



AGENDA

MOLALLA CITY COUNCIL MEETING

March 27, 2019

7:00 PM

Molalla Adult Center

315 Kennel Ave., Molalla, OR 97038

Mayor Keith Swigart

*Council President Elizabeth Klein
Councilor Leota Childress
Councilor DeLise Palumbo*

*Councilor Terry Shankle
Councilor Jody Newland
Councilor Open Position*

CALL TO ORDER

Convene Meeting and Roll Call
Pledge of Allegiance

PUBLIC COMMENT/COMMUNICATIONS AND PRESENTATIONS

1. Application for Budget Committee

(Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder. The City Council does not generically engage in dialog with those making comments but may refer the issue to the City Manager. Complaints shall first be addressed at the department level prior to addressing the City Council.)

ADOPTION OF AGENDA

CONSENT AGENDA

2. City Council Minutes March 13, 2019
3. 18-15 Clark Park Phase 2 Improvements

ORDINANCES, RESOLUTIONS, PROCLAMATIONS

4. Resolution 2019-05 Declaring Council Seat Vacant/Open
5. 2019-05 Towing Ordinance Amendment

NEW BUSINESS

6. Discussion on Molalla Arts Commission MMC
7. Discussion on MMC Code Chapter 2.06

OLD BUSINESS

REPORTS AND ANNOUNCEMENTS

ADJOURN

Agenda posted at City Hall, Senior Center, Library and the City Website at <http://www.cityofmolalla.com/meetings>

This meeting location is wheelchair accessible. Disabled individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-829-6855



**City of Molalla
Application for Appointment to Citizen Committee**

Date: 1/12/19

Board/Committee of Interest: Budget Committee

Name:	Glen Boreth		
Address:	[REDACTED]		
State/Province	[REDACTED]		
Zip/Postal Code:	Molalla, OR 97038		
Home Phone:	[REDACTED]		
Work Phone:	[REDACTED]		
*E-Mail	[REDACTED]		
Current or Previous Community Affiliations or Activities:	<table border="1"><tr><td>Years of Residence Inside City</td><td>15 years</td></tr></table>	Years of Residence Inside City	15 years
Years of Residence Inside City	15 years		

Molalla Planning Commission, Molalla City Council, Molalla Budget Committee

Why would you like to serve on this committee and give any other background you might have in this area.

Volunteering is the ultimate exercise in democracy. You vote in elections once a year, but when you volunteer, you vote every day about the kind of community you want to live in.

If applying for re-appointment to this Commission/Board/Committee/Task Force, please indicate what has been the key accomplishment of the group during your service.

Participating in the discussions and coming up with the best group decision for the community.

If you could make any improvement to the Commission/Board/Committee/Task Force, what would it be?

I would love to see more people in the community wanting to volunteer than positions for them to fill.

*Signature: *Glen Boreth*



**Minutes of the Molalla City Council Regular Meeting
Molalla Adult Center
315 Kennel Ave., Molalla, OR 97038
Wednesday, March 13, 2019**

CALL TO ORDER OF THE MOLALLA CITY COUNCIL MEETING; the regular meeting of Wednesday, March 13, 2019 was called to order by Council President Klein at 7:03 P.M.

COUNCIL ATTENDANCE:

Mayor -Open
Councilor Elizabeth Klein – Present
Councilor Leota Childress – Present
Councilor DeLise Palumbo – Present
Councilor Terry Shankle – Present
Councilor Jody Newland – Present
Councilor Keith Swigart – Present

STAFF IN ATTENDANCE

Dan Huff, City Manager - Present
Gerald Fisher, Public Works Director - Absent
Chaunee Seifried, Finance Director – Absent
Rod Lucich, Police Chief - Absent
Kelly Richardson, City Recorder - Present
Diana Hadley, Library Director - Absent
Chad Jacobs, City Attorney - Absent

CALL TO ORDER

Pledge of Allegiance

PUBLIC COMMENT/COMMUNICATIONS AND PRESENTATIONS

(Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder. The City Council does not generically engage in dialog with those making comments but may refer the issue to the City Manager. Complaints shall first be addressed at the department level prior to addressing the City Council.)

ADOPTION OF AGENDA

Motion made by Councilor Swigart to adopt the agenda as presented, Seconded by Councilor Childress.
Voting Yea: Councilor Klein, Councilor Childress, Councilor Palumbo, Councilor Swigart, Councilor Newland,
Councilor Shankle

CONSENT AGENDA

Motion made by Councilor Newland to approve the consent agenda as presented, Seconded by Councilor Shankle.
Voting Yea: Councilor Klein, Councilor Childress, Councilor Palumbo, Councilor Swigart, Councilor Newland,
Councilor Shankle

1. City Council Minutes February 27, 2019



**Minutes of the Molalla City Council Regular Meeting
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Wednesday, March 13, 2019**

ORDINANCES, RESOLUTIONS, PROCLAMATIONS

NEW BUSINESS

2. Open Mayor's Position Appointment

Motion made by Councilor Newland to begin the interview process for Mayors seat, Seconded by Councilor Childress. Voting Yea: Councilor Klein, Councilor Childress, Councilor Palumbo, Councilor Swigart, Councilor Newland, Councilor Shankle

Councilor Childress answered the question as follows;

1. What do you think the Mayor's responsibilities include? Childress stated the Mayor should be an ambassador for the City. Childress stated the position was a conduit for citizens and businesses.
2. What personal or professional strengths would you bring to the Mayor's position? Childress stated that the following attributes would be her strengths;
 - Accounting and Professional background
 - Personable and outgoing
 - Relate well to others
3. What do you think appropriate engagement with social media looks like as an elected official? Childress stated that it should be very limited. Childress would not participate in nonfactual discussions and doesn't advocate for a Mayor's page.
4. What are some current activities you are involved in that would benefit the City if appointed as Mayor?
 - Visioning
 - Pal Building warming center
 - Housing Affordability
5. Why do you think you would be the best choice for Mayor for this community? Childress declined to answer. Childress did state that the City has two good candidates and either one would do a very good job as Mayor.

Councilor Swigart went next with the following answers;



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1. What do you think the Mayor's responsibilities include? Swigart stated that since he has been on Council, he has learned that the Mayor's position is no different or more powerful than anyone else on Council. The Mayor represents the City in all local, County and Federal events.
2. What personal or professional strengths would you bring to the Mayor's position? Swigart stated that he has never had a problem with public speaking. Swigart informed Council that he had a very successful career in management positions that included the military and restaurant business.
3. What do you think appropriate engagement with social media looks like as an elected official? Swigart stated that it should be limited and only deal with information that is backed by facts. The least amount of engagement would be better in the long run.
4. What are some current activities you are involved in that would benefit the City if appointed as Mayor?
 - C-4 County Meetings
 - League of Oregon Cities events
 - Clackamas County Association Dinners
 - Economic Development Opportunities for Molalla
5. Why do you think you would be the best choice for Mayor for this community? Swigart also declined to answer and agreed with Councilor Childress that both candidates would be a good fit for Molalla.

Councilor Swigart with a 4 to 2 vote won the position of Mayor over Councilor Childress. The oath of office was administered by Council President Klein.

OLD BUSINESS

REPORTS AND ANNOUNCEMENTS

City Recorder Richardson had nothing

City Manager Huff Informed Council about several upcoming meetings and events;

- Mayor, Commissioner, City Manager meeting
- Initiative for Exceptional Local Government: Huff explained to Council this was started by Portland State University and it is a new initiative. Huff asked if Council would be interested in participating and if so, Molalla could be a pilot project for it. Huff was not sure of the cost involved but it would be an assessment of our governance performance. Huff asked Council if they were interested in participating Huff would pursue it. Consensus of the Council was to move forward with getting more information.
- Wrapping up the draft budget process and briefed Council on Committee and Boards status
- From Public Works there was a bid opening today for the Clark Park phase II
- Heritage Art Walk: there have been some new exhibits placed
- Kennel and Main paving project scheduled for March 14



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-
- Vehicle registration fee will be discussed at the Mayor's meeting tomorrow. Those dollars will be available in two years approximately as it takes time to acquire them. Huff explained that the dollars received will be about half of what staff had originally proposed in the street utility that went down to defeat.
 - Chamber of Commerce requested that if members of the Chamber are interested in hosting a breakfast please let the Chamber know. Huff asked Council if they would be interested in hosting. Councilors all agreed they wanted to participate.
 - Huff updated Council on the Public Works projects list.

Councilor Newland had nothing.

Councilor Shankle had nothing.

Councilor Palumbo wanted to place a discussion item on the next agenda for the Arts Commission. It was the consensus of Council to place it on the next agenda.

Councilor Childress had nothing.

Councilor Klein updated Council regarding recent meeting with The Ford Family Foundation and the Visioning team.

Mayor Swigart thanked everyone for their support and the ability to serve his community.

EXECUTIVE SESSION

Held pursuant to Oregon Public Record Law, ORS 192.660(2): (a) To consider the employment of a public officer, employee, staff member or individual agent.

Motion made by Councilor Newland to enter executive session, Seconded by Councilor Palumbo.

Voting Yea: Councilor Klein, Councilor Childress, Councilor Palumbo, Councilor Swigart, Councilor Newland, Councilor Shankle

-
Motion made by Councilor Childress to open the executive session at 8 pm, Seconded by Councilor Swigart.

Voting Yea: Councilor Klein, Councilor Childress, Councilor Palumbo, Councilor Swigart, Councilor Newland, Councilor Shankle

In attendance:

City Council members Mayor Swigart, Klein, Childress, Shankle, Newland and Palumbo. City Staff present were City Manager Dan Huff and City Recorder, Kelly Richardson. Members of press were Carol Rosen with the Pamplin Media Group.

Motion made by Councilor Childress to adjourn the executive session of March 13, 2019 at 8:42 pm, Seconded by Councilor Swigart.

Voting Yea: Councilor Klein, Councilor Childress, Councilor Palumbo, Councilor Swigart, Councilor Newland, Councilor Shankle.



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ADJOURN

There was no decision or action to take following the executive session therefore they did not reconvene the regular session.

Motion made by Councilor Newland to adjourn the regular meeting of March 13, 2019 at 7:54 pm, Seconded by Councilor Childress.

Voting Yea: Councilor Klein, Councilor Childress, Councilor Palumbo, Councilor Swigart, Councilor Newland, Councilor Shankle

Mayor, Keith Swigart

Date

ATTEST:

Kelly Richardson, CMC
City Recorder

City Of Molalla

City Council Meeting



Agenda Category: Consent Agenda

Subject: Contract Award for the Clark Park Improvements Ph 2 project #18-15

Recommendation: Council Approval

Date of Meeting to be Presented: March 27, 2019

Fiscal Impact: \$307,623 (FY 18-19 Capital Projects)

Background:

Below is the Bid Summary for the three lowest responsible bidders. The City advertised an Invitation to Bid on February 13, 2019 and February 20, 2019 in the Daily Journal of Commerce. On March 13, 2019, the City received and opened 8 bids including the following lowest three bids:

- | | |
|-----------------------------|--------------|
| 1. Brown Contracting | \$307,623.00 |
| 2. D&D Concrete & Utilities | \$320,310.00 |
| 3. 3 Kings Environmental | \$336,724.00 |

After review of the bids, Brown Contracting was deemed the lowest responsible bidder. A Notice of Intent to Award was issued to all bidders on March 15, 2019 and no protests were received. Staff recommends City Council award the contract to Brown Contracting and authorize the City Manager to execute a contract and any change orders within the approved budget.

SUBMITTED BY: Gerald Fisher, Public Works Director
APPROVED BY: Dan Huff, City Manager



RESOLUTION NUMBER 2019-05

**A RESOLUTION OF THE CITY OF MOLALLA, OREGON,
DECLARING COUNCILOR SWIGART SEAT VACANT AND DECLARING
THE SEAT OPEN.**

WHEREAS, the Council appointed Councilor Swigart at the last meeting to Mayor at the March 13, 2019 Council meeting; and

WHEREAS, as the Molalla Municipal Charter section 32 states (6) resignation of a Councilor creates a vacancy; and

WHEREAS, as the seat has unexpired term left; and

WHEREAS, as the Molalla Municipal Charter section 33 gives guidelines for filling a vacancy.

Now, Therefore, the City of Molalla resolves as follows:

Section 1. The Councilor Swigart seat vacant.

Section 2. An open Councilor position and a partial unexpired term from date of appointment to expire December 31, 2020.

Section 3. **EFFECTIVE** This resolution to be affective upon passage.

Adopted this _____ day of _____, 2019

Mayor, Keith Swigart

ATTEST:

Kelly Richardson, CMC, City Recorder

City of Molalla

City Council Meeting



Agenda Category: Ordinance

Subject:	2019-05 Towing Ordinance Amendment
Recommendation:	Approve as amended
Date of Meeting to be Presented:	March 27, 2019
Fiscal Impact:	N/A
Submitted By:	Chief Lucich
Approved By:	Dan Huff

Background:

Upon review of the updated towing ordinance for implementation, we found an oversight in our process. Chapter 10.70.050 needs to be amended to show that the sticker posted on the vehicle by an officer serves as the initial pre-tow notice and a letter is not sent out at that time. Chapter 10.70.060 (notice after vehicle towed) outlines the process where a letter is sent out by the police department to the responsible party within the new 24-hour time-period. It also addresses the tow company's right to place a lien and potentially sell the vehicle to re-coupe their costs in the event the vehicle is not claimed.



ORDINANCE NUMBER 2019-05

**AN ORDINANCE OF THE CITY OF MOLALLA, OREGON.
AMENDING THE MOLALLA MUNICIPAL CODE CHAPTER 10.70.050
UPDATING THE CITY'S REGULATIONS FOR TOWING AND DISPOSITION
OF VEHICLES AND AMENDING ORDINANCE 2019-03.**

WHEREAS, Chapter 10.70 of the Molalla Municipal Code regulates towing and disposition of vehicles; and

WHEREAS, Chapter 10.72 of the Molalla Municipal Code regulates parking, storage and maintenance of inoperable vehicles; and

WHEREAS, Chapter 10.08 of the Molalla Municipal Code defines parking, storage and inoperable vehicles; and

WHEREAS, Chapters 10.08, 10.70 and 10.72 were updated last month however upon further review section 4 of chapter 10.70.050 did not line of with the intent of the update; and

WHEREAS, the Molalla Police Department has found the notice timeframes for towing onerous and out of line with state law and other jurisdictions; and

WHEREAS, the Molalla Police Department also wishes to amend when the Department will tow a vehicle to align with current practice and when a vehicle is considered "parked, stored, or permitted to be parked or stored" on a City street or right-of-way.

NOW, THEREFORE, THE CITY OF MOLALLA ORDAINS AS FOLLOWS:

Section 1: Chapter 10.70.050 of the Molalla Municipal Code is hereby amended as follows (additions in underline and deletions in ~~striketrough~~ fonts):

Notice of vehicle tow.

A. When notice is required before towing a vehicle, notice shall be provided by:

1. Affixing a tow warning to the vehicle at least 72 hours prior to the tow;

and

~~2. Mailing a notice to the registered owner(s) and any other person(s) who reasonably appear to have an interest in the vehicle within 24 hours (Saturdays, Sundays, and holidays excluded) after the tow warning is affixed to the vehicle.~~

B. The tow warning ~~and the mailed notice~~ will state:

Section 2: Chapter 10.70.060

Notice after vehicle tow.

A. After a vehicle has been towed pursuant to this chapter, notice will be provided to the registered owner(s) and any other person(s) who reasonably appear to have an interest in the vehicle. Notice will be mailed to such persons within ~~48-24~~ hours after the tow of the vehicle, Saturdays, Sundays, and holidays excluded, and will state:

1. That the vehicle has been towed;
2. The location of the vehicle and that it may be reclaimed only upon evidence that the claimant is the owner or person entitled to possession;
3. The address and telephone number of the person or facility that may be contacted for information on the charges that must be paid before the vehicle will be released and the procedures for obtaining the release of the vehicle;
4. That the vehicle and its contents are subject to a lien for the towing and storage charges; that if the vehicle is not claimed within 30 days after the mailing date of the notice, the vehicle and its contents will be subject to sale by the ~~City or the~~ towing and storage facility where the vehicle is located and that failure to reclaim the vehicle within such time will constitute a waiver of all interest in the vehicle; and
5. Unless notice of the availability of a hearing to contest the tow has been provided prior to towing as prescribed in Section 10.70.050, the notice will state that a hearing may be requested to contest the validity of the tow and will set forth the time in which a hearing must be requested and the method of requesting a hearing.

B. If a vehicle has been reclaimed prior to the mailing of the notice, no notice need be mailed or provided, but the person or persons reclaiming the vehicle must be provided with written notice of the opportunity for a hearing to contest the tow pursuant to Section 10.70.080.

C. In those circumstances in which it can reasonably be anticipated that mailing of notice may hinder or prevent the apprehension of a suspect in an ongoing criminal investigation, the mailing of notice may be delayed until such time as will not prejudice that investigation or apprehension. (Ord. 1993-4 §1)

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Section 3: This Ordinance being necessary for the safety and preservation of the City of Molalla, an emergency is hereby declared, and this Ordinance shall take effect immediately upon its adoption.

Read the first time on _____ and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Council President on _____.

Mayor, Keith Swigart

ATTEST:

Kelly Richardson, CMC, City Recorder

Date



Administration – City Manager’s Office
117 N Molalla Avenue, PO Box 248, Molalla, Oregon 97038
Phone: (503) 829-6855 Fax: (503) 829-3676

DATE: March 27, 2019
TO: Mayor and Council
FROM: City Manager
SUBJECT: **Discussion/Consideration – Reestablishment of the Arts Commission**

During the Council/Goal/Visioning Retreat there was discussion regarding reestablishing the Arts Commission for the City of Molalla. As decisions cannot be made during work study sessions this decision is presented as a policy discussion of the basic premise and next steps.

Included with this memo is the current Arts Commission language within the Municipal Code, Councilor DeLise Palumbo’s Code amendment proposal and Council President Elizabeth Klein’s comments.

As part of Council’s discussion, I would add the following:

Fiscal Impact – The fiscal impact is present if Council elects to provide funding for projects. This commission or committee, if established will have no authority to “spend or allocate money”. Only recommendations to Council would be allowed. However, where will Council allocate the funding to originate?

Staffing Impact – There is an actual impact to city staff in management of a commission or committee with regard to time. Agendas, packets and other in-kind services are part of every committee we currently have.

Council Impact – A City Councilor should be appointed as Chair of this commission or committee.



Dan Huff
City manager

Chapter 2.17 ARTS COMMISSION

2.17.010 Commission established.

- A. The Molalla Arts Commission shall consist of nine members appointed as provided in the City Charter. All appointments to the Arts Commission may be terminated at the pleasure of the Mayor with the consent of the City Council.
- B. The first four persons appointed shall serve a term of three years; the fifth, sixth and seventh person appointed shall serve two years; and the persons appointed thereafter shall serve terms of three years.
- C. The members of the Commission shall elect from among their members a chair, a vice-chair, a secretary and a treasurer, such officers to serve for two-year terms.
- D. The Commission shall meet as deemed necessary and shall establish rules or procedures necessary to conduct business consistent with state or city requirements.
- E. Commission meetings shall be publicly noticed and be in conformance with Oregon's open meetings requirements.
- F. Summary minutes of Commission proceedings shall be recorded and retained in conformance with Oregon's public records requirements. Minutes of proceedings shall be submitted to the City Council for information.
- G. In January of each year the Commission shall submit a report on its activities to the City Council. (Ord. 2012-03 §2; Ord. 2011-10 §1; Ord. 2010-14 §1; Ord. 2009-04 §1)

2.17.020 Mission.

- The Mission of the Molalla Arts Commission is to:
- A. Encourage greater opportunities for a recognition of arts in the Molalla area.
 - B. Facilitate cooperation, coordination and communication among groups and individuals engaged in the arts.
 - C. Sponsor, facilitate or coordinate events and activities to showcase the abilities of area artists.
 - D. Encourage and promote the arts as a factor in the economic life of the community.
 - E. Pursue funding sources, projects and programs to enhance the artistic diversity in the community.
 - F. Provide liaison and representation of the City of Molalla to city, county, regional and state arts agencies. (Ord. 2009-04 §1)

2.17.030 Definition of arts.

Arts includes, but is not limited to: music, drama, dance, creative writing and poetry, architecture and landscape design, painting, sculpture, photography, graphics, craft and folk art, film and video, and such other endeavors as may be designated by the Commission. (Ord. 2009-04 §1)

2.17.040 City support.

The city will provide meeting space, web site, financial oversight and related support in consultation with the Commission with approval of the City Manager and/or City Council; however, funding for events and projects are expected to be generated by the Commission. The city shall receive and disburse funds for the Commission in accordance with the city's accounting and purchasing practices, and provide guidance to the Commission on fundraising and finance matters. The City of Molalla may also make grants to the Commission or enter into agreements with other public agencies, association, and individuals for services that will assist the Commission. (Ord. 2009-04 §1)

2.17.010 Commission established.

A. The Molalla Arts Commission shall consist of **five** e members appointed as provided in the City Charter. All appointments to the Arts Commission may be terminated at the pleasure of the Mayor with the consent of the City Council.

B. The first **three** persons appointed shall serve a term of three years; the fifth, sixth and seventh **fourth and fifth** person appointed shall serve two years; and the persons appointed thereafter shall serve terms of three years.

C. The members of the Commission shall elect from among their members a chair, a vice-chair, a secretary and a treasurer, such officers to serve for two-year terms.

D. The Commission shall meet as deemed necessary and shall establish rules or procedures necessary to conduct business consistent with state or city requirements.

E. Commission meetings shall be publicly noticed and be in conformance with Oregon's open meetings requirements.

F. Summary minutes of Commission proceedings shall be recorded and retained in conformance with Oregon's public records requirements. Minutes of proceedings shall be submitted to the City Council for information.

G. In January of each year the Commission shall submit a report on its activities to the City Council. (Ord. 2012-03 §2; Ord. 2011-10 §1; Ord. 2010-14 §1; Ord. 2009-04 §1)

2.17.020 Mission.

The Mission of the Molalla Arts Commission is to:

A. Encourage greater opportunities for a recognition of arts in the Molalla area. **Foster the arts in Molalla.**

B. Facilitate cooperation, coordination and communication among groups and individuals engaged in the arts. **Build a sense of community around enjoymentn of the arts in Molalla.**

C. Sponsor, facilitate or coordinate events and activities to showcase the agilities of area artists.

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2.17.040 City support.

The city will provide meeting space, web site, financial oversight and related support in consultation with the Commission with approval of the City Manager and/or City Council;

however, funding for events and projects are expected to be generated by the Commission. The council may at their discretion fund up to \$5000 in council discretionary funds annually for Arts Commission projects deemed to be a benefit to the city and enriching to the community as a whole. The city shall receive and disburse funds for the Commission in accordance with the city's accounting and purchasing practices, and provide guidance to the Commission on fundraising and finance matters. The City of Molalla may also make additional grants to the Commission or enter into agreements with other public agencies, association, and individuals for services that will assist the Commission. (Ord. 2009-04 §1)

Comments from Councilor Klein regarding the Arts Commission

Thanks for looping me in on the conversation. After some thought and additional research, perhaps we can look at this as a 3-step approach...

1. Present the idea of re-activating the commission Wednesday. If general agreement is "yes" then do step 2

2. On Wednesday, discuss the structure, inclusion of Arts and History (or heritage), staff impacts, etc. This could also be an excellent opportunity to determine if a "commission" is the exact right structure, or whether an advisory committee or other type of group, which operates somewhat differently and is potentially more sustainable, is more appropriate (I found this great document that outlines different structures from another municipality). <https://www.mdmunicipal.org/DocumentCenter/View/270/Citizen-Boards-Commissions-and-Committees?bidId=>

In Clackamas County, I know they have several "advisory councils" who are appointed by the County Commissioners, but they operate more autonomously (except when it comes to a project that requires involvement by the County - - like the Facilities Department). DeLise's research/input could help guide discussion.

3. Based on the outcomes of that discussion, Council could then direct staff to go back to the ordinance to incorporate changes and bring back to a future meeting for review/adoption.

Just my two cents on how to move this forward. Take or leave whatever makes sense 😊

Elizabeth Klein

City Council

City of Molalla

503-829-6855



Administration – City Manager’s Office
117 N Molalla Avenue, PO Box 248, Molalla, Oregon 97038
Phone: (503) 829-6855 Fax: (503) 829-3676

DATE: March 27, 2019
TO: Mayor and Council
FROM: City Manager
SUBJECT: **Discussion – Planning Commission Composition**

Included with this memo is the current Code language regarding Planning Commission composition. With our “new” Council we believe it is a good time to review Code language prior to making new appointments. Council can direct Staff accordingly.



Dan Huff
City manager

Chapter 2.06 HEARINGS BODIES AND THEIR DUTIES

Article I. Hearings Officer

2.06.010 Appointment.

The City Manager, subject to the approval of the City Council, may appoint a planning and zoning Hearings Officer to serve the City Council. Said Hearings Officer shall conduct hearings, make decisions or recommendations on applications for such matters as approved in this chapter. (Ord. 2018-05 §1)

2.06.020 Qualification—Compensation.

The Hearings Officer shall be a member in good standing of the Oregon State Bar Association and shall be paid such compensation as agreed between such Hearings Officer and the City Council. (Ord. 2018-05 §1)

2.06.030 Adoption of rules for conduct of hearings.

The Hearings Officer is authorized to adopt rules of procedure for the conduct of hearings pursuant to this chapter, provided such rules do not conflict with state law, the City Charter and ordinances, or the Comprehensive Plan. A copy of such rules shall be available for review at no cost or purchase for a nominal fee. (Ord. 2018-05 §1)

2.06.040 Rules of evidence at public hearings.

Public hearings before the Hearings Officer shall be subject to the following rules of evidence: All interested persons shall be allowed to testify. A verbatim record of the proceeding shall be made by written, mechanical or electronic means. This record need not be transcribed except upon review of the record.

A. All evidence offered and not objected to may be received, unless excluded by the Hearings Officer on the Hearings Officer's own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Evidence may be received in written form at or prior to the hearing.

B. The Hearings Officer may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence. Any erroneous admission of evidence by the Hearings Officer shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party.

C. All evidence shall be offered and made a part of the record in the case, except for matters stipulated to and except as provided in subsection B of this section, no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies of excerpts or by incorporation by reference.

D. The Hearings Officer may take notice of judicially cognizable facts, and take notice of general, technical or scientific facts within the Hearings Officer's specialized knowledge.

E. Every party is entitled to an opportunity to be heard and present and rebut evidence. (Ord. 2018-05 §1)

2.06.050 Challenge of decision.

A. A party may challenge the Hearings Officer on the grounds of bias, ex-parte contact, or that the Hearings Officer has a legal conflict of interest. A written challenge must be delivered by personal service to the City Recorder and the Planning Department not less than three calendar days preceding the time set for public hearing.

B. A challenge of the Hearings Officer's decision shall be entered in the record of the action. (Ord. 2018-05 §1)

Article II. Citizens Advisory Committee

2.06.060 Purpose.

The purpose of the Citizens Advisory Committee is to assist in determining the community's interest in land use proposals and present such view at public hearings before the Hearings Officer,

Planning Commission and City Council. A Citizens Advisory Committee meeting shall be for the purpose of reviewing current land use applications, ordinance and Comprehensive Plan amendments, and preparing written or oral testimony regarding such proposals to be presented at the appropriate public hearing. The Committee is authorized to file appeals from a decision of the city staff or Hearings Officer. The Planning Commission acts as the city's officially recognized Citizen Advisory Committee. (Ord. 2018-05 §1)

2.06.070 Appointment and terms of members.

The Planning Commission is appointed as the Citizens Advisory Committee. At the discretion of the City Council or on petition by resolution from the Planning Commission, the City Council may establish a separate Citizens Advisory Committee. Terms of members shall run concurrently with their membership on the Planning Commission. If a separate Citizens Advisory Committee is established, the Mayor with the consent of the City Council shall appoint to it at least three but no more than seven voting citizens who reside within the city limits. Such appointments shall be for a term of one year and may be terminated at the pleasure of the Mayor with the consent of the City Council. (Ord. 2018-05 §1)

2.06.080 Meetings—Quorums—Officers.

The Citizens Advisory Committee shall operate under the same rules and policies as those established for the Planning Commission. (Ord. 2018-05 §1)

Article III. Planning Commission

2.06.090 Purpose.

The purpose of the Planning Commission shall be to conduct the review of the Comprehensive Plan, implement ordinances, hold hearings and make decisions and recommendations to the City Council on major plan and ordinance amendment applications as well as other such matters approved in this chapter. (Ord. 2018-05 §1)

2.06.100 Created—Composition—Compensation.

- A. There is created a City Planning Commission for the City of Molalla.
 - 1. The Planning Commission shall consist of the following:
 - a. Voting Members.
 - i. A minimum of three but no more than seven members to be appointed as outlined in Section [2.06.110](#).
 - ii. No more than two voting members may be non-residents of the city. There shall be more residents of the city than non-residents sitting on the board at all times.
 - b. City Involvement Seats on the Planning Commission.
 - i. An additional two non-voting members on the board. Non-voting members will be afforded the privileges and rights given to voting members with the exception of voting privileges. Non-voting members shall be given priority consideration for the positions on the Planning Commission as positions become available given that they meet the criteria as set forth in subsection (A)(1)(a) of this section.
 - ii. Appointment of non-voting members shall occur as outlined in Section [2.06.110](#).
 - c. It is the policy of the City of Molalla that involving youth in the public decision-making process provides the opportunity to enhance the community's interest in this process for generations to come. Accordingly, the Planning Commission may also have up to two additional non-voting members of high-school age, who must live within the Molalla River School District.
 - i. A youth applicant must be 16 years of age or older.
 - ii. Meetings may go late into the evening. Students under the age of 18 shall not be allowed to go later than 9:00 p.m. on school nights, or 10:00 p.m. on nights when there is no school the following day. If the staff believes the frequency of Planning Commission meetings will disrupt the student's school work or interfere with the student's school schedule, staff may request the student

be absent from certain meetings. Students shall be required to provide proof that their grades are being maintained at a minimum of a “C” average.

- iii. Students will be expected to participate fully in discussions.
- iv. Appointment of non-voting youth members shall occur as outlined in Section [2.06.110](#).
- d. Individuals interested in serving on the Planning Commission shall meet the following

criteria:

- i. Reside within the City of Molalla, except as otherwise provided in this section.
- ii. Not more than two members may have the same occupation.
- iii. Must be a citizen of the United States of America.

B. The composition of the Planning Commission shall meet the requirements of ORS 227.030. Commission members shall receive no compensation. (Ord. 2018-05 §1)

2.06.110 Terms of members.

A. Each member of the Planning Commission shall be appointed as provided in the City Charter to a four-year term. Any vacancies shall be filled by the Mayor for the unexpired portion of the term.

B. Unexcused absences from three regular meetings may disqualify a member at which time the Planning Commission may request that the Mayor appoint a replacement. Members shall call, mail, or drop-off a letter to staff in order to be excused from regularly scheduled meetings.

C. All appointments to the Commission may be terminated at the pleasure of the Mayor with the consent of the City Council. (Ord. 2018-05 §1)

2.06.120 Quorum—Rules of procedure.

A. A majority of the voting Commission shall constitute a quorum. The Commission is authorized to adopt rules of procedure for the conduct of its meetings and hearings, provided such rules do not conflict with state law, City Charter, Ordinances, and the Comprehensive Plan. A copy of such rules shall be filed with the City Recorder and made available for inspection to those appearing before the Planning Commission prior to their appearance.

B. When exercising the function of the Hearings Officer, the Planning Commission shall follow the rules of the Hearings Officer in performing said function. A majority vote of the Planning Commission members present shall be sufficient for taking any action authorized by ordinance. (Ord. 2018-05 §1)

2.06.130 Meetings—Officers.

The Planning Commission shall meet on a monthly basis. At the first meeting of each calendar year, the Commission shall select a chair, vice-chair, and a secretary. The chair, or vice-chair in the chair's absence, shall preside over the Planning Commission's meetings and hearings. (Ord. 2018-05 §1)

2.06.140 Record of proceedings.

A record of the proceedings shall be made by electronic recording and subject to retention schedule. A transcript can be made available upon written request within the first year of the proceeding. Summary written minutes will be kept of each meeting of record as a tracking method of the meeting and or hearing of record. (Ord. 2018-05 §1)

2.06.150 Right of parties to present evidence at hearings.

A. At public hearings before the Planning Commission, all interested persons and organizations shall be allowed an opportunity to be heard and to present and rebut evidence.

B. The chair may limit the speaking time allowed for interested parties to five minutes. (Ord. 2018-05 §1)