

COTTAGE GROVE CITY COUNCIL AND PLANNING COMMISSION
JOINT MEETING MINUTES
April 18, 2011

CALL TO ORDER

Mayor Gary Williams called the meeting to order at 6:00pm in the Council Chambers at City Hall.

ROLL CALL/PLEDGE OF ALLEGIANCE

CITY COUNCIL PRESENT: Councilors Mike Fleck, Jeff Gowing, Jake Boone, Heather Murphy, Garland Burback, Victoria Doyle and Mayor Williams (left at 6:34)

ABSENT: None

**COTTAGE GROVE
PLANNING COMMISSION
PRESENT:** Darby Valley, Jeremie Eckstein, Mindy Roberts, Lindsey Haskell, George Devine and Larry Nicols

ABSENT: Michael Cowan

CITY STAFF PRESENT: City Manager Richard Meyers, Community Development Director Howard Schesser and City Planner Amanda Ferguson

CITY ATTORNEY: Sean Kelly

OTHERS PRESENT: Denise Kalakay, LCOG; Jacob Callister, LCOG; Sara Hartung, ESA; Fraser McDonald, Volunteer from UofO RARE; Lynne McAllister, Wetlands Specialist with the Department of State Lands

City Planner, Amanda Ferguson, said the intent of the meeting was to give the Planning Commission and City Council an opportunity to hear at the same time as the citizens, the findings from the local wetland inventory, that was performed over the last year by ESA. She said the City worked on the project with eight other cities with the Lane Council of Governments (LCOG) as the principal organization. She said staff from LCOG, ESA and the Department of State Lands would speak tonight regarding the findings for the project. She said they were only presenting draft findings, which could be changed. She said there would be other meetings regarding the findings as the project progressed.

The staff from LCOG, ESNA and the State introduced themselves.

Denise Kalakay, Project Coordinator with LCOG, presented a Power Point presentation which is attached hereto marked Exhibit "A". She reported that LCOG had received grant funding in the amount of \$500,000 to assist eight cities with the wetlands inventory study. The goal of the study was to identify, access and protect significant water resources to help guide growth. She addressed the environmental services benefits and went over the overarching Federal and State framework. She talked about the total maximum daily loads (TMDLs) and said it was the total amount of pollutant that water can have and still meet water quality standards. The framework and how the Federal Emergency Management Agency (FEMA), Endanger Species (ESA), Drinking Water Source Protection (SDWA) and the State Planning Goals 5 and 6 all contributed to the Wetland and Riparian Inventory and Assessment was also discussed.

Denise talked about the tool to plan and guide growth and development and said there was benefits to the local area in terms of the urbanization study and where the City wanted to locate its industrial and commercial lands. She discussed the benefits to property owners in knowing what was there in advance which could save them money.

She covered the Wetland and Riparian Inventory and Assessment process. She said it was conducted by a wetland scientist under very specific Oregon Administrative Rules so there wasn't any leeway in how the inventories and assessments were done. She said they used the Urban Riparian Inventory and Assessment Guide and Oregon Freshwater Wetland Assessment Methodology (OFWAM).

Denise introduced Sara Hartung, a scientist with ESA, the company who did the study.

Sara said her company was given access to one hundred thirty-six parcels from property owners in Cottage Grove, which was about 39% of all the letters that were sent to property owners requesting permission to access properties. She explained the process they followed for those properties that they were given access to and for those that they were not given access. She also talked about the programs they used to assist them with the study.

Denise said to date they had drafted the riparian inventory and assessments reports and maps which had gone through a LCOG review and City staff review and the Department of State Lands had also done a completeness review of the wetland study. She said they were now at the point in the study where they were looking for public review and specifically to know if the maps and reports were accurate.

She said the next step was the Department of State Lands which would approve or not approve the local wetland inventory and they would take all the comments into account. She said that study would then become part of the State Wetland Inventory and then the City would adopt the Local Wetland Inventory and any associated policy.

Jacob Callister from LCOG, went over the Inventory Results. He provided a Power Point using GIS technology, that showed the big picture and context of the inventories map overview of Cottage Grove from approximately 3,000 feet. It showed the areas that had been inventoried and

he commented on wetlands and features shown. He commented on the log pond on the Weyerhaeuser property and Sara Hartung from ESA commented that they didn't have access to that property when doing the study so they left the National Wetland Inventory Mapping in place. He said Cottage Grove had a unique dynamic with respect to several other communities, in that a lot of the resources were actually on publically owned lands which was not the case in every city.

A citizen asked what happened to the property such as the Weyerhaeuser pond which was gone now and if it would still be considered a wetland area and asked about the legality of it.

Denise said it would stay on the National Wetlands Inventory.

Lynne McAllister from the State said it may not have really been a wetland, it was a pond used for log storage and the State didn't consider those necessarily wetlands and didn't necessarily take jurisdiction of them. She said if a big pond like that was constructed somewhere that had hydrosols and was already wetland, then they had jurisdiction but she said it was probably a pond long before they had a program in place. She said when it was drained, the State didn't have any lawful rights to prevent drainage of it.

Planning Commissioner Lindsey Haskell asked if they did the survey in the Spring rather than August.

Sara from ESA said State guidance dictated to do it in the growing season which was in March and also at a time of year when you could observe hydrology. She said usually in August they could determine wetlands and in part that was what their contract was and Spring was also a good time to figure out where the hydrology was coming from.

Lindsey asked how long the ground had to be wet in order to be considered a wetland.

Sara said the guidance was long enough to support wetland plants, it was 12.5% of the growing season.

Lindsey said a wet spot in the field in March that was dry nine months out of the year, wouldn't be considered wetland in a farm field or whatever.

Sara said there were wetlands that dried out in the summer but that didn't mean they weren't a wetland. She said the Willamette Valley was wet but wetlands stayed wet and everything else dried out. She said that was why they looked at not just hydrology, but the plants and color of the soil in determining a wetland.

Darby Valley asked what made one significant versus insignificant for mapping purposes.

Lynne McAllister said there was a section in the OAR (Oregon Administrative Rules) that dealt with how to identify significant wetlands which was based on an assessment that was done which provided functions and rated them as well as other criteria that was used.

Larry Nichols asked if the insignificant designation was based on a percentage or based on if one

characteristic was missing.

Lynne said it was usually a wetland that just didn't meet the criteria.

Larry asked if it had to meet all the characteristics in order to be significant.

Lynne said a significant wetland had to have at least one of the four characteristics and was insignificant if it didn't meet any of the four characteristics.

A citizen asked if once a piece of property was designated as wetland, how would it affect the usability of the land. He used farmland that had been used for seventy-five years as an example.

Lynne said they weren't coming in and saying now it was a wetland, it was always a wetland and always had been. She said the Department of State Lands had always regulated wetlands so if someone had a wetland on their property it was already regulated by the State and with the inventory they were just saying here is where your wetlands in the City are and this was a useful tool for planning. But if you wanted to do something on farmland, she said a lot of activities on farmland were already exempt from their regulations and those that weren't they would have to come to them to see if the wetland was regulated and then would have to meet the conditions. She said the only time that if they were going to have a problem on their own property, was when you wanted to fill or remove or build which was regulated by the State.

The citizen said his understanding was if property was designated now as wetlands that hadn't been designated as wetlands prior to the study.

Lynne said it hadn't been named as a wetland but had always been regulated. She explained that if someone wanted to do a project on their land and applied for a building permit, the City would notify the State of a land use activity and then the State advised the City and the owner as to whether they needed to be cognizant of possible wetlands or streams on their property and it's the property owner's responsibility to get it checked out and get the necessary permits.

Councilor Fleck asked what the difference in regulation was for significant and insignificant.

Denise said that part of it would be to determine whether you as a local entity wanted to make your own requirements.

Councilor Fleck said he was assuming that the State had minimum standards to adhere to.

Lynne said the State regulated all of them if they were in their jurisdiction.

Councilor Burbach referred to the gentleman who asked about farmland and asked how it affected the value of his property.

Amanda said his property was actually outside of the City's jurisdiction, so it wouldn't come before the City as part of the regulatory body unless the City expanded the urban growth boundary.

The citizen said the reason it was excluded was because of, what I say is not factual in relation to the wetlands on his property.

Amanda said they had incorporated the information from the study as part of the urban growth boundary expansion project and they used the wetland information to inform the decisions when they were looking at potential sites for industrial development as part of the urban growth boundary expansion. She said the two properties to the south that showed the wetlands across from Weyerhaeuser, were also zoned for agricultural use and the City chose at this point to make all the urban growth expansion include properties that were already designated an exemption so they didn't bring in any properties that were zoned for agricultural purposes. The question regarding property values, was the point the State was trying to make was if a wetland was there, it was there whether they inventoried it or not. Impact on property values would occur with or without an inventory. The intent was to try and actually help folks be informed as to whether or not they had a wetland on their property. The information was being gathered so if they were going to develop their property they would know ahead of time that they were under the authorization or requirements of DSL.

Larry Nichols said he would think it should be part of the permitting process to check it out before someone built rather than coming back later and finding out your house was where it shouldn't be, it should be one of the steps along the way.

Amanda said the City of Cottage Grove didn't currently have a lot of regulations regarding wetlands beyond what the State required, so the survey would influence and they would be using the information to try and come back to both the Council and Planning Commission with regulations regarding wetlands over the following year. They would start another public involvement process to develop policy and regulations regarding wetland over the coming year.

A citizen asked if the study was accurate enough that he could depend on it or would he apply for a building permit and have to pay for a wetlands specialist to survey the property?

Sara said the aim with the inventory was to be accurate within +/- 16.4 feet, and if they didn't have access to a property but from a roadway they could a low spot drainage and wetland plants and mapped it, they might be more than the 16.4 feet off.

Lynne said if someone was wanting to build on a portion of their property, they could get a determination done on just that part. She said sometimes they did it in her department if there was time. Say your building site is a wetland so if you wanted an isolated part of your property to be evaluated, you could do that or they could help you find a part of your property that was not in the wetland.

A citizen said it was unusual because she had found in working with the County, they usually had a wetland or flat area no matter where it was, it was highlighted on the property so it didn't matter where you wanted to build, it highlighted the property and then they had to provide, at the owner's own expense, proof their building site was out of that area.

Lynne said the State did offer the service and that sometimes it was really clear if part of the

property where they wanted to build was in a wetland and sometimes it wasn't, there were criteria they had to look at.

A citizen asked if it was listed as being in the 100 year flood plain, did it automatically make it a wetland?

Lynne said no, they didn't use flood plains for any determination, she said it wouldn't come into play. She said usually if the property was near a river or stream, they might check a little closer or they may want to hire someone to do a determination.

The citizen asked regarding existing residential property which had an existing house and utilities, about riparians and what the different regulations were.

Howard said the City was taking safe harbor with the riparians which was the fifty foot setback and didn't have any plans to increase it.

Amanda said the Willamette River Greenway was a little different in that it was a designated strip that ran through the City along the Coast Fork and was about one hundred fifty feet wide and was a regulated strip which the City had maps for.

Howard said if you were anywhere along any of the rivers or creeks in the City then you have hundred year flood plain regulations potentially involved, riparian regulations and wetland regulations so there was several different regulations that overlapped that we have to sort through to see which ones were applicable.

Denise said that could be a situation where you asked if what you had currently was sufficient.

Councilor Doyle said she found the terminology of inventory interesting because the inventory was actually on people's property so it seemed impersonal to call it inventory when they were talking about people's land and what she heard them saying was "well it was always wetland therefore there wasn't need for compensation. If someone had a wetland determination that they didn't know was there on property that they had owned for seventy-five years and they were now being told it was being regulated, it was a loss of their property and to tell them that there was no compensation for that, sorry it has always been wetland whether you knew it or not, was really unfortunate. She said that was what it sounded like they were saying, it didn't matter, if it was wetland it was wetland whether they knew it or not. She asked if that was the case.

Lynne said yes that was what the State had jurisdiction over was regulating the wetlands.

The meeting adjourned to the lobby for those in attendance to look at the maps from the study and to ask questions about particular properties.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:00pm.

Trudy Borrevik, City Recorder

Gary Williams, Mayor