

**TOWN OF YARROW POINT
PLANNING COMMISSION MEETING MINUTES
January 19, 2010**

The following is a condensation of the proceedings and is not a verbatim transcript. The meeting is recorded, and the audio recording is public record.

CALL TO ORDER:

Planning Commission Chairman Roger Myklebust called the meeting to order at 7:10 p.m.

MEMBERS:

Chairman: David Feller

Commissioners: Richard Cahill
Amy Pellegrini
Dan Williams
Peter Braman (excused)

Staff: Mona Green – Town Planner
Sara McMillon – Clerk-Treasurer
Wayne Stewart – Town Attorney

Guests: Cheryl Pietromonaco – 3445 92nd Ave. NE

APPEARANCES:

None.

MINUTES:

MOTION: Planning Commissioner Dan Williams motioned to approve the commission meeting minutes from November 16, 2009. Planning Commissioner Richard Cahill seconded the motion.

Vote: 3 For, 0 Against, 1 Abstain. Motion carried.

STAFF REPORTS:

Town Planner Green reported that state funding for a required update of the Town's Comprehensive Plan has been rescinded due to a budget shortfall. The state has not yet extended the deadline for completion of the update, but legislation to extend it is pending. In response to a question from Commissioner Williams, Mrs. Green stated that an update

of the Town's 2004 Comprehensive Plan likely will not take more than a year and probably will not be expensive.

Town Attorney Stewart reported that three new councilmembers took office in January. At this month's council meeting, staff and officials introduced themselves and provided background information. Mayor David Cooper soon will appoint a new Council liaison to the planning commission. As a shoreline property owner, Councilmember Bruce Jones would add to the discussion of the shoreline management master program update.

Mrs. Green reported that the Council recently approved regulations regarding site development. A site development permit, which could be referred to as a clear and grade permit, would be required for most construction activity. The new permit provides the town engineer with an opportunity to review an application for storm water concerns or other site conditions. Funds would be provided to cover the cost of the engineer's review and inspections. All activities with a potential impact on the public or public infrastructure will be reviewed by a professional.

REGULAR BUSINESS:

PC-AB 10-001 – Update of Shoreline Management Master Program – Review of Minimum Shoreline Jurisdiction Map

Town Planner Green reported that the Town has received the first products from the Watershed Company, the firm preparing shoreline data required for the update of the Shoreline Master Program. Two maps identifying the area that the master plan will cover were presented to the commission for consideration. The first option shows a minimum area of 200 feet landward. The second map shows an expanded area that includes shoreline ecosystem buffers.

Mrs. Green explained that the commission will need to decide how much property will be covered by the regulations. Other communities have opted for the minimum coverage area. No jurisdiction has opted to regulate more land than it is required to. Mrs. Green recommended that the commission approve the minimum area required. If an expanded area is used, property owners who were not previously regulated would be included.

Planning commissioner Cahill asked if there is a benefit to including more of Morningside Park and the Wetherill Nature Preserve. The shoreline has been defined this way since 1970, Mrs. Green responded, and any benefit to including Morningside and Wetherill would not be worth the public outrage over additional regulation. Planning commissioners agreed with Mrs. Green's evaluation.

The planning commission directed Mrs. Green and the Watershed Company to use the map showing a minimum area of 200 feet landward for the update to the Town's Shoreline Management Master Program.

Mrs. Green reported that interested stakeholders have been notified by mail of the Town's intention to update the shoreline program. Notification is a required part of the update.

PC-AB 10-002 – Adoption of Tree Ordinance for Public Property – Review of Recommendation from Tree Committee

Mrs. Green provided the commission with some background information concerning the beginnings of the tree ordinance effort. Last spring, a town retreat was held that included staff and council, and all of the members of the town's advisory committees. At the retreat, staff from the state department of natural resources provided a presentation on the Tree City USA program and the value of trees.

At the retreat, a consensus was reached. Citizens in attendance agreed that the town should become a Tree City, and adopt an ordinance that applies to public property only. In order to qualify as a Tree City, four different standards must be fulfilled. They include holding an Arbor Day celebration, spending \$2 per capita on tree related improvements, designating a tree board and adopting a tree ordinance.

After the retreat, the Mayor appointed a special committee to work on drafting a tree ordinance. This committee included two people from the planning commission, two from the park board and two citizens at large. Mrs. Green said the committee agreed on the draft ordinance that has been presented to the planning commission. Planning commissioners can hold public hearings and modify the ordinance as appropriate.

The ordinance is basic, she said. It provides a written process to be followed if a citizen requests that the town remove a tree on public property. Currently the process the town uses in this instance is unwritten and discretionary. In order to qualify as a Tree City, any type of tree ordinance could be adopted.

Resident Cheryl Pietromonaco said the tree ordinance should also apply to private property. Some trees are dangerous to public safety, and these trees should be regulated regardless of where they are located. Ordinances adopted should be designed to protect public health and safety. Other Yarrow Point ordinances that protect health and safety have been adopted. The intent was always to regulate trees on public property only, Mrs. Green responded. If unclear, it will be made clear in the ordinance language that the regulation does not apply to private property.

Town Attorney Stewart said from the beginning, the intent was to adopt an ordinance that is the minimum required to become a Tree City. The current ordinance draft is more than what is required. Mr. Stewart said he thinks the town is at the beginning of a long process. Regulating trees is no easy matter. From a legal standpoint, Mr. Stewart said he does not think it is advisable to adopt anything that is more than the minimum required. The Town will need to gather more input and have more debate concerning what type of regulation should be pursued.

Mr. Cahill, who served on the tree committee, said there are few trees that the current ordinance draft would apply to. The point was to adopt an ordinance that would foster a tree preservation culture, without a high degree of regulation. Mr. Stewart said the draft is a first step, but the planning commission should take its time and invite the public to participate more in the process.

Planning Commissioner Feller asked if the current ordinance draft is similar to what other communities in the area have adopted. Mrs. Green responded that it is not. She could not locate an example of an ordinance that was as minimal as Yarrow Point requested. Commissioner Pellegrini asked what process the town has been following without a tree ordinance. An unwritten, informal process has been followed, Mrs. Green said.

Planning Commissioner Williams asked if there is a different regulation that applies to vegetation that blocks line of sight for motorists. Mr. Stewart said other standards apply in these cases. Mr. Williams asked why the ordinance draft seems to redefine the term "hedge".

Some of the provisions do appear to be in conflict with the Town's current encroachment regulations, Mr. Stewart said. Currently the only thing allowed to exist in public right of way is gravel or grass. Trees can't be planted in the right of way without an encroachment permit and agreement. The draft ordinance represents a redundancy.

The \$5,000 penalty for removing a protected tree does not appear to be strict enough, Mr. Williams said. Many homeowners would be willing to pay the penalty. In his personal experience, \$10,000 would not be enough of a deterrent.

Planning Commissioner Feller stated that a tree two inches in diameter could be considered by many as a large weed. A widely accepted standard is six, eight or 12 inches measured 4.5 feet from the ground, Mr. Stewart said. Mrs. Green said the measurement of two inches is based only on what the tree committee wanted to protect. Mr. Williams said the ordinance should read trees of a larger diameter or any tree planted by the Town regardless of size is a protected tree. Planning commissioners agreed that two inches is too small. Four inches seemed more reasonable to the commission.

Mr. Cahill asked what would be protected if sixty percent of a tree is on private property and forty percent is on public property. Mr. Stewart said the portion of the tree on private property could be altered in any way, unless the alteration causes the entire tree to be damaged. If a tree overhangs private property and causes the property owner to have to rake leaves, the tree owner could be sued for damages.

Mr. Stewart said that if a tree is growing on private property, and a town representative goes on private property to remove a limb that is overhanging the roadway, and that causes a landslide, the town could be liable for triple damages.

Mr. Cahill said the tree committee's intent was to draft an ordinance that does not impact private property owners in any way. Commissioner Feller said the commission should hold another meeting to discuss the ordinance. Each item should be examined before holding a public hearing. Mr. Feller said he would like to see some additional examples from other jurisdictions in the area. He suggested meeting with the members of the tree committee. Planning commissioners agreed a joint meeting of the planning commission and park board would be productive.

The planning commission agreed that property rights should be preserved. The ordinance should be minimal in its scope. However, further discussion is needed.

ADJOURNMENT:

MOTION: Planning Commissioner Dan Williams motioned to adjourn at 8:25 p.m.
Planning Commissioner Richard Cahill seconded the motion.

Vote: 4 For, 0 Against, 0 Abstain. Motion carried.

APPROVED:

David Feller, Chair

ATTEST:

Sara McMillon, Clerk-Treasurer