularity or traffic use?  
Councilmember Strub is concerned more with how many people are walking there, more than what the destination is.
- Councilmember Messmer said that if there is no sidewalk, points were estimated based on surrounding uses, such as shopping, churches, or it being a high density corridor. They considered where people would want to go to if they had a safe walking route.
- Street characteristics could be considered a criterion. On Wiggins Rd, next to the Chehalis trail, people drive fast, there are no bike lanes, and it is a major collector. Move safety to the top of the list of criteria. (Councilmember Strub)
- In response, Ms. Stimson said that street characteristics help the Wiggins Rd area, but relative to some other projects, it is not as close to common destinations as other projects on the list.
- Wiggins area may get more use if there was a trail to the Chehalis trail there. (Councilmember Strub)
- Give generic points to the project if people who know the area make suggestions about the projects there. Make the evaluation more subjective. Using financial criteria (such as more bang for the buck or low hanging fruit) may give us more linear feet of sidewalks, but it won't necessarily be in popular spots. Financial criteria are just as arbitrary as popularity criteria, which is what she wants. (Councilmember Strub)
- The current way seems more objective. If we made it more subjective, everyone will give their own suggestions. As far as the subjectivity that Councilmember Strub requested, it's always at the Council's discretion to put something further up or down on the list. Things really fall out pretty well with current scoring. Not long after the passage of the funding measure, Walkable

Olympia had given some consideration to how much the projects will cost and how long it would take (the “bang for the buck”) discussion. Martin Way doesn’t have sidewalks and it is a huge traffic area and a big employment area. And, the top 30 ARE in popular spots. (Councilmember Messmer)

- Use popular demand, and then if we want to make an exception, for example, if Martin Way scored high, but the right of way is too expensive, we will set it back some. (Councilmember Strub)
- We may need to update new information if we are missing an activity, or there is a new use or change of use, but don’t tinker very much with the criteria—but if we were to tinker, send it back to BPAC. (Councilmember Messmer)

Mr. Gutcheon: Give citizens and neighborhood associations an idea of when and how to contact the City about their proposed plans, how the information should be presented and what the process would be. The staff report mentions that local access streets are based on citizen input - he doesn’t think the community knows that. He doesn’t want a complete reprioritization of the list, but maybe every year or every other year send out a notice to the community. Conditions change every year.

- Councilmember Messmer suggested that the Annual Mobility Workshop is an opportunity to bring suggestions. We could tell people in the spring, early enough in the budget process to have input in the next CFP. We could also have the sidewalk list in the neighborhood connection map. We wouldn’t have to create a new process to be able to hear what neighborhoods want. Mr. Gutcheon agreed.

Mr. Parker: Long term, the City should integrate sidewalks with stormwater planning - similar to “SEA” in Seattle (He showed this to the LUEC on the web.) They received extremely high ratings for managing stormwater. We are missing an opportunity by using only curb and gutter. The stormwater basins don’t add any value to the neighborhood.

- Councilmember Messmer said we have been doing some work like that, including pervious sidewalks. Curbs are warranted from a safety perspective, and in some situations there is only room for sidewalks and curb. We have done a lot on stormwater already, like rain gardens, ribbon sidewalks. We do need to continue to examine other ideas.

**Should the LUEC send out for a referral to BPAC to do a major revamping of the point system criteria or should BPAC take a look at new information and figure out how to incorporate it into the existing criteria?**

- Ask BPAC to take a light touch look at the criteria - is there something that hasn’t served us? Do we know new things now? Is there old terminology? Don’t throw it all out. Do this at the annual workshop, when people could say they want certain segments rescored. Ask staff to create a more structured and visible process for people to give their input. This discussion is happening because it has been some time since we reviewed the projects, and it is useful to have the discussion and then settle it down. Take a 2-3 year outlook, or 6 years for the CFP. (Councilmember Messmer)
- Mr. Wesselman said to be careful not to change priorities every year - maybe every 3 years. It takes a year to get a project going, and we could have already have started a projects.
- Send it back to BPAC without giving them instructions to go light. Don’t constrain an advisory committee like that. There are new people on it that weren’t on it five years ago. No reasonable person would say throw everything out and start over. Mr. Wesselman provided another good argument on subjectivity: i.e. on this street we are already in negotiations with

the landowner, so we can't put this project back 5 years, or it will mess up. Everything can't be objective all the time; some finesse is involved. (Councilmember Strub)

It was agreed to send the list of criteria to BPAC, and then BPAC would come to Council with recommendations.

#### 4. Neighborhood-led Neighborhood Connections (*Sophie Stimson, Public Works*)

Ms. Stimson said that neighborhood connections are a formal part of our transportation network, but we have not actively maintained them or have plans for more. It is a sensitive and complicated issue—we need to work with neighbors, property owners. It is not something you can identify on one map; rather it involves a couple of layers of research. In 2007 Council decided to look for some public connections, and found four simple, obvious ones. Is the next logical step establishing a set of guidelines to allow neighborhoods to make improvements to public connections? The main issues are: researching connections, structuring volunteers, the legalities associated with telling residents they can improve the connection, and the need for the process to be very low staff intensive.

#### Mr. Gutcheon:

- His neighborhood has identified three possible connector projects which would dramatically improve mobility. They need a process to plug into, trail construction guideline, and they can start work once they have it.
- Neighborhood projects are much less expensive to build. Interested neighbors would do outreach in the rest of the neighborhood to make sure that the connectors considered would be acceptable. He would be willing to serve as a pilot project to identify problems.
- A lot of things have changed since the neighborhood connectors report in 2007. Some of these connections are much more valuable now because the City has done so much other work to improve mobility. It would be helpful to have a map of City-owned properties.
- When his neighborhood discovered the possibility for the Howard Ave trail, there was no good survey data. The neighbors raised money and paid Parametrics to do the boundary lines, but we don't have a process with the City or school district to move forward.
- Would it be appropriate to look at traditional sidewalk funding?

#### Comments and Questions

- The purpose of this process is to try to come up with something simple that neighborhoods can use. Don't give them barriers to doing this. Can we roll this in with Trails Program? We should have guidelines even if it is for a smaller list of connectors, so that the neighbors can get started. (Councilmember Messmer)
- Refer this to BPAC and have them start a program for evaluating neighbor-led projects. There should be some discretionary funds, maybe only \$5,000 available for use for things like wood chips. The big expense is staff time, engineering work. It's all going to be volunteer, and they need guidelines. We are missing out if we don't take advantage of it. (Councilmember Strub)
- *Ms. Stimson said that we do have maps, but that the City Surveyor, Vic Whittaker said that things are more complex than that. There are ownership issues; not every unopened street is public - some have reverted back to adjacent property owners. The process would be time consuming and cost money, but we could make a complete map. We could also do this on a case-by-case basis. Mr. Whittaker can do this in about an hour. Ms. Stimson would also need a little time.*
- *Mr. Nienaber said there are a number of streets that don't actually exist. They are mapped to look like streets, but they are vacated by operation of law 100 years ago.*
- People can look for potential spots, then get the surveyor to tell them exactly where the spots are. Crayons on the map first, then specifics. (Councilmember Strub)

- There is the situation of the prescriptive use right-of-way that is already established - it is not recommended that the City look into this, but neighborhoods could look at it and try to declare it public. (Councilmember Messmer)
- *Mr. Nienaber said there is confusion about the term right-of-way. Usually it means easement, where you can do whatever the easement allows you to do. It gets tricky with neighborhood garden plots, accessory uses to trails - that's where we need more detailed descriptions.*
- We need to let all departments know about these types of neighborhood projects. If the City was doing a gravel project, they can bring the leftovers there. (Councilmember Messmer)
- Don't let this get too complicated. We've got the maps. We don't want to wait for three meetings of BPAC and then back to LUEC. (Councilmember Messmer)
- Make a written policy. BPAC can set it up with a mechanism to get discretionary funds, and recommend a limit. If a neighborhood wants to do a project, they would go to Ms. Stimson. Then the surveyor will spend an hour on it, and then it will go to Mr. Nienaber. This shouldn't be a staff driven effort; just have the information avail. (Councilmember Strub)
- Set a limit for how many per year - ask staff to reprioritize their workload to let this happen regularly. It will take a little time to interface with neighbors. Document it. Based on staff and funds available, there may be limits to how many can happen in a year. (Councilmember Messmer)
- Recommend that if possible, 2% of Trails funding can be used for this. Funding is probably more likely in Trails than in Sidewalks. (Councilmember Messmer) *Mr. Nienaber will look into this.*

**Councilmember Messmer recommended that this be brought back to Council, preferably before end of year. Make sure the neighborhoods are notified of the BPAC meeting.**

**5. Consideration of Impacts of Waste Water Master Plan (Andy Haub, Public Works)**

Mr. Haub said that the issue is the City's master plan and onsite septic regulations. The 2006 master plan tried to resolve the dynamic of centralized and regionalize septics. As adopted, the plan prohibited the permitting of new onsite septics and STEPS, with two exceptions. This issue was revisited in 2007 by the LUEC, and the City started permitting onsite septics on lots one acre or larger, but we didn't allow the consolidation of smaller lots to make the one acre lot (after November 2006). City zoning and subdivision law does not encourage making smaller lots into larger lots, or making a very large parcel into large lots; smaller lots are the norm. Staff suggests keep the current regulations in place.

**Comments and Questions**

- When the one acre exception was discussed in the June 18, 2007 LUEC, was it substantiated by technical concerns about the environment or constituent-driven? (Councilmember Strub)
- *The research we did validated that on one acre you can have a well-functioning septic that would meet public health and City goals. (Mr. Haub)*
- Was there any discussion at that time about what we have come to call antiquated plats? (Councilmember Strub)
- *No, simply the size of the lot vs. risk. (Mr. Haub)*
- *During the discussion of antiquated plats, we thought existing regulations were adequate because it is difficult to develop small lots, sewers would be needed. (Mr. Nienaber)*
- During the first round, it was a big picture question, we determined to what extent we should allow new septics because of health and environmental concerns, and we adopted the wastewater plan. We weren't looking for exceptions as much as determining what fits within the broad policy. On one acre lots, it is still possible to achieve our wastewater goals. (Councilmember Messmer)

- “Exception” was the word used in the staff report. Now we have a constituent with an antiquated plat of 8 lots, but he thought he had a 1.5 acre lot, and it’s been treated as a single lot with one title. He received an initial response from staff saying he qualifies. We should address this, saying they can combine antiquated plats into one acre lots if they meet all other conditions. They would agree to hook up to sewer when it comes. (Councilmember Strub)
- Mr. Nienaber’s comments:
  - A tax parcel is never a legal lot - it is simply a parcel created for tax assessing purposes.
  - There was a quiet title action done for a road that no longer existed filed by Mr. Rossi, and there was reference to several lots within it.
  - Sewer service is considered an urban government service, septic is not. We may need to look at increasing the availability of septic consistent with the GMA or Comp Plan.
- With the adoption of the wastewater plan, the City also put in place an aggressive sewer extension policy. Next summer, 18<sup>th</sup> Ave. will be getting a \$1.5 million sewer line. We are meeting our agreements to get sewers in place so people can hook up. (Mr. Haub)
- It is not clear that these are antiquated plats and it is not clear that this is a single lot. We have been using a definition of antiquated plats as old plats that were laid out without attention to geography. We don’t have all the facts, we cannot sit in judgment. (Councilmember Messmer)
- *Mr. Rossi said he purchased the property in 2004 with advice from City staff. He was told by City staff that they felt his project should go forward, but he was caught within new conflicting regulations. He agreed that sewer would be hooked up when available. He mentioned “sprawl in reverse” and said that the Kelchers want to move out of sprawl into the City. Also, in the handout it does not say “legal lot,” it says “parcel.” On the back it has the fine print. This property has been treated as a larger parcel for x amounts of years, platted 100 years ago. When all the right of way was given back to adjacent properties, this created landlocked lots - there is no road to get there.*
- *Mr. Oszwiecz said that this area may have to wait decades for sewer. Look at the cost if the lot is never going to be used. If you say no to Mr. Rossi, the property would be given back to the bank.*
- *Ms. Kelcher is disconcerted that somebody can buy a piece of property and not be able to use it. The only way you can get the sewer there is through the guy next door, who covets his 10 acres.*
- Make a hardship exemption for Mr. Rossi. Write a rule that says about abandoning the septic to put in sewer. (Councilmember Strub)
- Although we need hardship exceptions because we can’t know all the circumstances, we don’t want to create a situation where exceptions become the rule and undo all the hard work we have done for our wastewater plan. When septic tanks go in, it guarantees it is going to be an acre for a long time - 30 years. Density will be more important in the future. Also, special treatment is staff intensive. We would have people writing exceptions that go against our Comp Plan at the counter. Is there a way we can write an exception that would have to be approved beyond CP&D, like at the City Manager or Council level? What about a variance or exception process in our wastewater plan? (Councilmember Messmer)
- *Mr. Nienaber said the he will meet with Mr. Stamm and Mr. Haub to see if they can come up with a neutral exception that meets GMA requirements. There is one avenue - the neighborhood sewer extension program*
- What if we still call it eight lots and tell them they can put a house on one lot, and use the encumbrance on the other lots as a septic drain field until the sewer comes there, with the condition that says this house must be situated to have infill development without knocking down the first house? In exchange, give them water at City rates. (Councilmember Strub)

- *Mr. Stamm said that signing for agreement to annex grants us a power of attorney, but they can still fight annexation.*
- The party will say they won't resist sewer, but they won't want to pay to bring it in five or ten years down the road. Telling homeowners that if sewers get within 500 feet of your house you must stop your septic and pay for the sewer coming in would be prohibitive. It would set people up to have an out - an expensive out. (Councilmember Messmer)
- *Sewer is brought in by eight lots agreeing to it. When you have a house with a septic, you have to hopscotch past the septic, onto the next house. A progression of relatively small developments will bring the sewer down the secondary streets off 18<sup>th</sup> Ave. (Mr. Haub)*
- Should we create a variance or exception process with the wastewater rules we have? We shouldn't be doing this at Council because we can't determine facts about parcel lines, etc. It may be a Hearings Examiner situation. (Councilmember Messmer)
- Can we create a variance that would comply with the GMA? (Councilmember Strub)
- *At the time the rules were made in Council, it was decided to go with numeric based because it would be easier to enforce. A variance is an alternative. It goes to the Hearings Examine, and it can be labor intensive, you need a staff report, experts are called in, the parcel history determined. The fee for a variance can be a few thousand dollars, and it can be denied. The rule becomes undermined when there are so many exceptions. There are a number of Supreme Court decisions recently, and municipality rules have been thrown out. The Hearings Board sticks firmly to not allowing non-urban-sized lots in the City. We may be vulnerable for invalidating our Comp Plan. (Mr. Nienaber)*
- *Mr. Rossi said that he didn't want a variance, because he believes he has one parcel, and has received misinformation from staff*
- Is there any question about whether the lots exist or not? (Councilmember Strub)
- *Mr. Nienaber said in his mind, no. There is a subdivision title - a lot that is not buildable won't be considered a lot for subdivision purposes. All the lots are "buildable" if it was not for the sewer situation. As far as there being no road, that can be solved - streets can be created.*
- It is clear that this can't be taken up at a Council level. We cannot change the ordinance in a way that u-turn our Comp Plan and do disservice to the rest of the City. However, we can recommend the variance process, but Mr. Rossi did not want to pursue a variance. (Councilmember Strub)
- *Mr. Rossi changed his mind and decided to pursue the variance process.*
- Having the council do this on a case by case basis is difficult and expensive. There should be some process in place to apply for a variance - have staff tell us what the process would look like, how much it would cost, the time involved. This is a way to open the door to unusual circumstances. (Councilmember Messmer)

Councilmember Messmer requested that staff show what the costs and benefits of the variance process would be and bring back options to the Council for consideration.

#### 6. Report on Comprehensive Plan Kickoff Event - Oral Report

Ms. Weydemeyer updated the LUEC on the kick-off event on Saturday, November 14, between 1-4. It should be educational and fun (music with Vince Brown and the Tune Snugglers and food), with display stations and exhibits that have information about planning. There will be brochures and kits. Planning commissioners and staff will be at the display stations; Councilmembers will wear name tags and mingle. They will get folks acquainted with the website, which is scheduled to be up and running in mid-October. Evergreen State College will give a presentation and there will be a video. There will be closing remarks and a musical finale. There is no longer going to be a speaker—the cost is one reason.

Mr. Stahley said that they originally wanted to have a professional speaker (which would cost \$10K), but decided that it may not be the best way to start the process. It will be more like an open house, where people will get a sense of what we have done what we are going to do - less lecture, more party. There will be opportunity for public input by having people write their vision on a card, sticking that up on a wall, and then putting all up on big screen.

Ms. Weydemeyer said that the website is for further public input, and that is what we really want to publicize. It will be topic specific, and people can give us feedback any time they want.

**Comments and Questions:**

Councilmember Strub: I like it.

Councilmember Messmer has been receiving some feedback from some parties who want to know when they can get their say. We need to show our work to everyone early and often. Council and Planning Commission members need cheat sheets, so that when people ask what the process for Comp Plan is and when they can get involved, they know what to say. People are not seeing the whole picture. We can ask some of the concerned people to help us with details, ask them to participate, like at the display stations, etc. We need to commit to documenting all the information that we gather from people. Post the cards they filled out with their vision on the web. They want to know when they will have an opportunity to make their voice heard. She suggested that they ask Mike(?) to give a lesson or story board about the history of the GMA at the event, if he wants to get involved.

Meeting adjourned at 7:56 p.m.