



City of Seattle

Gregory J. Nickels, Mayor

SEATTLE PLANNING COMMISSION DECEMBER 8, 2005 Approved Meeting Minutes

Commissioners in Attendance: Jerry Finrow – Vice-Chair, Hilda Blanco, George Blomberg, Tom Eanes, Chris Fiori, Martin Kaplan, Valerie Kinast, Lyn Krizanich, Joe Quintana, Carl See, Mimi Sheridan

Commissioners Absent: Steve Sheehy – Chair, Mahlon Clements, John Owen, Tony To

Commission Staff: Barbara Wilson – Director, Scott Dvorak – Planning Analyst, Robin Magonegil – Administrative Assistant

Guests: Regina LaBelle, Mayor's office; Claudia Arana, Mayor's office

Please Note: Seattle Planning Commission meeting minutes are not an exact transcript but instead represent key points and the basis of the discussion.

CALL TO ORDER

The meeting was called to order at 3:04 pm by Vice-Chair Jerry Finrow.

COMMISSION BUSINESS

Approval of September 22, October 13, and October 27, 2005 Minutes

It was suggested that future minutes contain summarizations instead of wordy, verbatim passages. There were some grammatical and typographical corrections made to the September 22, October 13 and October 27, 2005 minutes prior to approval.

ACTION: Commissioner Martin Kaplan moves that the September 22, 2005 minutes be approved. Commissioner Mimi Sheridan seconds the approval. Grammatical and typographical errors are noted. The motion to approve passes unanimously with corrections.

ACTION: Commissioner Tom Eanes moves that the October 13, 2005 minutes be approved. Commissioner Lyn Krizanich seconds the approval. Grammatical and typographical errors are noted. The motion to approve passes unanimously with corrections.

ACTION: Commissioner Lyn Krizanich moves that the October 27, 2005 minutes be approved. Commissioner Chris Fiori seconds the approval. Grammatical and typographical errors are noted. The motion to approve passes unanimously with corrections.

Vice Chair Finrow suggested that staff use the October 13, 2005 minutes as a sample base, summarize them and bring them back to a full commission meeting to review as a new model for future minutes.

Chair & Staff Report

Vice Chair Finrow noted upcoming events as well as housekeeping items to be addressed before the end of the year. Among these were the annual Planning Commission holiday party, Planning Commissioner parking permits, the Executive Director performance evaluation, and a joint meeting with the Design Commission on the Central Waterfront Concept Plan. He noted that the next full commission meeting will be January 12, 2006.

COMMISSION BUSINESS

Update on Ethics Issues

Status Update:

Executive Director Barbara Wilson reported that staff, the Executive Committee and Commissioner Mimi Sheridan have been meeting regularly to move this process along. There have been meetings with the Mayor's office, several of the City Council members, and the Municipal League. In addition, there have been discussions with the City's Law department and the Ethics and Elections Commission Director, Wayne Barnett. Thus far there has been a good response and general agreement with many we have met with that volunteers who sit on advisory boards should not be held to the exact same standards as elected officials and employees – instead, they should be subject to ethical standards pertinent to their specific situation.

Ms. Wilson noted that she prepared a briefing memo detailing possible legislative remedies was distributed widely and has received positive response. She noted there seems to be an inclination towards Option 2 from the briefing memo. Ms. Wilson reminded the Commission that Option 2 would create a new definition for advisory committees contained within the Seattle Municipal Code (SMC) 416. It also creates a new section for applicability and states that some of the standards of 416 would not apply to advisory committees if they adopt separate ethical standard of conduct for their members apart from what is listed and then approved by City Council and the Mayor. She explained that what this means for the Planning Commission is that if this piece of legislation moves forward then we would be under almost the same ethical standards that we had prior to September 7, 2005. She reminded Commissioners that these discussions are preliminary and that the legislative process can be unpredictable.

Ms. Wilson noted that one of the other things that Vice-Chair Finrow is leading a process to develop an ethics management plan that examines how the Planning Commission looks at recusal and disclosure, among other things. She noted that the Executive Committee feels that it is prudent to create our own set of ethics management guidelines and that input from the Municipal League and other groups on the development of those guidelines will give the process a higher standard of review. The ethics management plan would be adopted by the Commission through a resolution and, would not require a bylaws change.

Commissioner Lyn Krizanich asked if there were any other advisory committees involved in a similar effort. Director Wilson stated that the Mayor's office was looking into the impacts to other advisory committees but that other commissions may be unaware of the impact the new rules and how they

apply to them. She noted that there is a meeting for boards and commissions staff on December 14 called by the Mayor's office.

Commissioner Hilda Blanco questioned whether we are suspending formal activities until this legislation is passed. Vice-Chair Finrow answered that that we are temporarily refraining from taking official action and that the executive committee has instructed staff to give a significant portion of their time to this matter in the coming months. Legislation is moving forward rapidly and it looks as though it will be adopted before the expiration of the moratorium expiration in February. Ms. Wilson added that she hopes that if we get to January and we see that the legislation is moving forward then we will be able to get back to some of our work plan.

Report from Mayor's Office

Regina LaBelle and Claudia Arana, Mayor's Office

Vice Chair Finrow welcomed Ms. LaBelle and Ms. Arana to address the Commission on the Ethics topic. Ms. LaBelle stated that they have a draft of legislation that has been sent to Law for review. She noted that the legislation essentially states that a board or commission is covered by the City's ethics code unless that board or commission establishes its own ethics code and has it approved by both the City Council and the Mayor. Her goal is to get the legislation to Council as soon as possible – but they will probably not be able to address it until January. The legislation has also been sent to the Municipal League for their review and comment. She noted that she has also talked to Council member Drago's office and hopes to talk to some of the other Councilmembers as well. She will also need to ask the Ethics Commission for their input.

Ms. LaBelle added that there is one addition to the proposed legislation that may be new to members of the Planning Commission. She noted the draft legislation stipulated that any complaints that arose regarding violation to the ethics code would be subject to governance by the Ethics Commission. A board or commission's ethics rules would not be self-enforced, but would go through the City's regular mechanism for ethics violations. Ms. Wilson asked for clarification on that. Her understanding was that in those situations, the Ethics Commission would offer education and interpretation and would not levy fines. Ms. LaBelle expressed that they had not finalize all the details and that that was something that they could talk about. She also asked for a reminder of where the current Planning Commission bylaws and ethics rules differentiate from SMC 4.16. Ms. Wilson noted that the Planning Commission bylaws are very different from the SMC 4.16 with regard to the prohibited conducted and the 12 month post service prohibitive conduct. She also noted that the Commission bylaws do not contain financial penalties. Ms. LaBelle stated that she would like to hear from us regarding the penalty issue.

Commissioner Eanes asked if our current bylaws have already been approved by the Mayor. Ms. Wilson responded that they were adopted and approved by the Mayor and City Council in 1996.

Commissioner Kaplan asked if there had been any question of whether our bylaws are not strong enough. Ms. Wilson stated that we have been operating successfully under our bylaws for many years without incidence. Commissioner Kaplan noted that when Wayne Barnett from the Ethics Commission gave his presentation, it seemed that there was no way to get relief from his larger, overarching, rewriting of the ethics code but now what he is hearing is that we will somehow be relieved by tightening up our own code. Ms. LaBelle responded that what Mr. Barnett said is that the Ethics Commission interpretive rules were wrong and 4.16 should have always applied to non ad hoc advisory bodies but they have now clarified it – the September ruling is not a rewriting of the ethics code. She added that Mr. Barnett's opinion is that this current issue for the Planning Commission is not something that the Ethics Commission can fix but is, instead, going to need a legislative change.

Vice-Chair Finrow clarified that the legislative solution is not contingent upon the Commission changing our bylaws. He feels that it is in our best interest to look at our bylaws as well as our administrative policies and operating procedures and amend them if necessary. Commissioner Eanes expressed his agreement with Vice-Chair Finrow in regard to looking at the way we do things and trying to clean up and improve certain aspects of our process.

Commissioner Carl See asked if there would be standards that the City Council and the Mayor's office would use to examine the Commission's bylaws and if so would there be the possibility that they could deem that the Commission's bylaws were not up to those standards. Ms. LaBelle answered that that would be a conversation that the Commission should have with City Council prior to the legislation. She added that when we do look at the proposed legislation it might be good to have someone else, like the Municipal League, look at it as well.

Ms. Wilson expressed her thanks to both Regina LaBelle and Claudia Arana for all their help on this issue and working with us to find a solution that will enable the Planning Commission to do its important work.

Decision-making Timeline

Vice-Chair Finrow distributed a handout that had the definition of conflict of interest. He stated that it seems clear that we need to establish a reasonable and rational framework for these types of issues in the future. He noted he had been doing a lot of research and reading a lot of literature that deals with conflict of interest. He noted that in most of this literature the major issue has to do with minimizing personal financial gain that one may realize as a result of decision-making by a body such as the Commission. He sees a very big distance for the Commission between our decision-making and the point in which anyone could realize financial gain. He also noted that as you get farther away from the issue of financial gain you start to get into the murkier area of subjects that may have some distant relationship to financial interest. He noted that this is the area where we have to exercise individual, personal judgment about our discussions and whether and when to recuse ourselves. He further noted that when we are moving into areas where there could be some conflict of interest, it does not necessarily mean that a Commissioner leaves the room but simply that they disclose their possible conflict of interest and stay engaged in the discussion. He suggested that this has to be managed and monitored personally. What he is proposing to do in the ethics management program is to develop some procedural rules that begin to define all of this - better allowing us to exercise our personal judgments about conflict of interest and take a more aggressive role in noting so in our minutes and other communications. He does not see this process as looking profoundly different than what we currently do – just more clearly defined and deliberately executed.

Commissioner George Blomberg noted that there is another term that is often used which is “appearance of fairness” and wondered how the SPC should reconcile this concept. Vice-Chair Finrow responded that the appearance of fairness is a parallel subject in what he has read and it seems that we might do is put some language into our operational procedures that address that subject in parallel to this. Commissioner Blomberg suggested that there be some sort of record of what individual commissioners do. Vice-Chair Finrow responded that in his reading he noted the concept of a “registry of interests” which is updated yearly that would provide this sort of information. Commissioner Eanes noted that he agreed with Vice-Chair Finrow but felt that the difficulty is that the ethics of the SMC appears to be a zero tolerance policy and there is no distinction between a close relationship that could result in financial benefit and an extremely remote and indirect one.

Ms. Wilson noted that, from what we heard earlier in this meeting and from other meetings, legislation is moving and that the Mayor's office is taking the subject seriously with intention to send the legislation to Council as soon as it is reviewed by Law. Ms. Wilson stated that she is hopeful that this legislative fix will go through and the Commission will be under ethical rules that allow us to get back to our important work and allow for the most possible participation from our members who bring knowledge and expertise to the table. She added that the lines between an actual "interest" and Planning Commission recommendations and decision-making are very remote and speculative, for instance, the Planning Commission is not approving zoning or development proposals.

Ms. Wilson further stated that it seems overly restrictive to suggest that Commissioners would be expected to recuse themselves because they own a piece of property where a DADU might be added at some point in the future if and when a law is passed to allow them they would have a conflict of interest. Commission Finrow noted that we just need to show that we have done due diligence to show that there is clarity about our interests and our intent on providing review and comments. He also noted that it doesn't hurt to take an extra step to see what we can do to improve our methods. Commissioner Sheridan stated that what she feels we should do is to pursue the legislative solution and get that passed and then take a look at our own procedures and determine whether or not we want to change it but to make sure and do that separately. Ms. Wilson agreed that we need to keep moving forward on both fronts but that it would be good to be able to say to City Council that we are in the process of looking at our administrative rules and operating procedures regarding ethics.

Commissioner Chris Fiori asked what the current will was in the City Council at this point. He wondered if it seems like the Council is on our side. If so he agrees with going ahead with the legislation while developing the ethics management plan simultaneously. He stated that if we feel that we might run into some opposition, then developing the ethics management plan first might be a better option. Either way developing the ethics management plan is to our advantage. Vice-Chair Finrow reminded everyone that we can ask for an extension for the moratorium if we need to. He added that the one thing to keep in mind is that the moratorium is in place right now so we don't have to just stop our activities. Our normal processes and procedures are in effect.

Commissioners Fiori, Kaplan, and Blomberg volunteered to be part of an ethics management team.

New Business

2006 Workplan: Ms. Wilson asked if the Commissioners would review the 2006 Workplan sheet in their folders. She noted that at this point the work plan is simply a list of projects without priority. Our goal will be to establish priorities for the projects before our retreat in March.

Recruitment Update: Ms. Wilson reported that there were 31 applicants for 5 openings on the 2006 Planning Commission and that we are in the process of reviewing the applications.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

Vice-Chair Finrow adjourned the meeting at 5:02 pm.