



CASCADE CITY COUNCIL
SPECIAL MEETING
September 19, 2019 at 6:00 pm
Cascade City Hall
MINUTES

CALL TO ORDER AND ROLL CALL

The meeting of the Cascade City Council was called to order at 6:00 P.M. Council members Tom Byrne, Cynda Herrick, Rachel Huckaby and Denise Tangen were present. Quorum exists.

Also present: Heather Soelberg City Clerk
 Matt A. Johnson City Attorney
 Peggy Breski Planner

PUBLIC COMMENT

Public comment is limited to three (3) minutes per person, per item, unless additional time is permitted by the presiding official.

No public comment.

PUBLIC HEARING

ZON 19-01, PUD 19-01, SUB 19-01 CASCADE RIVER, LLC aka RIVER DISTRICT PUBLIC HEARING HAS BEEN TABLED

NEW BUSINESS

RIVER DISTRICT APPLICATION PROCESS

DISCUSSION: Mayor Nissula opened the meeting by stating this is not a public hearing. The purpose of this meeting is to discuss the process moving forward for the River District applications and identified that we will be not taking public comment from the audience or applicant at this time. Mayor Nissula reiterated the steps outlined in the memo provided by the City Attorney Matt Johnson for the purpose of transparency (see attached memo dated September 12, 2019 addressed to the Councilmembers and Mayor). Mayor Nissula requested Councilmember Herrick wanted on the record that she has believes that there is no confusion in the notice, it identified is was for a 121 acres parcel. Councilmember Huckaby inquired if the annexation went forward would the City have annexed in all 300 acres. Attorney Johnson identified that under annexation as written and reflected in the parcel, the City would have annexed in all 300 acres, even though it was its intention to have only annexed the 121 acres. Councilmember Bryne agreed the intention was only to reference the 121 acres, and that this was the intent of the City. Councilmember Tangen feels that the City needs to make sure that all the steps are correct, and if that it takes going back to the P&Z to make sure that the process is done correctly.

Councilmember Huckaby inquired about the need to have the parcel split, Attorney Johnson identified that the this would be done at the annexation process with the County.

Councilmember Herrick reiterated that the “notice” says it is 121 acres. Councilmember Tangen reiterated that the description is for the 300 acres. Attorney Johnson explained the difference in the short description, the metes and bounds description, and the identifying 121 acres. Attorney Johnson identified this is an ambiguity and a legal risk judgement to be made by the Council.

Councilmember Tangen inquired about where the “short description” was notices as opposed to the correction description. Attorney Johnson identified that the short description was used in all documents from the City. Attorney Johnson identified that the City is waiting for a correct legal description prior to moving forward.

Mayor Nissula asked for what the definition of “risk” means. Attorney Johnson identified that if an attorney is wanting to find an issue, they will provide any ambiguity that can leave this open for a future lawsuit. Attorney Johnson believes that if a lawsuit pursued he believes that either option that the City took would provide for sufficient legal defense, but only noticing at the City Council levels does open the door a little more if it was only noticed at the City Council.

Councilmember Herrick reiterated her opinion

Mayor Nissula asked what the time frame would be for both options. Attorney Johnson stated that with option A (re-notice back to P&Z meeting) would take at least two months and option B (re-notice back to City Council Mtg) would take at least one month. Councilmember Tangen questioned if there are other issues that need to be addressed that would come out if the process was actually started over at the P&Z level. Attorney Johnson identified that while everything was already been heard and decided, but can not guarantee that there could not be something else that could come up.

Councilmember Tangen and Huckaby are not concerned about the time that it will take to do the process, but believe that the process of getting it right is more important.

Attorney Johnson identified that the City Council needs to make the decision of whether they were going to cure error in the process by repeating the stages at the Planning & Zoning AND the City Council levels, OR at the City Council level only.

MOTION BY: Tom Byrne

SECOND BY: Cynda Herrick

MOTION TO MOVE FORWARD WITH OPTION B, TO REPEAT THE PROCESS AT CITY COUNCIL STEPS.

DISCUSSION: Mayor Nissula reiterated Option B, and identified that the City Council will still need to make a decision on the merits of the application. Councilmember Tangen wants to make sure that we do it right, not necessarily how much time this takes. Councilmember Herrick agreed

that the process can be done with using Option B. Mayor Nissula identified that even if the process starts over at the Council level there is not any time constraint.

ROLL CALL: Tom Byrne Yes Rachel Huckaby Yes
Denise Tangen Yes Cynda Herrick Yes

Motion Passed

Attorney Johnson provided the Council with an estimated timeframe of the process moving forward and estimated date for the public hearing. Mayor Nissula asked that the City Council hold a special meeting for this application as opposed to holding it on the night of a regular City Council meeting.

Steve M asked about the status of the Development Agreement. Attorney Johnson identified that there will be a development agreement is unsure at this time if the Development Agreement will be addressed at the public hearing for the application or if it will be held at a separate public hearing. Mayor Nissula clarified the need to not have any ex parte communication regarding the application. Attorney Johnson reiterated the need to not have any ex parte communication.

ADJOURNMENT

MOTION TO ADJOURN 6:45pm

ALL IN FAVOR: Tom Byrne *Aye* Rachel Huckaby *Aye*
Denise Tangen *Aye* Cynda Herrick *Aye*

MEETING ADJOURNED:

Respectfully submitted and Attested by,

Approved

Heather M. Soelberg

Heather M. Soelberg, Clerk/Treasurer

Judith R. Nissula, Mayor