

**MINUTES FOR THE REGULAR MEETING  
ASHLAND CITY COUNCIL  
March 6, 2012  
Council Chambers  
1175 E. Main Street**

**CALL TO ORDER**

Mayor Stromberg called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers.

**ROLL CALL**

Councilor Voisin, Morris, Lemhouse, Slattery, Silbiger, and Chapman were present.

**MAYOR'S ANNOUNCEMENTS**

Mayor Stromberg announced the Ashland Little League needed volunteer umpires. Anyone interested should contact League President Michelle McMahan at the Ashland Little League website <http://ashlandoregonlittleleague.org/>. Additionally, the Ashland Water Advisory Ad-Hoc Committee (AWAC) was presenting a Water Information Forum March 14, 2012 at Southern Oregon University in the Rogue River Room at Stevenson Union, starting at 6:30 p.m..

**SHOULD THE COUNCIL APPROVE THE MINUTES OF THESE MEETINGS?**

The minutes of the Study Session of February 21, 2012, Executive Session of February 21, 2012 and Regular Meeting of February 21, 2012 were approved as presented.

**SPECIAL PRESENTATIONS & AWARDS**

The Mayor's proclamation regarding March as Red Cross Month in Oregon was read aloud.

**CONSENT AGENDA**

- 1. Will Council approve the minutes of the Boards, Commissions, and Committees?**
- 2. Does Council wish to confirm the Mayor's appointment of Pam Hammond to the Transportation Commission with a term to expire April 30, 2014?**
- 3. Will Council approve a resolution setting a date for a public hearing to consider written and oral testimony regarding the final assessment for the Liberty Street Local Improvement District (LID) No. 88?**
- 4. Should Council authorize participation in the PERC grant offered by The Nature Conservancy?**

Councilor Voisin pulled Consent Agenda item #2 for discussion.

**Councilor Silbiger/Chapman m/s to approve Consent Agenda items #1, #3 and #4. Voice Vote: all AYES. Motion passed.**

Councilor Voisin expressed concern regarding Pam Hammond's appointment to the Transportation Commission because she represented the special interests of the Chamber of Commerce. Public Works Director Mike Faught noted Ms. Hammond's prior experience on the Traffic Safety Commission provided an in depth understanding of transportation issues and her diversity would benefit the Transportation Commission.

**Councilor Lemhouse/Slattery m/s to approve Consent Agenda item #2. DISCUSSION:** Councilor Lemhouse supported Pam Hammond and added many Commissions and Committees had people representing special interests for beneficial reasons. Councilor Chapman confirmed that bicycle representation was diminishing and shared his personal experience with Pam Hammond on the Traffic Safety Committee. He thought her interests would help expand the downtown business community. **Voice Vote: all AYES. Motion passed.**

## **PUBLIC HEARINGS**

1. **Will Council approve First Reading of the following ordinances?**
  - **An Ordinance Amending the Definitions Chapter (18.08) and General Regulations Chapter (18.68) of the Ashland Municipal Code and Land Use Ordinance**
  - **An Ordinance Amending the Site Design and Review Chapter (18.72) of the Ashland Land Use Ordinance to Exempt Solar Energy Systems Meeting Specific Standards From Site Review Requirements**
  - **An Ordinance Establishing Provisions for the Keeping of Chickens Within Residential Districts, and Repealing Fence Provisions Within the Health and Sanitation Chapter 09.08 of the Ashland Municipal Code.**

Community Development Director Bill Molnar explained that the green ordinances were created primarily from citizens seeking ways to create flexibility in the City's code system to allow local food production regarding chickens, flexible fencing standards to protect gardens, using rainwater catchment systems on private property to reduce potable use, and solar collection systems. The Planning Commission held a Study Session and a Public Hearing on the five areas and recommended approval to the Council with minor changes in each area.

Senior Planner Brandon Goldman provided a presentation on the green codes that included:

### **Solar Energy Systems**

- Proposed ordinance allows Commercial and Employment zoned properties in Historic Districts to install solar energy systems without having to obtain Land Use approval.
- Affected Properties Map: Commercial and Employment zoned properties within Ashland's Historic District.
- Panels installed flush and parallel to plane of roof and below roof peak.
- Installed on flat roof and screened from view by an existing roof parapet.
- Objectives: Promote alternate energy use and provide greater flexibility for solar roof panel installation on structures in historic districts.
- Existing Standard: Requires land use approval prior to installation on Commercial and Employment properties in the Historic District and Type 1 Administrative approval.
- Proposed Amendment: No land use approval necessary if: Panels installed flush and parallel to plane of roof and below roof peak and installed on flat roof, and screened from view by an existing roof parapet.

### **Eave Extensions**

- Current code allows eaves to encroach up to 18 inches.
- Proposed changes to the Yard Requirements subsection (18.68.04) would allow eaves, and awnings to intrude up to three feet (3') into required yards.
- Objective: reduce energy-cooling costs through greater daytime shading of windows.
- Existing Standard: Roof eaves permitted to extend 18-inches into a side, rear or front yard setback area.
- Proposed Amendment: Roof eaves permitted to extend a maximum of 36 inches into a side, rear or front yard setback area.

### **Rain Barrels**

- Located in side or rear yard and screened from view of neighbors and street.
- A barrel used to collect and store rainwater runoff from rooftops via rain gutters for non-potable use.
  - 6 feet or less in height.
  - 3 feet of clearance provided.
  - Screened from view of adjacent properties and public streets.
- Objective: Increase water conservation through harvesting of rainwater.
- Existing Standard: Not permitted within side, rear, or front yard setback areas.
- Proposed Amendment: Permitted within a side or rear yard setback area (not front) if 6 feet or less in height, 3 feet of clearance provided, screened from view of adjacent properties and public streets.

Mr. Goldman explained a water catchment system above 5,000 gallons or fewer than 5,000 gallons and how using electrical equipment triggered a building permit. The 6-foot screening for rain barrels applied to the 6-foot fence requirement. The 3-foot clearance provision allowed enough room for people to navigate for safety and access. Rain barrels were explicitly allowed in setbacks and still considered structures. There were no inspections in terms of a building permit but if violations of existing zoning standards were identified the property owner would receive a correction notice.

### Keeping Chickens

- Accessory Structures and Buildings (Ch. 18.68.140)
  - Contain no more than 5 hens on any property.
  - Shall be at least 20-feet away from any dwelling on an adjoining property.
  - Shall be less than six feet (6') in height.
  - Chicken coops shall be less than 40 square feet in area, and chicken run enclosures shall not exceed 100 square feet in size.
  - **Deleted from Ordinance:** Shall be screened from view of adjacent properties and the public right of way with a combination of fencing and/or landscaping.
- Health and Sanitation – Nuisances (Ch 9.08)
  - No more than 5 hens (no roosters) are permitted.
  - Chickens kept are for personal use (not commercial).
  - Chickens are secured at all times: during daytime in a chicken run or fenced yard and during night within a coop.
- Feed is kept in rodent and raccoon proof containers.
- Manure not used for composting or fertilizing shall be stored in enclosed containers (not more than 20 gallons) until removed.
- **Deleted from Ordinance:** Chicken slaughtering shall not be done outdoors.
- Objective: Increase opportunities for local food production.
- Existing Standard: Chickens no closer than 75-feet from a neighboring dwelling, mitigate impacts of odor and debris, cannot roam loose, cannot cause unnecessary noise.
- Proposed Amendment: Chickens no closer than 20-feet from a neighboring dwelling, mitigate impacts of odor and debris, must be housed in coop, chicken run, or fenced yard, cannot cause unnecessary noise and no more than 5 chickens with no roosters.

Staff stated that five chickens could lay up to 1,200 eggs a year and that the ordinance prohibited roosters due to noise. Staff based the number of chickens on a single-family property. The ordinance for keeping chickens would not extend to multi-family developments or duplexes. The ordinance stated eggs were for personal use and non-commercial purposes only. Additionally, the ordinance was flexible and Council could make adjustments.

### Fencing

- Fence Heights: Below street grade properties, retaining walls (natural grade is used to determine maximum fence height under the solar ordinance when fence shades a property to the north).
- Materials: Security fencing (razor wire, barbed wire, electric fencing).
- Deer Fencing: Up to 8' tall (front, side, or rear yard), Open mesh 80% visibility side and rear yard, 85% visibility front yard, minimum mesh diameter 1.5" in front yard, constructed to prevent sagging.
- Materials: Existing code prohibits razor wire, barbed wire, electric fencing on adjoining property line and adjacent to public right of way. On commercial, employment and industrial properties, such fencing shall not be visible from the right-of-way.
- Deer Fencing Objectives: Increase opportunities for local food production, allow an increase in fence height only to incorporate deer-type fencing.
- Deer Fencing Existing Standards: Maximum height of 3'-6" in front yard, maximum height of 6'-6" in side or rear yard setback, maximum height of 4'-0" – adjacent to city street.
- Deer Fencing Proposed Amendment: Maximum height of 8'-0" in front yard, setback; 85% transparent

for additional 4'-6" in height allowance (1.5 square inch minimum grid size). Maximum height of 8'-0" for side or rear yards adjacent to City Street; 80% transparency for additional 4'-0" in height allowance. Built to prevent sagging.

Mr. Goldman noted there was nothing in the current ordinance that would require a grandfather clause with the exception of barbed wire on properties in the front yard. Everything presented were new allowances.

**Public Hearing Open: 7:58 p.m.**

**Sarah Rudeen/126 Lincoln Street/**Explained she was a recent graduate from Southern Oregon University Environmental Studies. Overall, she supported the proposed ordinance and asked Council to consider shortening the setback length for beekeeping.

**Edwin Chapman/113 Pine Street/**Supported the changes for deer fencing but had issues with limiting chickens to five. He explained why hens could not produce 1,200 eggs a year unless on hormones, that in town most considered them pets and chicken coops did not smell if the owner kept them clean. He agreed with prohibiting roosters and noted chickens stopped making noise after sundown. He urged Council not to limit flock size to five hens. A reasonable flock size depended on the size of the yard and 20 would likely be the most. Council could base the limitation on the size of the yard. A 40-square foot coop would work only for chickens to sleep in and could accommodate 10-15 chickens.

**Nicole Graham/418 Lit Way/**Explained she did not want to violate the law if she sold extra eggs to her neighbors. She had issues with flock size and described her quarter acre yard. She wanted the ability to offset the cost of feed by selling extra eggs to her neighbors. She questioned the 100-foot setback for rabbits, noted that rabbit manure was odorless, and thought the setback was extreme.

**Yehudit Shemesh/862 Michelle Avenue/**Thought Council should increase the limit of chickens. She made noise and waste comparisons of several chickens to three dogs. Additionally, Council should allow trading, battering and selling.

**Sarah Red-Laird/1503 South 3<sup>rd</sup> Street, Jacksonville/**Spoke in favor of changing the 150-foot setback for beehives to best management practices for beekeeping consisting of no more than four hives per quarter acre or less lot size. She suggested reducing the hive location setback from 150-feet to 20-feet and have the beekeeper provide adequate water within 25-feet of the hives, a 6' hedge or solid fence if the colonies were within 10-feet of a property line and substantial barriers to protect animals and children. Another requirement was colony inspections by a beekeeper or their delegate three times a year between March and October. Bees increased pollination, plant healthy, biodiversity, local production of honey products as well as education.

**Katie Latham/1149 Oak Street/**Supported increasing the number of chickens and commented that five chickens produced 3-4 eggs a day, less in the winter and that was not enough for most families. Additionally, 100 square feet for a chicken run was too small for her acreage.

**Ryan King/420 Chestnut Street/**Shared his educational background and that he was pursuing the installation of three beehives on Southern Oregon University campus with the intention that beekeeping serve as a model for educational purposes. The installation would also serve as a hub to train local beekeepers, provide research, and conservation biology. He noted bees were ecologically vital to the bioregion and local economy.

**Kim Blackwolf/354 Liberty Street/**Provided her educational background and expertise as a professional gardener and urban homesteader. She noted her experience raising turkeys, ducks, geese, and chickens and shared statistics on chickens regarding noise, and waste. She supported decreasing the setback for chickens to 20-feet. Other provisions in the ordinance did not go far enough or were too restrictive. She wanted a re-write of the entire animal part of the ordinance to support home growing and self-sufficiency including chickens, rabbits, bees, and pigs with each based on the best practices for the backyard animal, not an arbitrary number or

pen size that did not relate to the animal in particular. In addition, Council should remove non-commercial from the ordinance for the same reasons previously stated during public testimony. A 20-foot setback for rabbits and bees was reasonable. She encouraged the City to restructure the animal ordinance to support front and back gardens, chickens, turkeys, bees, and other food-producing animals in backyards.

**Amy Haptonstall/341 Beach Street/**Explained chickens had become an urban animal in the community and requested that the ordinance be clear on odor and cleanliness, in line with property size and not distance and number. Chickens help create natural compost, decrease the amount of garbage, minimize bugs and weeds, and nourish the owner with food. She researched the City of Medford ordinance, noted it required the area to be odor and debris free and create no noise problem and thought the City of Ashland should word their ordinance in a similar manner.

**Elaine Delsman/555 Fairview/**Owned a farm partially in the city and in the county. She described her chicken yard that contained 15 chickens and shared her experience raising chickens over the past 45 years. They paid taxes as a farm and sold eggs. She was concerned the ordinance would not grandfather barbed wire and electric fencing. Her farm used both and it extended to the property within city limits. She supported changing the ordinance to allow more chickens but thought the focus should concentrate on odor and noise.

**Oshana Catranides/321 Clay Street/**Spoke as a beekeeper and shared how she got started. She wanted the 20-foot setback to apply to beekeeping as well. She also supported increasing the number of chickens allowed in the ordinance.

**Public Hearing Closed: 8:29 p.m.**

Council majority thought the ordinances were clear with the exception of chickens and animals. They supported the 20-foot setback and using yard space as a scale to determine numbers of chickens. Some comments wanted to include bees and other animals while other comments suggested a Study Session to develop a home growing food ordinance to address all animals.

**Councilor Silbiger/Chapman m/s to approve First Reading of an ordinance amending the Site Design and Review Chapter 18.72 of the Ashland Land Use Ordinance to exempt solar energy systems needing specific standards from site review requirements and move to Second Reading. Roll Call Vote: Councilor Voisin, Morris, Chapman, Silbiger, Lemhouse and Slattery, YES. Motion passed.**

**Councilor Silbiger/Morris m/s to approve First Reading of an Ordinance amending the Definitions Chapter 18.08 and General Regulations Chapter 18.68 of the Ashland Municipal Code and Land Ordinance and move to Second Reading. DISCUSSION:** Councilor Chapman had an issue with roof extensions, preferred large overhangs, and did not like the idea of them encroaching into setbacks. For deer fencing, he thought the transparency should be consistent instead of 85% for the front and 80% for the side and backyards. Mr. Goldman clarified the original ordinance requirement was 80% transparency for the entire yard with vertical and structural supports in the front yard no greater than 2X2. The Planning Commission felt that limited design alternatives and suggested 4X4 to preserve the intent of making them less visible. Councilor Silbiger referenced Exhibit B Green Codes Alternative Ordinance Language and explained going with the Planning Commission's recommendation of 85% on the front yard and 80% for the sides and backyard would require an amendment. Mr. Goldman clarified a 6 foot fence could be solid, but an 8 foot fence required the top 2 feet to be 80% transparent.

Councilor Chapman was not comfortable removing the rain barrel size limits or having the clearance requirement at 3 feet and wanted staff to review fire safety in regards 3-foot clearances. Council majority supported the Planning Commission's recommendation to strike the 90-gallon limit on rain barrels. Mr. Goldman explained when the Planning Commission recommended removing the size limitation, staff responded with the 6-foot barrel height in relation to the 6-foot fence height requirement and 3-foot clearance limitations. Council majority was in favor of the Planning Commission's suggestion regarding height and clearance but

wanted staff to further research structural and clearance issues. Council consensus also supported the Planning Commission's recommendations regarding deer fencing as a whole. **Roll Call Vote: Councilor Silbiger, Chapman, Slattery, Voisin, Morris and Lemhouse, YES. Motion passed.**

It was clarified that the direction to staff included the number of hens, the 20-foot setback, and coup size requirements. The remaining ordinance was an amendment to the Health and Sanitation Ordinance.

Councilor Voisin suggested changes to **Section 3, Chapter 9.08.040 Keeping of Animals (C)** increasing the number to no more than 20 chickens on a single-family residential lot and strike **9.08.040 C1: "Chickens shall be kept for personal use only, and not for the commercial exchange of goods or commodities."** She questioned the reference to AMC 18.20.020(D) in the 75-foot setback. City Attorney Dave Lohman explained the 75-foot setback pertained to turkeys, geese, ducks, and provided a special exception for chickens. For Second Reading staff would change the language regarding chickens.

Mr. Lohman clarified the changes Councilor Voisin suggested pertained to the Health and Sanitation Ordinance and not **Chapter 18.68.140 Accessory Buildings and Structures (C)** regarding chicken coops, numbers and chicken runs.

Council directed staff to bring back additional information regarding the number of chickens allowed on a property.

**Councilor Silbiger/Slattery m/s to approve of First Reading of an Ordinance establishing provisions for keeping of chickens within a residential districts and repealing fence provisions within the Health and Sanitation Chapter 9.08 and move to Second Reading. DISCUSSION:** Mayor Stromberg clarified the 75-foot setback applied to other kinds of poultry and chickens were an exception with a 20-foot setback. Councilor Voisin suggested striking strike **9.08.040 C1: "Chickens shall be kept for personal use only, and not for the commercial exchange of goods or commodities."**

Council addressed **Exhibit B Green Codes Alternative Ordinance Language** from the Planning Commission recommendations regarding **9.08.040 Keeping of Animals**. Council majority supported recommendation **(C)(2)** that prohibited chickens on multi-family complexes and duplexes. Council directed staff to come back with flexible language regarding **(C)(3) Chickens shall be kept for personal use only, and not for the commercial exchange of goods or commodities**. Council supported **(C)(4)** prohibiting roosters. Council directed staff for further information regarding **(C)(5) Chickens must be secured at all times and located at least twenty feet (20') from dwellings on adjoining properties:**

- a. **During non-daylight hours, chickens must be kept in a coop;**
- b. **During daylight hours, chickens shall be located in a chicken run that meets the requirements of AMC 18.68.140 (C) (2) or in a securely fenced backyard.**

Council supported **(C) (6, 7, and 8)**.

**Roll Call Vote: Councilor Silbiger, Voisin, Slattery, Lemhouse, Morris and Chapman, YES. Motion Passed.**

### **PUBLIC FORUM**

**Nancy Nelson/149 Clear Creek Drive/**Submitted a document into the record on the negative impact genetically modified organisms (GMO) food had in India that contributed to 200,000 suicides. She stressed the importance of people's right to know and to choose and commented on the destructive impact of GMO foods on farmers, organic consumers, and the harmful pesticides used for GMO foods. The US needed more community seed banks and open source seeds for organic seeds. She supported a GMO free agriculture.

### **UNFINISHED BUSINESS**

1. **Will Council adopt a resolution urging Congress to approve an amendment to the Constitution of the United States to give Congress and the states the authority to set limits on campaign contributions and regulate political spending?**

**Keith Haxton/110 7<sup>th</sup> Street/**Explained "corporate personhood" was a way to assert rights. He supported the proposed resolution but did not think it adequately covered all the rights that corporations had and subsequently would seek a ballot initiative that he hoped Council would support.

**Evan Lasley/110 7<sup>th</sup> Street/**Supported the resolution but wanted a ballot initiative that came from either the community or Council.

**Jan Waitt/147 Manzanita Street/**The amendment as it stood overturned Citizens United. The resolution discussed in February 2012 had the added advantage of overturning a long line of legal decisions that gave corporate entities constitutional protections not envisioned by the authors of the Bill of Rights. The current resolution was an important step forward. She suggested Council pass the resolution and refer the previous resolution as a referendum on the ballot.

**Michael Dawkins/646 East Main Street/**Thought any amendment to control spending in political campaigning was futile, misguided, and just Band-Aids on federalism. It was not only a step away from liberty but also a step away from taking responsibility. He questioned whether people were so "dumbed down" and lazy they needed the government to protect them from themselves. He noted the irony that people talked about localization but wanted more federal control that included campaign spending.

**Councilor Silbiger/Morris m/s to approve Resolution #2012-07. DISCUSSION:** City Recorder Barbara Christensen explained citizens could file for an initiative to place it on the ballot. It would require collecting signatures. Alternately, the Council could choose to place it on the ballot themselves and eliminate the need for signatures. Councilor Lemhouse would not support the motion. He objected to the process and Council being used as a political platform but strongly supported a citizen-based initiative on the ballot. **Roll Call Vote: Councilor Chapman, Slattery, Voisin, Silbiger, and Morris, YES; Councilor Lemhouse NO. Motion passed 5-1.**

Council discussed making a motion for an initiative or placing the item for further discussion on the next meeting agenda.

**Councilor Voisin motioned that Council ask for this issue of finance campaign reform and ending of corporate personhood be put on the November ballot and have staff prepare the language.** Mayor Stromberg ruled the motion was out of order and not the subject of the agenda item.

#### **NEW AND MISCELLANEOUS BUSINESS**

**1. Will Council, acting as the local contracts review board, authorize the City Administrator to enter into a personal services contract with Bell and Associates, Inc. for solid waste collection rate consulting services in conjunction with the rate request submitted by Recology dba Ashland Sanitary for an amount not to exceed \$9,826 unless other analysis beyond the scope contained in this agreement is requested?**

**Councilor Lemhouse/Slattery m/s to authorize the City Administrator to enter into a Personal Services Contract with Bell and Associates, Inc. for solid waste collection rate consulting services in conjunction with the rate request submitted by Recology in an amount not to exceed \$9,826 unless additional analysis beyond that indicated in the rate proposal is requested. DISCUSSION:** Councilor Lemhouse would support a rate increase if the study results justified one. Councilor Slattery questioned the need for a special consultant. City Administrator Dave Kanner explained Bell and Associates expertise were more suited to understanding Recology's financial statements than staff. If it went to arbitration it would be helpful to have this expert analysis. Additionally, the cost plus method of determining rates was the industry standard and 9%-12% the customary rate of return as 9%-10% operating margin on pre-tax revenues. The City's franchise agreement was outdated. A franchise agreement allowed exclusive rights for specific services within city limits and in turn the City ensured a fair rate of return on business. The alternative would be to do away with exclusivity. He

confirmed most rate studies used a template and the consultant would determine industry standards that met Ashland's market conditions. **Voice Vote: all AYES. Motion passed.**

**2. Shall the Mayor and Council approve an appointment for the vacant position on the Citizen Budget Committee with term ending December 31? 2012?**

City Recorder Barbara Christensen explained Dee Anne Everson resigned from the Citizen Budget Committee and the City had received four applications to fill the vacancy. Councilor Lemhouse thanked Dee Anne Everson for her contributions to the Budget Committee.

**Councilor Slattery/Silbiger m/s to appoint Denise Daehler to the Citizen Budget Committee with a term ending December 31, 2012. Voice Vote: all AYES. Motion passed.**

**3. Will Council approve the Mayor's appointment of Councilor Slattery as liaison to the Forest Service for 2012?**

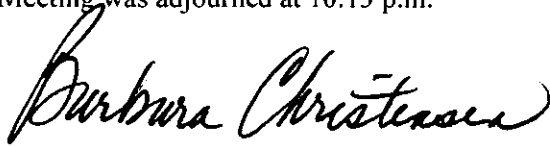
**Councilor Lemhouse/Silbiger m/s to approve Mayor's appointment of Councilor Slattery as liaison to the Forest Service for 2012. DISCUSSION:** Councilor Lemhouse noted Councilor Slattery had a history of bringing sides together to find a common ground and was a good choice. Councilor Voisin commented the Forest Service and Mt. Ashland Association were mutual partners and did think there was opposition. Having another councilor as a liaison to the Forest Service would offer varying perspectives and a broader base of representation. **Roll Call Vote: Councilor Morris, Lemhouse, Slattery, Silbiger, and Chapman, YES; Councilor Voisin, NO. Motion passed 5-1.**

**ORDINANCES, RESOLUTIONS AND CONTRACTS (None)**

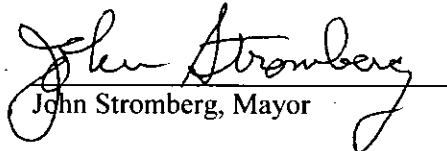
**OTHER BUSINESS FROM COUNCIL MEMBERS/REPORTS FROM COUNCIL LIAISONS**

**ADJOURNMENT**

Meeting was adjourned at 10:13 p.m.



Barbara Christensen, City Recorder



John Stromberg, Mayor